



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312124-21

<b>Development</b>	House with wastewater treatment system and associated site works.
<b>Location</b>	Castledillon Upper, Straffan, Co. Kildare.
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	211325
<b>Applicant</b>	Carl Farrar
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Carl Farrar
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	11 <sup>th</sup> March 2022.
<b>Inspector</b>	Lucy Roche

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located in the rural area c1.3km southeast of Straffan and 6.4km north of Junction 7 (Kill) on the N7. The site is served by a narrow cul-de-sac, referred to as Castledillon Lane, which leads to a private laneway, accessed via electric gates. This private laneway serves the applicants land holding comprising c116 ha (as stated) of farmland and associated farmyard and two dwellings. The farmyard is located at the end of the cul-de-sac, c0.5km east of the application site.
- 1.2. The appeal site, which has a stated area of 0.59ha, forms part of an agricultural field that is located just inside the electric gates. The main body of the site is set back c0.1km from the lane, in line with the neighbouring dwelling to the west.
- 1.3. Site boundaries comprise a timber rail fencing to the lane boundary, with mature trees and hedging along the western boundary (boundary with the neighbouring property to the west). Northern and eastern boundaries are open to the agricultural field, providing wide views of the open countryside.
- 1.4. The applicants dwelling and second property are located c50m to the southeast of the appeal site. Both dwellings front directly onto the lane.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the construction of a single storey farm manager's residence, with a stated gross floor area of 145sqm and a ground to ridge height of c5.6m.
- 2.2. The proposed dwelling is to be served by a small on-site wastewater treatment system and soil polishing filter.
- 2.3. Access to the site is proposed via a new entrance and driveway (c140m in length) off the private lane.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. Kildare County Council, by order dated 10/11/2021 decided to refuse permission for 3 reasons as follows:

1. The proposed development is a single residence in a rural area. It is the policy of the County Development Plan 2017-2023, namely RH2, to focus the provision of one-off housing in the rural countryside to the category of 'local need', subject to compliance with normal planning criteria including siting and design considerations. Based on the information submitted with the application, the Planning Authority is not satisfied that the applicant has demonstrated an immediate requirement or economic need for a farm managers residence at this location and thus the applicant has not demonstrated compliance with local need criteria, as outlined in Table 4.3(a) and Table 4.3(b) of the Kildare County Development Plan 2017-2023. The proposed development would, therefore, contravene materially Policy RH2 of the Kildare County Development Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.
2. Policy RH(9)(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 siting and design considerations, including 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 sub-urbanisation of the area, would materially contravene Policy RH9(iv) of the Kildare County Development Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area

3. Policy RH10 of the Kildare County Development Plan 2017-2023 seeks to control the level of piecemeal and haphazard development of rural area close to urban centres and settlements. It is considered that the proposed development, by reason of its location in proximity to the rural settlement of Straffan, would further exacerbate the level of development in proximity to this settlement where lands are designated for settlement expansion purposes. To further promote development at the location proposed, having regard to the level of existing development in the area, and the precedent that the proposed development would set for further development in this area, would contribute to the further unsustainable development of this rural area. The proposed development would materially contravene Policy RH10 of the Kildare County Development Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.

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

#### **3.2.1. Planning Reports**

- They consider that the applicant has failed to demonstrate compliance with local need criteria as set out in the development plan and they recommended that permission be refused on this basis.
- They consider the proposed (dwelling) design to be an appropriate response to the sensitivities of the surrounding landscape and that it would be visually unobtrusive on the landscape.
- They note that ribbon and cluster type residential development is prevalent in the area and consider the proposed development to be contrary to policies RH9(iv) and RH10 of the Kildare County Development Plan.
- They consider the location of the proposed entrance off the cul-de-sac to be acceptable.
- They recommend that permission be refused for three reasons.

#### **3.2.2. Other Technical Reports**

Environment Dept:

No objection subject to conditions

Transportation Department: No objection subject to conditions  
Water Services Department: No objection subject to conditions

### 3.3. Prescribed Bodies

Irish Water No objection subject to condition

### 3.4. Third Party Observations

The planning authority received one submission during the course of their determination. This submission, received from a local resident, raised a number of issues including the planning history of the site, the need for the proposed dwelling, the capacity of the area to accommodate further development, the fact that the farm is already served by two dwellings, the location of the proposed development in relation to the farmyard and possible drainage issues.

## 4.0 Planning History

KCC Ref:19/1099 (2019) Mr. Robert Crofton - Permission refused for a two-storey dwelling etc. Permission was refused on a number of grounds including the applicant's rural housing need, the capacity of the area to accommodate additional housing, the capacity of the landscape to absorb further development and scale and design of the proposed dwelling

## 5.0 Policy Context

### 5.1. National Planning Framework – Project Ireland 2040

The NPF in relation to rural housing includes objective 19-

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.

### 5.2. Sustainable Rural Housing Guidelines 2005

#### 5.2.1. Chapter 2: Policy Aims

Section 3.2 identifies a number of rural area typologies including 'Rural Areas Under Strong Urban Influence', which are defined as those areas exhibiting characteristics such as being within proximity to the immediate environs or close commuting catchment of large cities and towns and exhibiting characteristics of rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas, or to major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network.

#### 5.2.2. Chapter 3: Other Objectives and Policies

Section 3.3.3 addresses 'Siting and Design'.

5.2.3. Appendix 3 – Development Plan Objectives and Issues for Rural Areas:

Box 1 relates to areas under strong urban pressure and sets out that in areas under strong urban influence, urban generated development should be directed to areas zoned for new housing development in cities, towns and villages in the area of the Development Plan.

5.3. **Kildare County Development Plan 2017-2023**

5.3.1. The subject site is not zoned in the Kildare County Development Plan 2017-2023 and is in the rural area.

5.3.2. Section 4.12.6. The county is split into two areas for the purposes of rural housing policy, Rural Housing Policy Zone 1 and Rural Housing Policy Zone 2. The appeal site is located within Rural Housing Policy Zone 1 – more populated areas with higher levels of environmental sensitivity and significant development pressure.

5.3.3. Section 4.12.7 sets out eligibility requirements which applicants for dwellings in the rural area must meet. In order for an applicant to be considered for a one-off dwelling in the rural area of Kildare, an applicant must:

(A) Meet one of the following categories of applicant:

Category 1. A member of a farming family who is actively engaged in farming the family landholding. OR

Category 2. A member of the rural community.

AND (B) Meet one of the local need criteria set out in Table 4.3 (a) and (b) Schedule of Local Need

5.3.4. Category of Applicant 1



- A Category 1 Applicant is defined as a member of a farming family who is actively engaged in farming the family landholding. The applicant must demonstrate a genuine local need to reside in the area through active and direct involvement in the running of the family farm. The farm must be in the ownership of the applicant's immediate family (Immediate family members are defined as mother, father, son, daughter, brother, sister or guardian) for a minimum of seven years preceding the date of the application for planning permission

- Local Need Criteria for Rural Housing Policy Zone 1:

*(i) Persons engaged full time in agriculture (including commercial bloodstock/ horticulture), wishing to build their home in the rural area on the family landholding and who can demonstrate that they have been engaged in farming at that location for a continuous period of over 7 years, prior to making the application*

5.3.5. Category of Applicant 2: A member of the rural community. The applicant must demonstrate a genuine local need to reside close to their family home by reason of immediate family ties or their active and direct involvement in rural based enterprise.

- Local Need Criteria for Rural Housing Policy Zone 1:

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

5.3.6. Section 4.13.3 Housing application on the basis of equine (or other) rural enterprise:

Where an applicant seeks permission for a one-off house on the basis of a full time rural dependent business (equine or other) from their proposed home / landholding in the rural area and where it will contribute to and enhance the rural community the Council will consider facilitating such applicants in accordance with Local Need Criteria set out in Table 4.3.

It is the policy of the Council to:

RH 18 Ensure that planning applications for a rural dwelling on the basis of the establishment of a full-time viable commercial equine or other rural enterprise on site will generally be favourably considered, having regard to the following criteria: (i) The landholding shall comprise a minimum of 5 Hectares. (ii) All other siting and design considerations will be taken into account in assessing the application. (iii) It must be demonstrated that the nature of the enterprise is location dependent and intrinsically linked to a rural location.

#### 5.3.7. Section 4.13 Policies Rural Housing

RH 2 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.

RH 3 Require applicants to demonstrate that they are seeking to build their home in the rural area in Kildare for their own full-time occupation. Applicants will be required to demonstrate that they do not own or have not been previously granted permissions for a one-off rural dwelling in Kildare and have not sold this dwelling or site to an unrelated third party, save in exceptional circumstances.

RH 9 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:

- (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.

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.

#### **5.4. EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009)**

This document provides guidance on the site characterization, design, operation and maintenance of domestic wastewater treatment systems.

I note a new 2021 Code of Practice for Domestic Wastewater Treatment Systems has been published. It is stated on the EPA website that the 2009 Code of Practice may be used for site assessments and associated installations commenced before the 7<sup>th</sup> June 2021 or where planning permission has been applied for before that date.

#### **5.5. Built Heritage**

5.5.1. The protected structure – Castledillon Graveyard and Early Church Site (B14-03) is located c300 southeast of the site

5.5.2. The following Recorded Monuments are located within 500m of the site

- Castle (KD00356) = c120m to the southwest
- Children's graveyard (KD02627) c300m to the southeast
- Church (KD000357) c300m to the southeast
- Ecclesiastical enclosure (KD014-016004) c300m to the southeast.

## **5.6. Listed Views and Prospects**

- 5.6.1. Scenic Route 34 'Views to Lyons Hill, Liffey Valley and Oughterard' is located 1.5km north-west of the proposed site

## **5.7. Natural Heritage Designations**

- 5.7.1. The appeal site is not located on or within proximity to any designated natura sites. The Grand Canal NHA is located c2km to the southeast.

## **5.8. EIA Screening**

- 5.8.1. Having regard to the nature and scale of the proposed development and to the nature and scale 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 and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

Material Contravention.

- They note that the Council in their decision referred to the proposed development as “Contravening Materially” or “materially contravening” policies of the Kildare County Development Plan. They consider the correct term, as set out in legislation is “Materially contravene” and state that as the incorrect terminology was used that Section 37(2) of the Planning and Development Act should not apply.
- They refute the view that the proposed development would materially contravene Policies RH2, RH 9 and RH10 but in the event that the Board disagree they submit that permission should be granted on foot of Section 28 Guidelines for rural housing issued 2005 – Sustainable Rural Housing Guidelines

- Reference made to Circular SP5/08 (September 2008), which highlighted that local need does not need to apply in circumstances where an applicant is seeking to build a house in a rural area which is directly associate with a rural -based business.
- Consider the councils linking of this application to standard one-off housing to be unreasonable as it does not take into account the specific of the situation i.e. an employment specific dwelling relating to a large farm.

## RH2

- Kildare County Development Plan 2017-2023 is silent on the matter of staff accommodation in respect of compliance with local needs. Kildare County Council have a long history of not applying local need requirements to staff accommodation (list of precedents provided).
- They submit that a local needs assessment under Policy RH2 should not form part of the assessment of this application and instead it should be assessed on its own merits i.e., need for staff accommodation in the form of a manager's house where the owner is elderly with no off-spring and needs assistance
- The applicant has no intention to sell the farm
- The two existing dwellings on the farm are very modest, 2 bed dwellings. one is occupied by the applicant the other is rented to long term tenants (not engaged in farming). Considers that in order to attract a top-class farm manager the living accommodation on offer has to be of high quality and sufficient for a family. The existing rented dwelling is not of sufficient quality. The applicant is willing to agree that following the termination of the tenancy it be converted for non-residential purposes such as farm office / storage.
- Submission from Teagasc noting the size of the farm would support an income for two households
- The work on the farm is excessive for one individual of pension age
- Location – a farm managers dwelling has to be located on an area of the farm that is away from the working part of the farm so as to enable the farm

manager to 'get away' from works at the end of the day and away from odors, noise etc.

#### RH9

- They note the lack of national and local guidance in determining what constitutes a rural area which has reached absorption capacity.
- Consider it wholly unreasonable for the council to refuse permission on this basis and particularly on the basis of linking the proposed dwelling with standard one-off house.
- Submit that the provision of a dwelling which is specific to employment in this context is entirely reasonable and will not contribute to the increase of one -off housing in the area – its an entirely different entity.
- This rural area contains 149 dwellings is not one of the more populated small areas in the county (reference to CSO small area mapping)

#### RH10

- They submit that the intention of this policy was to ensure against haphazard and piecemeal development in the rural area immediately around established towns and villages and not a farm manager dwelling c1km away.
- The location dependent nature of the development means that it has to be located on the farm.

#### Conclusion

- The applicant seeks permission to build a dwelling for a farm manager to assist in the running of one of the largest farms in County Kildare. The applicant is currently milking 150 head of cattle twice a day at over 70 years of age and has recently purchased additional lands and leased other lands.
- He urgently needs assistance of a farm manager to assist in these duties which are clearly labour intensive.
- Kildare County Council have traditionally supported applicants for farm managers and staff accommodation where a genuine need arises

Applicants need for a Farm Manager

- Economic need – the applicant is a widower and pensioner with no offspring to take over running of the farm (116ha).
- The nature of the works is such that a farm manager would have to be based on the farm given the working hours involved and the need for security.

The submission includes a letter from the applicant in which he sets out his need for the proposed farm managers dwelling. The applicant has requested that the contents of this letter be kept private for reasons of GDPR. It is evident from the information provided in this letter that the proposed dwelling is intended for a third party, a relative of the applicant.

## **6.2. Planning Authority Response**

- Kildare County Council note the contents of the appeal which are considered largely the same as the planning application. Regard was had to the issues raised in the assessment of the application and the decision subsequently reached.
- They note the additional the information included in the appeal regarding the existence of a second home on the farm and the fact that the person who will inhabit the proposed house is a relative of the appellant. They consider that the application should have been made in this individuals name and assessed under the rural housing need requirements of the CDP.
- Request that ABP uphold the decision to refuse permission
- They refer the Board to the Planning Authority's planning reports and reports of various technical departments referred to during the assessment of the application.

## **7.0 Assessment**

- 7.1. Having examined the application details and all other documentation on file, including the submission received in relation to the appeal, and having inspected the

site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Proposed Development – Compliance with Rural Housing Policy
- Rural Housing Policy – Siting and Design
- Material Contravention
- Wastewater Disposal
- Appropriate Assessment

## 7.2. Principle of Proposed Development - Compliance with Rural Housing Policy

- 7.2.1. The applicant is seeking permission for the construction of a new dwelling in the rural area of County Kildare. Section 4.12.7 of the Kildare County Development Plan 2017-2023 (KCDP) sets out the Councils policy on rural housing stating that rural generated housing demand will be managed having regard, inter alia, to the applicant's genuine local need, together with the protection of key economic, environmental, natural and heritage assets. In order for an applicant to be considered for a one-off dwelling in the rural area of Kildare they must meet one of the following categories 1) a member of a farming family which is actively engaged in farming the family land holding or 2) a member of the rural community, and meet one of the local need criteria set out in Table 4.3. The Planning Authority, following their assessment, was not satisfied that the applicant had demonstrated an immediate requirement or economic need for a farm managers residence at this location. They refused permission (in part) on this basis.
- 7.2.2. In accordance with the details set out in the planning application and the grounds of appeal, the proposed dwelling is intended as a farm managers residence. The justification for the proposed dwelling being the size of the applicant's land holding (116ha), the age of the applicant (at retiring age), the fact that he has no off-spring and his need for assistance in the future running of the farm. It is contended in the grounds of appeal that given the nature of the proposed development as staff accommodation, a local needs assessment under Policy RH2 should not form part of



the assessment of the application and instead the application should be assessed on its merits.

- 7.2.3. While the policies as set out in the Kildare County Development Plan do not make specific reference to development proposals for staff accommodation, I consider Section 4.13.3 "*Housing application on the basis of equine (or other) rural enterprise*" to be relevant in this regard. Section 4.13.3 provides that the Council will consider facilitating applicants seeking permission for a one-off house on the basis of a full time rural dependent business (equine or other) from their proposed home / landholding in the rural area, however, policy requires that the applicant must accord with Local Need Criteria set out in Table 4. Policy RH18 also applies.
- 7.2.4. The documentation submitted in support of the grounds of appeal includes a letter from the applicant outlining his need for the proposed dwelling. The applicant has requested that the contents of the letter be kept private for reasons of GDPR, however it is evident from the details provided that the proposed dwelling is intended for a third party (a relative of the applicant) and their family. It is not clear why this information was not included as part of the application and I consider having regard to the nature of Kildare's Rural Housing policy and the local need criteria listed thereunder, that it would be reasonable and appropriate to have included this individual as part of the application, along with the submission of sufficient information / documentary evidence to enable the planning authority / Board to establish their need for a dwelling in this rural area.
- 7.2.5. Notwithstanding the above, I note that the grounds of appeal reference a number of examples of where permission was granted by Kildare County Council for staff accommodation and where local needs requirements did not form part of the assessment. Of the eight (8) examples provided, only two were considered under the current development plan, in both cases the development applied for related to the replacement of existing farm manager/staff accommodation. It would appear that only two of the examples provided relate to new build development, both of these developments date back to 2004. Given the length of time and the extent of policy change (at both local and national level) that has occurred in the intervening period I

do not consider these applications to be relevant in the assessment of this application.

- 7.2.6. I note that the applicants land holding is currently served by two dwelling units. One of which is occupied by the applicant the other rented to a third party. In accordance with the details submitted, the rented dwelling is far too small and would not attract the calibre of farm manager needed. The applicants states that he would be willing to enter into a Section 47 agreement with the Council that this dwelling would, following the termination of the existing tenancy, be used for non-residential purposes such as a farm office or storage. I do not consider this a viable solution, particularly as the dwelling in question does not form part of the current application. The option of extending or replacing this dwelling would in my opinion be a more suitable alternative.
- 7.2.7. In conclusion, I am satisfied that the proposed farm managers residence would comprise a new dwelling in the rural area and as such I would consider that the rural housing policy as set out in the KC DP, in particular RH2 is relevant to the assessment of the proposed application. I am not however satisfied, having regard to the fact that the applicants land holding is currently served by two existing dwellings that an additional dwelling is required to serve this land holding or that the applicant has adequately demonstrated a rural housing need, and, on this basis, I recommend that planning permission be refused.

### 7.3. Rural Housing Policy – Siting and Design

- 7.3.1. As set out above, I consider that the proposed development, irrespective of its stated intended use as a farm managers residence, would result in a new dwelling in this rural area and as such should be subject to all normal siting and design considerations, including the criteria set out under RH9 and RH10.
- 7.3.2. Policy RH9 states that notwithstanding an applicant's compliance with the local need criteria, other siting and design considerations must be complied with, including regard to the capacity of an area to absorb further development, with factors such as the extent of existing development in the area and degree of existing

haphazard/piecemeal development to be considered. Policy RH10 further seeks to control the level of piecemeal and haphazard development of rural areas close to urban centres and settlements having regard to potential impacts on a number of areas including the orderly and efficient development of towns and villages, the provision of future infrastructure and the potential to undermine the viability of public transport.

- 7.3.3. The planning authority in their assessment considered, having regard to the excessive level and pattern of development already existing within the vicinity, that the proposed development would be contrary to both policies RH9 and RH10. The applicant on the other hand considers it wholly unreasonable for the Council to refuse permission on the basis of the absorption capacity of the area having been reached, stating that the proposed development must be viewed in the context of a notably large farm which is primarily devoid of any development, and which acts as a natural greenbelt. With respect to RH10, they consider the intention of this policy was to ensure against haphazard and piecemeal development in the rural areas immediately around established towns and villages and find it remarkable that it is used to refuse permission for a farm manager dwelling that is over a kilometre from the village.
- 7.3.4. While I note that the proposed development is located within a large farm holding, it is situated within proximity to a number of existing dwellings and is served by Castledillon Lane, a narrow rural cul-de-sac (c1.8km in length) that already accommodates a significant number of one-off rural dwellings. While the KCDP does not set out specific parameters on what would or would not constitute a rural area which has reached its absorption capacity it is evident from the extent of one-off housing in the area, that the site is located within a rural area under strong urban pressure. I refer the Board to NPO19 of the National Planning Framework, which provides that in rural areas under urban influence, the provision of single housing in the countryside is 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, as well as the requirement to have regard to the viability of smaller towns and rural settlements. I consider the latter point to be of relevance in this case.

7.3.5. I note the location of the appeal site relative to urban areas identified within the settlement hierarchy of the Kildare County Development Plan (KCDP), with the appeal site approximately 1km southeast of the village of Straffan, 3km southwest of the self-sustaining town of Celbridge and 6km northeast of the town of Clane. Having regard to the capacity of these settlements to absorb further development and the failure of the applicant to demonstrate a need for an additional housing unit to serve this landholding, I consider the proposed development would exacerbate the extent of existing haphazard and piecemeal development in the area and would therefore contravene the rural housing policies of the County Development Plan in particular, RH9 (iv) and RH10.

#### 7.4. Material Contravention:

7.4.1. The appellant in the grounds of appeal makes reference to the use of the terms “Contravening Materially” or “materially contravening” in the decision of the Planning Authority and they refute the view that the development would materially contravene Policies RH2, RH9 and RH10 of the Kildare County Development Plan 2017-2023 (KCDP).

7.4.2. Policies RH2, RH9 and RH10 refer to Kildare County Council approach to the management of rural housing. While I am satisfied, having regard to the assessment and conclusions set out above, that the development proposed would contravene the stated policies of the KCDP, these policies are not in my view, sufficiently specific so as to justify the use of the term “materially contravene” in terms of normal planning practice. The Board should not, therefore consider itself constrained by section 37(2) of the Planning and Development Act.

#### 7.5. Wastewater Treatment

7.5.1. The applicant proposes a packaged wastewater treatment system with polishing filter to address wastewater. A connection to the public water mains is proposed.

- 7.5.2. The accompanying site characterisation form, completed in 2018 accordance with EPA Code of Practice 2009, states the site is over a locally important aquifer, with vulnerability classified as High. The groundwater protection response is indicated as R1, where an on-site system is acceptable subject to normal good practice.
- 7.5.3. The submitted Site Characterisation Report indicates that a trial hole with a depth of 2.3m was dug. The depth from ground surface to bedrock in the trial hole is not indicated as it is stated no rock present for depth of trial hole and no water was present. During site inspection I noted that the ground was firm under foot, the trial holes were not open for inspection.
- 7.5.4. A T-test result of 24.14 min/25mm is indicated. The CoP states that a figure between 3 and 50 indicates the site is suitable for the development of a septic tank system or a secondary treatment system discharging to groundwater.
- 7.5.5. A P test was undertaken, with results showing a P value of 18.92 min/25mm. P test values of between 3 and 75 indicate the site is suitable for a secondary treatment system with polishing filter at ground surface or overground. The tests were carried out in accordance with the CoP, Annex C. The proposal complies with separation distances to key features. as set out in the EPA Code of Practice.
- 7.5.6. On the basis of the foregoing results, it would appear that the subject site is suitable for the installation of the wastewater system proposed.

7.6. Appropriate Assessment:

- 7.6.1. Having regard to the nature and scale of the proposed development, involving the construction of a single dwelling in the rural area, and to the nature of the receiving environment, 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 any European site

## 8.0 Recommendation

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

## 9.0 Reasons and Considerations

1.	<p>Having regard to the location of the site within Rural Housing Policy Zone 1 (more populated areas with higher levels of environmental sensitivity and significant development pressure) and outside of either a defined rural settlement or rural node, as set out in the Kildare County Development Plan 2017-2023, and in the absence of sufficient evidence of a genuine and justifiable need for housing by the applicant at the specific subject site, in conjunction with policy RH2 of the Kildare County Development Plan 2017-2023 and also having regard to the Sustainable Rural Housing Guidelines for Planning Authorities 2005 and to National Policy Objective 19 of the National Planning Framework 2018, which, in rural areas under urban influence seeks, 'to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements', it is considered that the proposed development would contribute to the encroachment of random rural development and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure.</p> <p>Accordingly, it is considered that the proposed development would not be fully consistent with, relevant objectives of the development plan, the provisions of the 2005 guidelines and National Policy Objective 19 of the National Planning Framework. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.</p>
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2.	<p>Policies RH9(iv) and RH10 of the Kildare County Development Plan 2017-2023 seek to ensure that, notwithstanding compliance with the local need criteria, applicants comply with all other siting and design considerations, including capacity of the area to absorb further development and to control the level of piecemeal and haphazard development of rural areas close to urban centres and settlements.</p> <p>It is considered that the proposed development would by reason of its location in proximity to Straffan, Celbridge and Clane, further exacerbate the level of such haphazard development in proximity to these and other settlements, in which lands are designated/zoned for residential purposes. To permit development at the location proposed, having regard to the level of existing housing development already in existence in this rural location and in the absence of a genuine need would contribute to the further unsustainable development of this rural area. The proposed development would, therefore, contravene Policies RH9(iv) and RH10 of the Kildare County Development Plan 2017- 2023 and would be contrary to the proper planning and sustainable development of the area.</p>
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Lucy Roche  
Planning Inspector

24<sup>th</sup> March 2022