



An
Bord
Pleanála

Inspector's Report

ABP-312690-22

Development

Demolition of the existing single storey detached garage to the side of the existing dwelling of 'The Willows' and the construction of a new detached part single and part two storey three-bedroom dwelling house to the side of 'The Willows' with dormer window to the rear.

Location

'The Willows', Kilmacredock, Leixlip, Co. Kildare, W23 CD5A.

Planning Authority

Kildare County Council.

Planning Authority Reg. Ref.

211608.

Applicant

Aoibhinn Raleigh.

Type of Application

Planning Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party.

Appellant

Aoibhinn Raleigh.

Observer(s)

None.

Date of Site Inspection

22nd day of September, 2022.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The irregular shaped appeal site, which has a stated 0.46ha area. It relates to a portion of an existing part single storey and part two storey detached dwelling plot called 'The Willows', which is situated c190m to the south west of Green Lanes junction with the R449 and circa 2.7km to the west of Leixlip town, in the rural Townland of Kilmacredock, County Kildare.
- 1.2. 'The Willows' forms part of a linear group of six detached dwellings on large garden plots on the southern side of public road at a point where the public road has a curving alignment.
- 1.3. The appeal site plot relates to the eastern most portion of the site and contains a single storey gable fronted garage structure with an area for parking to the front. The remaining area to the north and south forms part of 'The Willows' mature garden.
- 1.4. The northernmost portion of the site bounds the local road and provides access to the existing dwelling.
- 1.5. The western boundary of the site is not demarcated and the remaining boundaries to the north, south and east are predominantly planted with hedge as well as tree planting.
- 1.6. The surrounding rural landscape contains a proliferation of one-off dwellings, as well as farmsteads and a patch work of fields.

2.0 Proposed Development

- 2.1. Planning permission is sought for:
 - Subdivision of the 1,900m² curtilage of 'The Willows' to accommodate a separate residential plot of 0.143ha.
 - Demolition of an existing single storey detached garage in the side garden area of 'The Willows' (Note: 34.8m²).
 - Construction of a part single and part two storey three-bedroom dwelling in the side garden area of 'The Willows' (Note: 158m²).
 - Provision of a new on-site waste water treatment system and percolation area.

- Access proposed via a shared driveway that currently serves 'The Willows' as independent access onto the public road.
- All boundary treatments, hard and soft landscaping, site service and ancillary site works.

2.2. This application is accompanied by a 'Letter of Consent' from Paul Raleigh and Muireann Raleigh that indicate as legal owners of the site they consent to the making of this application by their daughter and to the making of a right or way/way leave along part of their existing access serving 'The Willows' in order to access the proposed dwelling house sought.

2.3. This application is also accompanied by:

- Documentation to support the Applicants Rural Housing Need for a rural dwelling at this location.
- A Site Characterisation Report.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 13th day of January, 2022, the Planning Authority decided to **refuse** planning permission for the development set out in Section 2.1 for the following stated reasons:

- "1. *Policy RH9 (iv) of the Kildare County Development Plan 2017-2023 is 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 extent of existing development in the area, the extent of linear development in the area and the degree of existing haphazard or piecemeal development in the area, it is considered that the proposed development would exacerbate an excessive density of development in a rural area lacking certain public services and community facilities, would contribute to the increasing suburbanisation of the area, would contravene policy RH9 (iv) and would therefore be contrary to the proper planning and sustainable development of the area.*

2. *Policy RH10 of the Kildare County Development Plan 2017-2023 seeks to control the level of piecemeal and haphazard development of rural areas close to urban centres and settlements, it is considered that the proposed development by reason of its location in proximity to but not within the confines of Leixlip Town would contravene this policy. To further promote development at the location proposed would also contravene Policy RH11 which seeks to prevent linear sprawl outside urban centres and retain a clear demarcation and distinction between urban areas and the countryside. The proposed development if permitted would not be in accordance with the provisions of the Kildare County Development Plan and would not in accordance with the proper planning and sustainable development of the area.”*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Authority’s report, which is dated 11th day of January, 2022, is the basis of the Planning Authority’s decision and concludes that having regard to the planning history of the site and having regard to the existing development in the area, that the proposed development would exacerbate a pattern of urban sprawl, contribute towards the gradual suburbanisation of the rural area and the steady erosion of its rural character. It is considered that the proposed development would contravene policies RH 9(iv), RH10 and RH11 of the Development Plan. Therefore, a refusal of permission is recommended.

The proposal was determined to be contrary rural housing policy, unacceptable in terms of design/rural design guidance, contrary development plan policy in terms of rural development, contribute to ribbon development and be contrary to the proper planning and sustainable development of the area. Refusal was recommended based on the reasons outlined above.

3.2.2. Other Technical Reports

Municipal Engineer: No objection.

Water Services: No objection.

Transportation: No objection.

Environment: Additional information requested.

3.3. Prescribed Bodies

3.3.1. **Irish Water:** No objection.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

4.1. Site

4.1.1. **P.A. Ref. No. 15/994:** Outline permission was refused for the construction of a dwelling in place of an existing garage at 'The Willows' provision of a wastewater treatment system, a new vehicular access to serve the 'The Willows' together with all associated site works and services for the following four stated reasons:

- “1. *It is the policy of the County Development Plan 2011-2017, namely policies RH4 and RH21, to focus the provision of one-off rural housing in the rural countryside to the category of 'local need', subject to compliance with normal planning criteria including siting and design considerations. Based on the information submitted with the application, it is considered that the applicants do not comply with any of the categories outlined in Schedule 4.11.4 (Zone 2) of the County Development Plan as they own the existing dwelling on site and as a result the proposed development would contravene materially policies RH4 and RH9 of the Kildare County Development Plan 2011-2017 (which seeks to focus such developments to certain categories of applicants) and would therefore be contrary to the proper planning and sustainable development of the area.*
2. *Taken in conjunction with existing and permitted development in the vicinity and taking into consideration the degree of existing ribbon development in the area, which is defined as 5 or more houses alongside 250metres of road frontage, it is considered that the capacity of the area to absorb any further development has been exhausted. It is also considered that the proposed development*

would exacerbate ribbon development in the area and therefore the proposed development would be contrary to the provisions of Policies RH12 and RH11 of the County Development Plan 2011-2017 and it would therefore be contrary to the proper planning and sustainable development of the area.

3. *In the absence of a proposal which complies with the requirements of the Design Manual for Roads and Bridges as required under section 19.6.1 of the Kildare County Development Plan 2011-2017, it is considered that the traffic generated by the proposed development would endanger public safety by reason of a traffic hazard and the obstruction of road users and would be contrary to the proper planning and sustainable development of the area.*
4. *It has not been demonstrated due to the lack of information submitted, that treated effluent can be disposed of on site without risk to public health or the environment. The proposed development would be prejudicial to public health and would therefore be contrary to the proper planning and sustainable development of the area.”*

Applicants: Paul & Muireann Raleigh. **Decision date:** 15/01/2016.

5.0 Policy Context

5.1. Local

5.1.1. Leixlip Local Area Plan, 2020-2023

The site is located in a parcel of land that falls inside the western boundaries of Leixlip Local Area Plan that is zoned ‘I – Agriculture. The zoning objective for such land is “to retain and protect agricultural uses”. The agricultural land zone extends to the east, west and south of the site with the land on the opposite side of the road zoned ‘Q – Enterprise and Employment. The zoning objective for ‘Q’ zoned land is “to provide for and facilitate the provision of high job-generating uses”.

Table 13.3 sets lists ‘dwelling’ as an ‘open for consideration’ land use subject to rural housing policy as outlined in the Kildare County Development Plan, 2017 to 2023.

The LAP defines ‘open for consideration’ land use as: “uses that are not considered acceptable in principle in all parts of the relevant land use zone. However, such uses

may be acceptable in circumstances where the Council is satisfied that the proposed use would not conflict with the general objectives for the zone and the permitted or existing uses as well as being in the interests of the proper planning and sustainable development of the area”.

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

Section 4.12.6 of the Development Plan sets out 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’, i.e., the more populated rural area with higher levels of environmental sensitivity and significant development pressure.

Section 4.12.7 of the Development Plan sets out the Rural Housing Policy and it sets out eligibility requirements which applicants for dwellings in the rural area must meet. It indicates 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, such as the road network, water quality, important landscapes, habitats, and the built heritage.

In order for an applicant to be considered for a one-off dwelling in the rural area of Kildare, an applicant must demonstrate that they meet one of the following categories:

(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

Of relevance to this application is:

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.

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

- Local Need Criteria for Rural Housing Policy Zone 1:

“(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.

“(ii) Persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare, as members of the rural community who have left the area but now wish to return to reside near to, or to care for immediate family members, seeking to build their home in the rural area on the family landholding or on a site within 5km of the original family home.

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

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 - Requires applicants for one-off dwellings 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:

(i) The location and design of a new dwelling shall take account of and integrate appropriately with its physical surroundings and the natural and cultural heritage of the area and respect the character of the area. Development shall have regard to Chapter 16 Rural Design Guidelines (and any subsequent changes to these guidelines) and Chapter 17 Development Management Standards.

(ii) Appropriate landscaping of proposed development using predominantly native species as per Table 17.2 of this Plan.

(iii) The protection of features that contribute to local attractiveness including landscape features, hedgerows, trees, historic and archaeological landscapes, water bodies, ridges, skylines, topographical features, geological features and important views and prospects.

(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 un-serviced 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.

(vii) The ability of a site in an un-serviced area to accommodate an appropriate on-site surface water management system in accordance with the policies of the Greater

Dublin Strategic Drainage Study (2005), in particular those of Sustainable urban Drainage Systems (SuDS);

(viii) The need to comply with the requirements of The Planning System and Flood Risk Management Guidelines for Planning Authorities.

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.

RH 12 – Seeks to discourage ribbon development (defined as five or more houses alongside 250 metres of road frontage). 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. Regional

5.2.1. Regional Spatial Economic Strategy – Eastern & Midland Region, 2019-2031:

RPO 4.80 sets out that Local Authorities shall manage urban growth in rural areas under strong urban influence by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstratable economic or social need to live in a rural area, and compliance with statutory

guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.3. National

5.3.1. **National Planning Framework – Project Ireland 2040, Department of Housing, Planning and Local Government, (2018):** Of relevance to this appeal case is National Policy Objective 19. This national policy objective refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence i.e., commute catchment of cities and large towns and centres of employment. This will be subject to siting and design considerations. In all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitely demonstrate that the proposed development will not have an adverse impact on water quality and requirements set out in EU and national legislation and guidance documents.

5.3.2. **Sustainable Rural Housing Guidelines, (2005):** The overarching aim of the Guidelines is to ensure that people who are part of rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures. To ensure that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated. Of relevance to this appeal case is that the site is located in an area classified as an under **Strong Urban Pressure**. Section 3.3.3 of these guidelines deals with ‘Siting and Design’.

5.3.3. **Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021.**

5.4. Natural Heritage Designations

5.4.1. It is considered that there are no European Sites within the zone of influence of the subject project with the nearest European site being the Special Area of Conservation: Rye Water Valley/Carton SAC (Site Code: 001398) which is located c1.5km to the north at its nearest point.

5.5. EIA Screening

- 5.5.1. The proposed development is of a class but substantially under the threshold of 500 units to trigger the requirement for submission of an EIAR and carrying out of EIA. Having regard to the nature of the development, which consists of the demolition of an existing garage structure and the construction of a new dwelling together with all associated site works, the absence of features of ecological importance within the site, together with the nature and scale of the receiving environment I conclude that the necessity for submission of an EIAR and carrying out of EIA can be set aside at a preliminary stage.

5.6. Built Heritage

- 5.6.1. Given the site's proximity to the route of R449 (Celbridge Interchange) and having regard to the eighteen potential archaeological sites were found during monitoring of topsoil-stripping along this 4km route, with the nearest Monument identifier being KD02331 together with the significant number of Recorded Monuments any excavations at this location would require archaeological monitoring in the event of a grant of permission and the development being implemented.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The First Party grounds of appeal can be summarised as follows:

- The assessment of the Planning Authority sets out a number of inaccurate statements and inconsistencies.
- The Planning Authority concluded that the applicant met the category of local housing need requirement as set out under the Development Plan.
- There is no basis for the Planning Authority to conclude that the development as proposed would result in further suburbanisation of the area or that it would result in haphazard and piecemeal development.
- The proposed development would not give rise to any undue negative impact on its setting.

- The applicant is proposing a family home in this location for one single reason. That reason is given as their parents own the existing house on site. The proposed home would share the same vehicular access as this existing house, and it would not be visible from the road.
- This development is consistent with relevant planning provisions.
- This proposal is appropriate to the form of rural housing development in the area, and it is a type of development that accords with the proper planning and sustainable development of the area.
- There is no history of flooding on any part of the site or neighbouring properties.
- 'The Willows' was constructed 40 years ago and extended in the early 2000's. It is stated that this property has a gross floor area of 380m² and sits on a 1,900m² site.
- The existing access serving 'The Willows' will serve the proposed dwelling and it is not proposed to alter this access onto the public road.
- Dwelling houses are open for consideration on agricultural zoned land and the land is situated opposite lands zoned for enterprise and employment.
- The Development Plan in its Core Strategy identifies significant population growth in the settlement of Lexilip. It indicates that rural dwellings will be permitted in certain circumstances.
- It is contended that the applicant has a strong and clear local need.
- The applicant has resided in 'The Willows' since 2003 and is an active member of the community.
- An overview of the planning history associated with 'The Willows' is set out.
- It is considered that the Planning Authority were unduly influenced by the refusal of planning permission for a dwelling house on this site in 2015 in determining this application.
- This development would not result in ribbon development as it relates to side garden site that would share a vehicular entrance.

- This proposal is an infill development in the context of Policy RH12(v) of the County Development Plan.
- The suburbanisation of the site setting is evident by the zoning of the land on the opposite side of the road.
- The zoning opposite supports that there is a clear capacity for all development at this allocation to be linked into infrastructure in the near future.
- Policy RH10 and RH11 of the Development Plan have been misapplied by the Planning Authority in their second reason for refusal and this development would not give rise to piecemeal and haphazard development.
- The Board is requested to grant permission for the proposed development on the basis that it accords with the proper planning and sustainable development of the area.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- They have had regard to the issues raised in this appeal in their assessment of this application.
- No further comments to make.
- The Board is requested to uphold its decision.

6.3. Observations

6.3.1. None.

7.0 Assessment

7.1. Introduction

7.1.1. Having inspected the site and its setting, examined the application details and all other documentation on file, including the submission received in relation to the appeal from the Planning Authority, and having had regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal case relate to the

two reasons given by the Planning Authority to refuse planning permission for the development sought under this application. They can be summarised as follows:

- *Principle of the Proposed Development and Compliance with Planning Policy Provisions*

7.1.2. I do not consider that this appeal case gives rise to any other substantive issues that warrant detailed examination outside of the matter of '*Appropriate Assessment*'.

7.2. Principle of the Proposed Development

7.2.1. By way of this planning application the applicant is essentially seeking permission for the construction of a new dwelling in the rural area of County Kildare and relating to part of the side garden of an existing rural dwelling on which there is a detached garage structure. As part of this development the demolition of this existing structure is sought and in its place the construction of a three-bedroom part single and part two storey dwelling house that would share the existing driveway serving the existing dwelling on site.

7.2.2. The site and its immediate setting are located in an agriculturally zoned area on the western outskirts of Leixlip's Local Area Plan. The zoning objective for these lands seeks to retain and protect agricultural land uses. With Table 13.3 of the LAP setting out that dwellings on such land are open for consideration subject to rural housing policy provisions outlined in the Development Plan.

7.2.3. Further, the Development Plan defines '*open for consideration*' land use as: "*uses that are not considered acceptable in principle in all parts of the relevant land use zone. However, such uses may be acceptable in circumstances where the Council is satisfied that the proposed use would not conflict with the general objectives for the zone and the permitted or existing uses as well as being in the interests of the proper planning and sustainable development of the area*".

7.2.4. I also note that the land to the north is zoned to provide for and facilitate the provision of high job-generating uses (Note: Q) and thus the site setting could be considered as one that in land use terms has a transitional land use zoning character.

7.2.5. In such areas Table 13.2 of the Local Area Plan sets out that: "*zones abutting residential areas, particular attention will be paid to the uses, scale, density and*

appearance of development proposals and to landscaping and screening proposals in order to protect the amenities of residential properties”.

- 7.2.6. As the subject lands are in this case more sensitive to change given that it is zoned agriculture and unserviced where residential is only limited to where specific criteria are met. I am not therefore convinced that as the land on the opposite side of the road is zoned for more high job-generating uses that this provides justification in itself for the proposed densification of residential at this particular rural location.
- 7.2.7. Under Section 4.12.7 of the Development Plan, the Planning Authority seeks to manage rural generated housing demand having regard, *inter alia*, to the applicant’s genuine local need, together with the protection of key economic, environmental, natural and heritage assets.
- 7.2.8. 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.
- 7.2.9. It would appear from the information provided on file and with this appeal that the applicant seeks consideration for a one-off dwelling at this rural location on the basis of being a member of the rural community. The Planning Authority, following their assessment against the Development Plan Rural Housing Policy provisions and also Table 4.3(b) of the said Plan, was satisfied that the applicant had demonstrated a requirement as a member of the rural community for a rural dwelling at this location based on the information that was provided.
- 7.2.10. Notwithstanding this conclusion by the Planning Authority, I raise concerns that this is rural area under strong urban influence, which is not serviced and in landscapes that has been significantly eroded by *ad hoc* one-off dwellings that for the most part appear to have little functional integration with the predominant agricultural function of these areas.
- 7.2.11. I reiterate that the LAP only permits limited dwellings on land zoned agriculture, and it also sees agricultural land within the LAP area as important buffer between the urban landscape of Leixlip and the biodiversity of its rural surrounds.

- 7.2.12. In relation to the Development Plan provisions I raise a number of concerns that the proposed development, if permitted, would be contrary to its rural housing policy.
- 7.2.13. In this regard I note that Section 4.12.7 of the Development Plan sets out the eligibility requirements which applicants for dwellings in the rural area must meet.
- 7.2.14. It indicates 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, such as the road network, water quality, important landscapes, habitats, and the built heritage. In order for an applicant to be considered for a one-off dwelling in the rural area of Kildare, an applicant must demonstrate that they meet one of two defined categories. With the applicant seeking this dwelling house under Category 2. That is as '*a member of the rural community*'.
- 7.2.15. It further sets out that in addition they must meet one of the local need criteria set out in Table 4.3 (a) and (b). With this table further providing that Category 1 applicants 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.
- 7.2.16. The latter is not the case with the applicant, due to them not demonstrating any active or direct involvement in rural based enterprise, alongside the fact that the family landholding as presented in this application consists in its entirety of a rural dwelling plot.
- 7.2.17. I note that a letter of consent for the making of this application indicates that the appeal site forms part of the applicants' parents rural dwelling curtilage. This connection meets the Development Plan's definition of immediate family ties.
- 7.2.18. Policy RH 2 of the Development Plan sets out that the Planning Authority will seek to manage the development of one-off housing in conjunction with the rural housing policy zone map, based on the schedules of category of applicant and the local need criteria set out in Table 4.3.
- 7.2.19. Documentary evidence of compliance with the rural housing policy must be submitted as part of the planning application.
- 7.2.20. Of concern, the documentation provided by the applicant whilst showing that the applicant has social ties to this location and it is likely that she has resided here for the

required duration of time, it does not support that they have any genuine local need as opposed to a desire for her to construct a dwelling house in this rural un-serviced location with shared access onto an existing access that does not appear to meet the required sightlines and as observed is heavily trafficked.

7.2.21. It is also in a location where the existing dwelling house forms part of a linear group of dwellings that meet the local through to national definition for ribbon development.

7.2.22. Moreover, it is in a landscape setting that has been significantly diminished and eroded by way of rural one-off dwellings due to its proximity to major urban settlements including Dublin city and it also lies in close proximity to the urban edge of the settlement of Leixlip.

7.2.23. It should also be noted that it is located in a highly fertile agricultural landscape, with agricultural being one of the key economic drivers of County Kildare. Therefore, an important resource in its own right that needs to be protected from development that is not synergistic or necessary to its future sustainability or economic vitality.

7.2.24. With this being said I note that Policy RH 9 of the Development Plan sets out that the Planning Authority will seek to ensure that, notwithstanding compliance with the local need criteria, applicants comply with all other normal siting and design considerations. With this including but not limited to the following criteria:

- (i) The location and design of a new dwelling shall take account of and integrate appropriately with its physical surroundings and the natural and cultural heritage of the area and respect the character of the area.
- (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.

7.2.25. I also note Policy RH10 of the Development Plan which sets out that the Planning Authority will seek to control the level of piecemeal and haphazard development of rural areas close to urban centres and settlements having regard to potential impacts on the orderly and efficient development of newly developing areas on the edges of

towns and villages, the future provision of infrastructure through to the potential to undermine the viability of urban public transport due to low density development.

7.2.26. Moreover, Policy RH 12 of the Development Plan sets out that the Planning Authority will discourage ribbon development.

7.2.27. It defines this as five or more houses alongside 250 metres of road frontage.

7.2.28. The proposed development would result in densification of an existing ribbon of rural dwellings that already meet this definition and the site is not as argued an infill site as it forms part of a garden setting of the detached dwelling on a large garden plot called 'The Willows' and it includes its detached garage that is an ancillary building for the use of its occupants.

7.2.29. This development would exacerbate ribbon development at a rural location with no services to support it and at a location where it would further blur the rural surroundings of the settlement of Leixlip and its physical as well as functioning urban area. With this cumulative outcome not supported by planning policy provisions at local through to national level that seek the sequential development of this settlement in terms of residential development.

7.2.30. Moreover, it would not add to the efficiencies of scale that would be achieved where residential development is located within the confines of settlement where a more synergistic as well as sustainable climate resilient relationship can occur due to proximity of residential development to services, education, public transport through to other amenities. With access to these being less reliant on private vehicle use.

7.2.31. Of further, the applicant in this case does not put forward any exceptional circumstance nor crucially do they demonstrate that they meet any of the criteria under which the Planning Authority may consider a rural dwelling in a setting like this would be considered, including a situation where ribbon development already has been established at the location the site forms part of.

7.2.32. Of additional concern and as already noted the site does not benefit from services and part of this proposed development includes the provision of a waste water treatment system to serve the proposed development. Having regard to the pattern of development in this area which arguably is one characterised by a proliferation of such developments dependent upon proprietary waste water treatment systems and having

regards to general details set out in the accompanying site characterisation form which considers that groundwater vulnerability is at moderate risk I raise a concern despite the lack of any well that would be at immediate risk from this development that there is a significant number of such treatment systems in a close geographical radius of the site.

7.2.33. There is also nothing to suggest that there is merit in the fact that this area would benefit from waste water drainage infrastructure in the near future or further down the line as suggested by the appellant in their documentation in relation to the development of 'Q' zoned land on the opposite side of the road.

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

7.2.34. The densification of residential development at these serviced locations and served by a local road where there is restricted visibility onto the public road serving the existing dwelling alongside a plethora of access serving other similar developments to the east and west. With the local road upon which this development would be dependent upon being a heavily trafficked route that provides connectivity to the R449 Celbridge Interchange and Junction 6 of the M4 which both are situated in close proximity to the site and accessed via this same local road.

7.2.35. In addition, I observed during my inspection of the site that the noise of the M4 is highly audible from the site and there is no indication that the design would include sufficient noise attenuation to deal with this nuisance. Notwithstanding, should the Board be minded to grant permission it could consider imposing a condition to deal with this particular concern.

7.2.36. Based on the foregoing I am of the view that to permit a proposed rural dwelling house where an applicant has not demonstrated a genuine rural based local need as opposed to a desire would be contrary to the local settlement strategy as provided for under the Development Plan.

7.2.37. Having regard to regional planning provisions I note that the Regional Spatial Economic Strategy – Eastern & Midland Region, 2019-2031, under RPO 4.80 sets out that Local Authorities shall manage growth in rural areas under strong urban influence by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstratable economic or social need to live

in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

- 7.2.38. Based on the foregoing, I am of the view that to permit a proposed rural dwelling house for the applicant where an applicant has not demonstrated an economic or social need to live in a rural area under strong urban influence and to permit the proposed development would be contrary to regional planning provisions.
- 7.2.39. In terms of national planning guidance, the site's identified location in an area under strong urban pressure under the Development Plan is consistent with Sustainable Rural Housing Guidelines for Planning Authorities, 2005, which similar identifies the site and its wider rural setting.
- 7.2.40. In relation to locations identified as being under strong urban influence the National Planning Framework, National Policy Objective 19, requires developments like this to demonstrate a functional economic or social requirement for housing need in areas under urban influence. With this being stated as a necessity.
- 7.2.41. It also indicates that such applications shall be also subject to siting as well as design considerations and as considered in the assessment below there are other significant issues in relation to the proposed development sought under this application. Including exacerbation of ribbon development through to further proliferation of car dependent residential developments on un-serviced land remote from services, amenities and other land uses synergistic to residential development.
- 7.2.42. In keeping with this I note that National Policy Objective 3a of the National Planning Framework seeks to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements and National Policy Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development as well as at an appropriate scale of provision relative to location.
- 7.2.43. There are settlements within the wider location, including those with infrastructural services such as mains drainage and potable water through to other services as well as amenities, the nearest being Leixlip, where there is capacity to absorb additional residential development in a sustainable manner than at this rural location. Including sites that could be considered infill sites in a residentially zoned urban landscape.

7.2.44. In addition within the boundaries of such settlements such developments are unlikely to result in significant diminishment of the visual amenities of the rural countryside, diminishment of biodiversity within rural landscape through to erode available land for agricultural functioning which is one of the key economic drivers of County Kildare. With this particular areas capacity to absorb any further similar developments arguably being significantly exceeded over recent decades. Whereas this proposal seeks to exacerbate a type of development that is not supported by local and national planning provisions, i.e., ribbon development, in an area that is significantly overdeveloped with one-off dwellings to the detriment of the visual amenities as well as the function of precious rural land upon which we all depend. This is substantive reasons in itself to support a refusal of permission.

7.3. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development, involving the subdivision of the curtilage of an existing rural dwelling to create a new residential plot for the construction of a single dwelling in the rural area which would also be facilitated by the demolition of an existing detached garage structure and the provision of a new waste water treatment system; 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.

7.4. **Other Matters Arising**

7.4.1. **Planning History:** Permission was previously refused under P.A. Ref. No. 15/994 for demolition of the detached garage, a three-bedroom dwelling house, waste water treatment system, a new vehicular entrance, together with all associated works at largely the same site as that subject to this appeal case. This application appears to have been made by the applicants' parents who have provided consent to their daughter to make this application which is now before the Board for its determination. I have had regard to the planning history of the site and its setting in my assessment of this application and it is in accordance with proper planning practice that each application is considered on its merits. As such I have considered this application on its individual merits which includes the now more robust local through to national planning policy provisions and guidance through to the revised proposal sought.

- 7.4.2. **Procedural:** The appellant in their grounds of appeal submission to the Board raised concerns in relation to the Planning Authority's assessment of the proposed development which in their view misapplied Development Plan policies and provisions through to were overly influenced by the previous refusal for planning permission for a dwelling house at largely the same site as that subject to this appeal case (Note: P.A. Ref. No. 15/994).
- 7.4.3. **Archaeology:** The site is located in an area where underground archaeology has been discovered. Should the Board be minded to grant permission given the archaeological sensitivity of the site setting an appropriate condition should be included to facilitate the protection of archaeological materials or features which may exist within the site in the interests of conserving the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site. This matter is a **new issue** in the context of this appeal case.

8.0 Recommendation

- 8.1. I recommend that planning permission be **refused**.

9.0 Reasons and Considerations

1. Having regard to the location of the site within an Area Under Strong Urban Influence in accordance with the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of the Environment, Heritage, and Local Government 2005, to National Policy Objective 19 of the National Planning Framework (2018) which, for 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, having regard to the viability of smaller towns and rural settlements, the Board could not be satisfied on the basis of the information on the file that the applicant comes within the scope of either economic or social housing need criteria as set out in the overarching National Guidelines.

The proposed development, in the absence of any identified local based need for the rural dwelling house at this location, would result in haphazard and

unsustainable form of development in an unserved area, would contribute to the encroachment of random rural development in the area, would exacerbate ribbon development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and undermine the settlement strategy set out in the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

28th day of October, 2022.