



An
Bord
Pleanála

Inspector's Report ABP- 314785-22

Development

Use of 1.6257ha for the keeping of sheep and horses, renovation of existing farm buildings, provision of external waste storage facilities, erection of farmhouse, and installation of wastewater treatment system.

Location

Broadleas Commons, Ballymore Eustace, Co. Kildare.

Planning Authority

Kildare County Council.

Planning Authority Reg. Ref.

22/960.

Applicant

Jerry Blake.

Type of Application

Permission.

Planning Authority Decision

Refusal of Permission.

Type of Appeal

First Party v Refusal of Permission.

Appellant

Jerry Blake.

Observer(s)

None.

Date of Site Inspection

4th September 2023

Inspector

Enda Duignan.

1.0 Site Location and Description

- 1.1.** The address of the appeal site is Broadleas Commons, Ballymore Eustace, Co. Kildare. The site is located within the rural area of County Kildare, c. 2.5km to the south of the settlement of Ballymore Eustace. The site is accessed from the northern side of the L5043 and the eastern end of the site's roadside boundary is located c. 30m to the west of the junction with the R411. The site has an irregular shape with a stated area of 1.6257ha. and comprises agricultural farmland. There are 2 no. existing agricultural buildings located within the site and situated c. 200m to the north of the existing roadside boundary. There is an existing hedgerow and stand of mature trees which bisects the appeal site. Large mature trees also characterise the site's roadside boundary. In terms of topography, the lands could be described as being gently undulating. The Applicant has submitted a Site Location Plan which identifies the full extent of lands within their control (Blue Line) which extends to c. 11.3ha and includes lands that have an abuttal with the R411 to the east.
- 1.2.** In terms of the site surrounds, lands are predominantly in agricultural use with a similar topography to that of the appeal site. I also observed there to be significant number of rural dwellings within the surrounding road network.

2.0 Proposed Development

- 2.1.** The proposed development seeks planning consent for the following:
- The use of 1.6257 ha (4.017 acres) for the keeping and breeding of sheep and horses;
 - Works for the renovation of two existing farm buildings and the creation of 20 no. individual stables within these blocks, along with a tack room and feed store (with a combined area of 345.57sq. m.);
 - The provision of an external horse walker and equine waste storage facilities;
 - The construction of a single storey farmhouse;
 - The installation of an O'Reilly Oakstown BAF secondary wastewater treatment system and soil polishing filter;
 - The closure of existing farm entrance and creation of new vehicular access to serve residential and agricultural traffic; and,

- All associated site works including the creation of an internal driveway, the drilling of a well for agricultural and domestic purposes, stormwater drainage soakaways and fencing to the front boundary.

2.2. The proposed dwelling is to be located adjacent to the site's southern boundary with the L5043 and will comprise 3 no. bedrooms, a combined kitchen/dining/family room, a formal sitting room and a farm office, with ancillary bathroom, wardrobe, utility pantry and hallway accommodation. The 'H' shaped building has a stated floor area of c. 232sq.m. and will have a maximum height of c. 4.7m. Materials for the proposed dwelling comprise a plaster finish for the principal elevations with a slate/tiled roof. The dwelling is proposed to be setback c. 20m from the roadside boundary and a car parking area is provided within the dwelling's front setback. The dwelling is to be served by a front and side (west) garden. I note that the proposed wastewater treatment system and percolation area is to be located within the area of amenity space to the side of the dwelling.

2.3. As noted, the proposal seeks to close up the existing agricultural entrance along the L5043 and provide a new combined residential and agricultural entrance further to the west. It would appear that the new shared entrance would require the removal of a number of trees and section of the existing hedgerow along the southern site boundary. Although the creation of an internal driveway is noted within the development description, there is no internal agricultural road linking the L5043 and the farm buildings identified on the submitted documentation.

2.4. The proposal includes the renovation of 2 no. existing farm buildings and the creation of 20 no. individual stables within these blocks, along with a tack room and feed store (with a combined area of 345.57sq. m.). An external horse walker and equine waste storage facilities is also located within this portion of the site. The Applicant indicates that they satisfy the local housing needs test as he proposes to establish a business on his land, whereby he intends to develop a sheep rearing and horse livery facility.

3.0 Planning Authority Decision

3.1. Decision

Kildare County Council refused planning permission for the proposed development for the following 2 no. reasons:

1. It is the policy of the Council as stated in the Kildare County Development Plan 2017-2023 (CDP), namely policy RH2, to manage the development of one-off housing in the county. In this regard the onus is on the Applicant to demonstrate that they comply with the rural housing policy of the County Development Plan. Having regard to the documentation submitted in relation to this planning application, the Applicant has not demonstrated compliance with category 2(iii) of the 'local need' criteria as outlined in Table 4.3 of the CDP. As a result, the proposed development would materially contravene policy RH2 and would therefore be contrary to the proper planning and sustainable development of the area.
2. It is the policy of the Planning Authority, as expressed in the Kildare County Development Plan 2017-2023, to ensure that Applicants comply with all other siting and design considerations, including the capacity of the area to absorb further development, policy RH9(iv). Having regards to 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, and would contravene policy RH9(iv) of the Kildare County Development Plan 2017-2023 and therefore would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Kildare County Council Planning Report forms the basis for the decision. The report provides a description of the appeal site and an overview of the policy at national and local level that is relevant to the development proposal. In terms of their assessment of the application, the Planning Authority had regard to the material

submitted with the application and noted that the Applicant had not fully demonstrated compliance with the relevant local need criteria with the intention to establish a viable agricultural enterprise at the site. Further to this, the Planning Authority noted that the surrounding area is under significant pressure from linear development of one-off housing. It was considered that the proposed development would result in a further suburbanisation of the rural area and would result in increasing the haphazard and piecemeal pattern of development in the area. The proposed development was therefore considered to be contrary to the pertinent policy of the County Development Plan and a refusal of permission was recommended for 2 no. reasons.

3.2.2. Other Technical Reports

Transportation Department: Report received stating no objection subject to compliance with conditions.

Municipal District Engineer: Report received recommending further information with respect to the provision of adequate sightlines and the requirement for the submission of surface water drainage details.

Environment Department: Report received stating no objection subject to compliance with conditions.

Heritage Officer: Report received stating no objection subject to compliance with conditions.

EHO: Report received recommending further information with respect to the requirement to demonstrate adequate separation distances.

3.2.3. Prescribed Bodies

None.

3.2.4. Third Party Observations

One (1) no. observation is on the planning file from Cllr. Evie Sammon which provided

support for the development proposal.

4.0 Relevant Planning History

4.1. Appeal Site

None.

5.0 Policy and Context

5.1. Local Policy

5.1.1. Kildare County Development Plan (CDP), 2023-2029.

The site is located outside a designated settlement boundary within the rural area of the county Kildare. As per Map 3.1 (Rural Housing Policy Zones) of the current CDP, the appeal site is located on lands identified as 'Zone 1'. In order for an Applicant to be considered for a one-off dwelling in the rural area of Kildare, an Applicant must demonstrate compliance with the policy outlined in Section 3.13.3 (Compliance with the Rural Housing Requirements). In addition, the following policies are relevant to the consideration of this appeal:

- **HO P11:** Facilitate, subject to all appropriate environmental assessments proposals for dwellings in the countryside outside of settlements in accordance with NPF Policy NPO 19 for new Housing in the Open Countryside in conjunction with the rural housing policy zone map (Map 3.1) and accompanying Schedule of Category of Applicant and Local Need Criteria set out in Table 3.4 and in accordance with the objectives set out below. Documentary evidence of compliance with the rural housing policy must be submitted as part of the planning application.
- **HO O43:** Require applicants to demonstrate that they do not own or have not been previously granted permission for a one-off rural dwelling in Kildare.
- **HO O44:** Restrict residential development on a landholding, where there is a history of development through the speculative sale or development of sites to an unrelated third party.
- **HO O45:** Restrict occupancy of the dwelling as a place of permanent residence for a period of ten years to the applicant who complies with the relevant provisions of the local need criteria.

- **HO O46:** Recognise and promote the agricultural and landscape value of the rural area and prohibit the development of urban generated housing in the rural area.
- **HO O47:** Recognise that exceptional health circumstances, supported by relevant documentation from a registered medical specialist, may require a person to live in a particular environment. Housing in such circumstances will generally be encouraged in areas close to existing services and facilities and in Rural Settlements. All planning permissions for such housing granted in rural areas shall be subject to a ten-year occupancy condition.

In terms of siting and design, policies are included within Section 3.13.4 of the current CDP. Policies of note include:

- **HO P12:** Ensure that the siting and design of any proposed dwelling shall integrate appropriately with its physical surroundings and the natural and cultural heritage of the area whilst respecting the character of the receiving environment. Proposals must comply with Appendix 4 Rural House Design Guide and Chapter 15 Development Management Standards.
- **HO P15:** Preserve and protect the open character of transitional lands particularly the approach roads to towns and villages and areas immediately outside of settlement boundaries in order to prevent linear sprawl near towns, villages and settlements and to maintain a clear demarcation and distinction between urban areas and the countryside and to protect the integrity of the agricultural uses in these areas.

In addition to the foregoing, relevant objectives of the CDP include:

- **HO O50** Require that new dwellings incorporate principles of sustainability and green principles in terms of design, services and amenities with careful consideration in the choice of materials, roof types (i.e. green roofs), taking advantage of solar gain/passive housing and the provision of low-carbon and renewable energy technologies as appropriate to the scale of the development and to support microgeneration in all residential, commercial, agricultural and community development planning. Other sustainable principles could include

the use of Sustainable Urban Drainage Systems (such as attenuation ponds and grass lined swales), the use of gravel or grasscrete rather than permanent paving/tarmac for driveways, landscaping and planting for biodiversity/pollinators and adequate waste segregation and storage space, as set out in Section 15.4 of Chapter 15 (Development Management standards) and the Rural House Design Guide contained in Appendix 4.

- **HO O51:** Require all applications to demonstrate the ability to provide safe vehicular access to the site without the necessity to remove extensive stretches of native hedgerow and trees. All applications will be considered on a case-by-case basis, having regard to, the quality of the hedgerow, age and historical context, if an old town boundary hedgerow, species composition, site context and proposed mitigation measures.
- **HO O52:** Recognise the biodiversity and ecosystem services value of established hedgerows within rural and urban settings and where hedgerow must be moved to achieve minimum sight lines, a corresponding length of hedgerow of similar species composition (native and of local provenance) shall be planted along the new boundary, while allowing occasional hedgerow trees to develop.
- **HO O53:** Retain, sensitively manage and protect features that contribute to local culture heritage and distinctiveness including;
 - o heritage and landscape features such as post boxes, pumps, jostle stones, etc.
 - o hedgerows and trees,
 - o historic and archaeological features and landscapes,
 - o water bodies,
 - o ridges and skylines,
 - o topographical and geological features and
 - o important scenic views and prospects.
- **HO O54:** Protect and maintain all surface water drainage within the curtilage of the site. Where site works impact on surface water drainage effective remedial works will be instated.

Section 3.14 (Rural Residential Density) of the current CDP is relevant to the consideration of the proposal and the following policies and objectives are of relevance:

- **HO P26:** Sensitively consider the capacity of the receiving environment to absorb further development of the nature proposed through the application of Kildare County Councils 'Single Rural Dwelling Density' Toolkit (see Appendix 11) and facilitate where possible those with a demonstrable social or economic need to reside in the area. Applicants will be required to demonstrate, to the satisfaction of the planning authority that no significant negative environmental effects¹⁰ will occur as a result of the development. In this regard, the Council will:
 - o examine and consider the extent and density of existing development in the area,
 - o the degree and pattern of ribbon development in the proximity of the proposed site.
- **HO O59:** Carefully manage Single Rural Dwelling Densities to ensure that the density of one-off housing does not exceed 30 units per square kilometre, unless the applicant is actively engaged in agriculture, or an occupation that is heavily dependent on the land and building on their own landholding.

In terms of wastewater treatment, Section 3.15.1 of the CDP is relevant to the consideration of the appeal and Policy **HO P27** is included as follows:

- Require all applications to demonstrate, to the satisfaction of the Planning Authority that the proposed development site can accommodate an on-site wastewater treatment system in accordance with the EPA Code of Practice for Wastewater Treatment Systems for single houses (2021), the County Kildare Groundwater Protection Scheme, and any other relevant documents / legislation as may be introduced during the Plan period.

Policy objectives for site access and entrances are contained within Section 3.16 of the CDP and include:

- **HO P28:** Avoid the creation of new accesses for one-off dwellings onto national

roads, to comply with the requirements of the Spatial Planning and National Roads Guidelines, DECLG (2012).

- **HO P29:** Restrict new accesses for one-off dwellings onto regional roads, where the 80km/hr speed limit applies in order to avoid the premature obsolescence of regional roads, (see Chapter 5), through the creation of excessive levels of individual entrances and to secure investment in non-national roads.
- **HO P30:** Require that proposals retain and maintain existing hedgerows in all instances, with the exception only of the section required to be removed to provide visibility at the proposed site entrance. On such cases, proposals for replacement hedgerows, including details of composition and planting must be submitted with any application which requires such removal.
- **HO P31:** Strictly control developments which require vehicular access from public roads that were formerly towpaths or from existing towpaths along the Grand Canal and Royal Canal. This is in addition to restrictions relevant to the Canals' designation as Proposed Natural Heritage Areas (pNHAs). It is policy to consider housing applications for established families only along roads that were formerly towpaths along the Canals and that such developments will be strictly controlled.
- **HO P32:** Require that the design of entrance gateways should be in keeping with the rural setting. All applications for a dwelling in a rural area should include detailed drawings and specifications for entrance treatments. The roadside boundary should ideally consist of a sod/earth mound/ fencing planted with a double row of native hedgerow species.

Relevant appendices of the CDP include:

Appendix 4 – Rural House Design Guide

‘When considering building a new home in rural County Kildare, the approach to site selection is crucial.’

This includes refining the location and Applicants considering if they comply with the

Rural Housing Policy pertaining to the area.

Appendix 11 – Single Rural Dwelling Density Toolkit

‘National guidelines and the County Development Plan policy has generally been formulated to manage rural housing to avoid a proliferation of one-off houses, extensive ribbon development, piecemeal and haphazard development...’

‘When the density or intensity of one-off houses becomes overly concentrated in any one particular area, the rural character of the area is gradually eroded... The intrinsic rural character is gradually transformed into a suburban, peri-rural character.’

5.2. National Policy

5.2.1. Climate Action Plan 2023 (CAP23)

5.2.2. Project Ireland 2040 National Planning Framework (NPF) Local Policy

National Policy Objective (NPO) 19 states it is an objective to ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere. In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2.3. Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).

Section 4.8 (Rural Places: Towns, Villages and the Countryside) of the RSES indicates that support for housing and population growth within rural towns and villages will help to act as a viable alternative to rural one-off housing, contributing to the principle of compact growth. Regional Policy Objective (RPO) 4.80 is relevant to the development proposal which notes that ‘Local authorities shall manage urban generated growth in Rural Areas Under Strong Urban Influence (i.e. the commuter catchment of Dublin,

large towns and centres of employment) and Stronger Rural Areas by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2.4. Sustainable Rural Housing Guidelines for Planning Authorities, 2005.

The overarching aim of the Guidelines is to ensure that people who are part of a 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. Circular Letter SP 5/08 was issued after the publication of the guidelines.

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

5.3. Natural Heritage Designations

There are no European designated sites within the immediate vicinity of the site. The nearest designated site is the Poulaphouca Reservoir Special Protection Area (SPA) (Site Code: 004063), located c. 2.1km to the north-east of the appeal site.

5.4. EIA Screening

Having regard to the nature, scale and location of the development, which consists of construction of a single storey dwelling and the renovation of farm buildings and associated site works to provide agricultural business, 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

A First Party appeal has been prepared and submitted on behalf of the Applicant. The grounds of appeal can be summarised as follows:

- It is stated that there is no objection from the Council to the overall principle of erecting a building on this land, in terms of the size, position and design of the proposed dwelling, or its effect on rural or residential amenity. Whilst the first reason for refusal suggests that the Applicant does not comply with the rural housing test, it is argued that this is not the case. To the degree that the Planning Authority also opines that this area has already passed a tipping point in terms of its ability to accommodate one more house, the Applicant respectfully disagrees with this conclusion.
- In terms of Refusal Reason No. 1, the appeal submission attaches a copy of the Council's assessment of the Applicant's eligibility to build a dwelling on his own farmland which he already works. At no stage does the Planning Authority's analysis acknowledge the relevance of section 4.13.3 of the County Development Plan which refers to housing applications on the basis of equine or other rural enterprises. The Planning Authority's assessment does not suggest that the Applicant's landholding is inadequate in size, shape or character for the proposed venture nor is the financial viability of the proposed business venture questioned. In addition, the assessment does not mention that the ovine element of the activity has already begun.
- It is noted that the Planning Authority does not challenge the Applicant's ability to breed sheep on his land and the Board is requested to carry this tactic conclusion forward into its analysis of the appeal. The Planning Authority objects to this proposal on 3 no. grounds, the first of which comprises the sufficiency of the Applicants expertise to conduct this business. The appeal submission respectfully disagrees with the Planning Authority's interpretation of the proposed operation, as requiring specialist expertise in equestrian matters, as it is immediately apparent from the application documentation that the applicant's role in the venture will be manual in character, to the degree that his work would not be akin to that of a veterinary

surgeon.

- In this regard, the Applicant's business plan which accompanies the appeal submission states that the business will exclusively provide rest and rehabilitation livery for thoroughbred horses and sport horses and does not infer or insinuate that the Applicant would provide equestrian professional services, of a type which would necessitate formal training or qualification in equine matters. The business plan confirms that the Applicant will provide the primary labour input for mucking out, feeding and exercising the horses in his care and the appeal submission notes that it is most unfortunate that this is not reflected in the Planning Authority's report.
- The second and third items detailed in the Planning Authority's assessment comprises the sufficiency of experience or qualification in equine rehabilitation. It is highlighted that the nature of the proposed livery would not require the Applicant to provide professional services. The submission notes that the Applicant would utilise his lifelong interest in veterinary medicine, horses, farming, rearing sheep and animal care and experiences on his family farm (uncle). It is suggested that such activities are not of a type which require formal equine training or education.
- The appeal submission notes that evidence shows that although a small number of farmers obtain a degree in agriculture, or even a green certificate from Teagasc, most individuals receive hands on training in this area, usually from relatives. It is stated that Planning Authority has repeatedly endorsed other Applicants who seek a farmhouse, even though they have never been formally trained or qualified in agricultural activities. The appeal submission refers to specific examples where the Planning Authority granted planning permission in instances such as this.
- It is stated that although planning policy requires a range of items to be considered when determining an individual's eligibility for a rural dwelling, the sole item on which the Planning Authority has focused is not actually listed in the County Development Plan. In addition, it is considered that the Planning Authority has misinterpreted the nature of the planned business and they incorrectly implied that the Applicant would be providing professional

equestrian services. However, it is immediately apparent from the application documentation that the Applicant would be engaged in in largely manual labour.

- In terms of the Refusal Reason No. 2, although the Planning Authority concludes that the proposal would contravene the policy of the County Development Plan, it is observed as a preliminary point that this policy provision does not contain numerical standards or thresholds. More importantly, the Board is requested to critically consider the density figures contained within the Planning Authority's assessment, especially as the images contained within their report (and repeated in the appeal submission) simply show the area which is within a certain distance from the appeal site, but which does not actually show any houses. It is stated that it is difficult to recognise how these diagrams included by the Planning Authority contribute to the assessment process in any meaningful way.
- It is suggested that it might be more appropriate for the Board to use aerial imagery when considering whether the vicinity of the appeal site has reached a tipping point in terms of its ability to absorb one additional dwelling on a holding of almost 30 acres. In this regard, the appeal submission refutes the Planning Authority's suggestion that this part of the County Kildare countryside cannot absorb one additional house.
- As this is an issue on which permission is often withheld within the county, the Board has had several opportunities to consider the capacity of the countryside in this area to absorb housing. The appeal submission refers to previous application whereby the Board disagreed with the Council's decision to refuse permission on the view that this general area could not absorb extra development. The submission also refers to another case where the Planning Authority had objected to the proposal on the basis that it would give rise to an excessive density of development in a rural area, thus suggesting that the environs of the site could not accommodate housing. However, it is stated that the Board rejected this view, noting that the proposed development was acceptable in terms of site specific planning considerations.
- Based on the issues raised in the two reasons for refusal, it is stated that

there are no physical, functional, aesthetic, ecological, visual, archaeological or architectural objections to this development. The Planning Authority's opinion that the Applicant fails the rural housing policy test is refuted and it is contended that the concentration of housing in this area is not so great that it should prevent a farmhouse being provided on the Applicant's landholding.

The Applicant has submitted the following documentation as appendices to the appeal submission.

- Original planning submission;
- Sale contract;
- Land registration pending document;
- Correspondence from Caitriona Byrne & Co (Solicitors);
- Registered JC Blake Equine;
- Driving licence (commercial vehicle);
- Sheep census (herd number);
- Farm insurance document;
- Bank of Ireland account details;
- Appointment of Murphy Sheeran Veterinary Surgeons;
- Appointment of Dylan Byrne & Co (Accountants);
- Business plan;
- Correspondence from Uniphar:
- Registration of equine premises;
- Correspondence from Bishopsland Polo; and,
- Rural housing application assessment of local needs.

6.2. Planning Authority Response

None.

6.3. Observations

None.

6.4. Further Responses

None sought.

7.0 Assessment

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

- Compliance with Rural Housing Policy
- Rural Residential Density
- Siting & Dwelling Design
- Wastewater Treatment
- Appropriate Assessment

7.1. Compliance with Rural Housing Policy

7.1.1. Compliance with rural housing policy is a core consideration for any planning application for a one-off house in a rural area. In this instance, the Planning Authority has refused planning permission as it was determined that the Applicant had failed to adequately demonstrate that they complied with the rural housing policy of the CDP (2017-2023) and a 'local need' had not been established. Since the Planning Authority's decision to refuse permission, the Kildare County Development Plan 2023-2029 has been adopted. Section 3.13.3 (Compliance with the Rural Housing Requirements) of this plan notes that rural generated housing demand will be managed having regard, inter alia, to an 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. This section of the plan notes that the Department of Housing, Local Government and Heritage have indicated that new Rural Housing Guidelines are being prepared to address rural housing issues and to take account of the Flemish Decree, the NPF and broader settlement context. In the interim, it is stated that the Local Authority must establish a policy to facilitate those who can demonstrate a genuine housing need and a social and/or economic need to live in rural County Kildare.

7.1.2. As noted in the foregoing, an applicant must firstly have a 'genuine housing need', and

secondly have either an 'economic' or 'social' need to be considered for a one-off dwelling in the rural area of Kildare. In terms of a 'genuine housing need', Section 3.18 of the Plan provides 'Technical Considerations for Rural Housing Proposals in County Kildare'. Table 3.5 (Technical Considerations for Rural Housing Proposals in County Kildare) states that an applicant seeking permission for a new rural dwelling must be building their home for their permanent occupation and must demonstrate a genuine housing need in accordance with the requirements of the NPF and the Sustainable Rural Housing Guidelines for Planning Authorities (April 2005, or any subsequent updates). In addition, Applicants must not already own or have been permitted a dwelling, save in demonstrable exceptional circumstances. The current CDP notes that documentary evidence to demonstrate compliance with the above will be required to accompany all planning applications. On the basis of the documentation submitted in support of the application and appeal, I am not satisfied that the Applicant has demonstrated that they have a genuine housing need as per the specific requirements of the plan. In addition, the business plan submitted in support of the application confirms that the Applicant intends to sell his pharmacy within the town to ultimately fund the construction of the proposed business and the associated dwelling. However, the Applicant has not provided any information as to whether they currently own a home or if they have been permitted a dwelling in the past.

7.1.3. As per Map 3.1 of the current CDP, the appeal site is located within 'Zone 1' (Areas under Strong Urban Influence). In 'Areas under Strong Urban Influence', the CDP notes that it will be an objective of the Council to facilitate the provision of single housing in the countryside based on the core considerations of:

- demonstrable 'economic or social' need to live in a rural area and build their home, and
- siting, environmental and design criteria for rural housing in statutory guidelines and plans.

It is policy under HO P11 of the Plan to facilitate, subject to all appropriate environmental assessments proposals for dwellings in the countryside outside of settlements in accordance with NPF Policy NPO 19 for new Housing in the Open Countryside in conjunction with the rural housing policy zone map (Map 3.1), the

accompanying Schedule of Category of Applicant and Local Need Criteria set out in Table 3.4 and in accordance with the relevant objectives (i.e. HO O43 – HO O49) of the Plan. In terms of meeting the relevant criteria under Policy HO P11, the Planning Authority in their ‘Rural Housing Application – Assessment of Local Need’ confirms that the Applicant seeks to qualify for a rural house at this location under Zone 1 Category 2(iii). Under the previous CDP (i.e. 2017-2023), Zone 1 Category 2(iii) was detailed as follows:

- ‘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.’

Given the circumstances of the Applicant, the relevant criteria to consider under this appeal, as per Table 3.4 (Schedule of Local Need Criteria in accordance with the NPF (NPO 19)) of the recently adopted CDP, is Category A (Economic) (ii), Zone 1. This category is defined as ‘An owner and operator of a farming/horticultural/forestry/bloodstock/ animal husbandry business on an area less than 15ha.’. The policy notes that the owner/operator [as referred to in Category A (ii)] must be engaged in that farming activity on a daily basis, as their main employment. Same must be demonstrated through the submission of documentary evidence to include confirmation that the farming/agricultural activity forms a significant part of the applicant’s livelihood, including but not limited to intensive farming.

7.1.4. In this instance, the application and appeal documentation confirm that the Applicant purchased the existing landholding a number of years ago. The Applicant himself, is a pharmacist and business owner in the nearby town of Ballymore Eustace, so it would appear that he currently farms the land on a part time basis. Documentation confirms that the Applicant has a herd number and I observed that the appeal site was in active agricultural use when inspecting the appeal site. The Applicant is now proposing to renovate the existing farm buildings on the appeal site in order to develop a sheep rearing and horse livery facility which will focus on the provision of accommodation and animal husbandry. It is stated that this will be administered by the Applicant with

the assistance of part-time or casual labour, as and when required. The Applicant has submitted a detailed business plan for the operation which indicates that the sale of his business will fund the renovation of the farm buildings and the construction of the proposed dwelling. Included within the business plan are income projections to demonstrate that the operations can serve as the Applicant's full time occupation.

7.1.5. In terms of the Planning Authority's assessment of the Applicant's rural housing need, it was noted that insufficient evidence of expertise, experience or qualifications in equine rehabilitation had been provided. For this reason, they were not satisfied that the Applicant met the required criteria, and a refusal of permission was recommended. In response, the Applicant's grounds of appeal confirms that the business would provide equestrian professional services, of a type which would not necessitate formal training or qualification in equine matters. Whilst I accept that an operator of a business of this nature may not require formal qualifications, Table 3.4 of the current CDP clearly sets out the owner/operator of the farm must be engaged in that farming activity on a daily basis, as their main employment. Whilst the Applicant may currently have ovine stock on the landholding, it is evident that the Applicant is a pharmacist and is currently not engaged in agriculture as his current full time occupation as required by the policy of the Plan. In addition, whilst the principle of a rural enterprise of this nature is generally considered to be acceptable at this location, there is insufficient evidence to demonstrate that a dwelling on the landholding is essential for the ongoing successful operation and maintenance of the business. For this reason, it is my view that the proposed development fails to comply with Policy HO P11 of the current CDP and would therefore contribute to the encroachment of random rural development in the area and it would militate against the preservation of the rural environment that is sensitive to change. In this regard, I recommend that planning permission be refused for the development proposal.

7.1.6. From the details provided within the application, it would appear that the Applicant resides in Kildare within a c. 15 minute drive of the appeal site. It is evident that the Applicant wishes to establish a business from the existing landholding and the business plan confirms that the Applicant will provide the primary labour input for

mucking out, feeding and exercising the horses. There is no evidence on the planning file which convinces me that this type of labour would require the operator to have a constant presence on the land holding, at least in the short to medium term. Given the policy support for rural enterprise developments of this nature, the Board may consider it appropriate in this instance to issue a split decision, whereby planning permission is refused for the proposed dwelling and granted for the renovation of the existing farm buildings for a sheep rearing and horse livery facility. Should it be demonstrated that the development is economically viable, and it be proven that a dwelling on the landholding is necessary for the ongoing successful operation and maintenance of the business, then further consideration could be given to a dwelling to the operator at this location in the future. However, there are additional issues that would further require consideration such as the provision of an internal access road which would be required for a commercial development of this nature. I note that this does not appear to form part of the Applicant's proposals for the appeal site.

7.2. Rural Residential Density

- 7.2.1. It is an objective under HO O59 of the CDP to 'Carefully manage Single Rural Dwelling Densities to ensure that the density of one-off housing does not exceed 30 units per square kilometre, unless the applicant is actively engaged in agriculture, or an occupation that is heavily dependent on the land and building on their own landholding'. Appendix 11 of the current CDP provides a 'Single Rural Dwelling Density Toolkit'. It states that national guidelines and Development Plan policy has generally been formulated to manage rural housing to avoid a proliferation of one-off houses, extensive ribbon development, and piecemeal and haphazard development. When the density or intensity of one-off houses becomes overly concentrated in any one particular area, the rural character of the area is gradually eroded. The intrinsic rural character is gradually transformed into a suburban, peri-rural character and the critical question, therefore, becomes "at what point does that the character change" i.e., "what is the tipping point"?
- 7.2.2. Appendix 11 of the Plan states that one of the evaluation criteria in this regard is the examination of 'Rural Residential Density' (RRD) at the scale of a square kilometre

surrounding the site for a proposed one-off house. It reflects the policy approach to rural and one-off houses set out under Section 3.14 of the Plan, which is entitled 'Rural Residential Density' and the following categories are referenced:

- In general, RRDs of less than 15 units per sq. km will be acceptable.
- In very enclosed landscapes with well-defined hedgerows and/or mature trees, which would partly screen or enclose one-off houses, RRDs of c. 15 – 25 per square kilometre may be open for consideration.
- Where the RRD exceeds 30 units per sq. km there will be a presumption against further one-off houses. However, in certain circumstances the above limits on RRD may be exceeded, subject to the exceptions outlined in section 3.14 of Chapter 3 of Volume 1 (of the Development Plan).

7.2.3. Given the level of existing development in the vicinity of the appeal site, the Planning Authority formed the opinion that the proposed development would exacerbate an excessive density of development in this rural area and would contribute to the area's increasing suburbanisation. The proposal was therefore considered to be contrary to Policy RH9(iv) of the Kildare County Development Plan 2017-2023 and a refusal of planning permission was recommended. Within the Applicant's grounds of appeal, it is highlighted that this policy provision does not contain numerical standards or thresholds. The Applicant questions the Planning Authority's subjective assessment of this issue, and the Board is requested examine aerial imagery when considering whether the vicinity of the appeal site has reached a tipping point in terms of its ability to absorb an additional dwelling. In this regard, the appeal submission refutes the Planning Authority's suggestion that this part of the County Kildare countryside cannot absorb one additional house. Whilst I accept that the policy of the previous Plan did not contain numerical standards or thresholds in the context of this issue, Policy HO P26 and Objective HO O59 of the current Plan does now set out relevant quantitative standards that must be considered. The policy of the Plan seeks to 'Sensitively consider the capacity of the receiving environment to absorb further development of the nature proposed through the application of Kildare County Councils 'Single Rural Dwelling Density' Toolkit (see Appendix 11) and facilitate where possible those with a demonstrable social or economic need to reside in the area...'.

7.2.4. Upon reviewing the file and online mapping systems, I have calculated approximately 32 no. existing dwellings within a c. 1km radius of the subject site. The policy states there is a presumption against further one-off houses in such cases. I note that this is a guideline only for helping to determine what constitutes excessive rural housing densities and it is not intended to be a rigid tool. It is also acknowledged that there may be instances where the existing pattern of development may facilitate consolidation of one-off housing; for example, due to the prevailing pattern in the area, local topographical conditions, or in very enclosed country (defined by mature trees and hedgerows). In such instances, a site may potentially have the capacity to absorb an additional residential unit, without any significant adverse visual, physical or environmental impacts on the countryside. However, it is policy of the current CDP that such one-off housing should generally only be facilitated in very exceptional circumstances, and where there is a significant need demonstrated, for example, those actively engaged in agricultural or in an occupation heavily dependent on the land (Objective HO O59 of the Development Plan refers). As noted in Section 7.1 of this report, I am not satisfied that a local need has been established as per the requirements of Policy HO P11 of the Plan and therefore, I do not consider that 'very exceptional circumstances' apply in this instance as referenced under Objective HO O59.

7.2.5. During my physical inspection of the site, I observed there to be what only could be described as a proliferation of one-off housing along the surrounding road network. It is evident to me that development pressure in this area has become acute and due to the prevalence of one-off housing in the vicinity, there is now a proliferation of ad-hoc rural housing development occurring and the rural density limit for the area has been exceeded. For this reason, the proposed development is considered to be contrary to Objective HO O59 of the County Development Plan and should therefore be refused planning permission.

7.3. Siting & Dwelling Design

7.3.1. In terms site selection, the policy objectives and design principles set out in Section

3.13.4 (Siting and Design) and Appendix 4 (Rural Design Guide) of the current CDP are relevant in this regard. The proposal seeks planning consent to close up the existing agricultural entrance and provide a new recessed shared entrance to serve the proposed dwelling and the larger agricultural landholding. A gravel driveway will lead from the entrance to the single storey dwelling which is set back c. 20m from the site's roadside boundary and located to the north-west of the relocated entrance. The dwelling will have a 'H' plan form with a pitched roof profile and a maximum height of c. 4.7m. The dwelling will be served by a large front and side garden with a smaller enclosed amenity area provided to its rear. Overall, the design of the dwelling is modest in form and is generally in keeping with the vernacular character of the surrounding area. I also note that the Planning Authority has not raised any concerns with the design, form or siting of the proposed dwelling in principle.

- 7.3.2. The majority of the existing roadside (southern) boundary comprises a hedgerow which is interspersed by a large number of mature trees which currently screen the site from the immediate south. 40m sightlines in each direction have been identified on the submitted Site Layout Plan. However, I note from the report on file from the Planning Authority's Municipal District Engineer that the regulatory speed limit along the L-5043 at the junction with the proposed access is 80 Km/H. The report notes that the proposed sightlines do not comply with TII Geometric Design of Junctions DN-GEO-03060 (June 2017) at the junction of the proposed access and the L-5043 road. It also states that if proposals to achieve required lines of sight require boundaries on adjoining lands to be set back, the applicant is to submit letter of agreement from the adjoining landowner (including family) confirming that they will relocate the front boundary in order to facilitate the required sight lines. This commentary would lead me to believe that a significant extent of the existing mature roadside boundary would need to be removed in order to achieve the required sightlines. I note that the loss of the existing roadside boundary would be an unfavourable outcome which would further erode the areas rural character. I also note that the site is exposed from views along the R411 to the east of the site as there is minimal vegetation cover along the eastern extent of the Applicant's landholding. Although the Applicant appears to have proposed hedgerow planting to the east and north of the dwelling, additional

landscaping within the site would allow the development to better assimilate within its receiving landscape.

7.4. Wastewater Treatment

- 7.4.1. Assessment of the wastewater treatment element of a rural one-off house is a standard consideration. I note that Policy Objective HO P27 of the current CDP requires ‘... all applications to demonstrate, to the satisfaction of the Planning Authority that the proposed development site can accommodate an on-site wastewater treatment system in accordance with the EPA Code of Practice for Wastewater Treatment Systems for single houses (2021), the County Kildare Groundwater Protection Scheme, and any other relevant documents / legislation as may be introduced during the Plan period. The site characterisation report notes that the site is in an area with a poor aquifer of moderate vulnerability. The Site Characterisation Form notes that groundwater was not encountered in the 2.1m deep trial hole. Bedrock was also not encountered within the trial hole. The soil was topsoil in the upper 300mm and sandy silt between 300mm and 1.8m. Sandy gravel was recorded with remainder of the hole. Table E1 (Response Matrix for DWWTSs) of the EPA Code of Practice Domestic Wastewater Treatment (Population Equivalent ≤ 10), 2021, identifies an R1 response category i.e. Acceptable subject to normal good practice (i.e. system selection, construction, operation and maintenance in accordance with this CoP).
- 7.4.2. The surface test result was 21.31. A sub-surface test was also carried out giving a result of 20.36. I consider the results to be generally consistent with the ground conditions observed on site. Section 3.1 of the Site Characterisation Form states the ground condition was firm at the time of inspection. The site comprises an agricultural field with no indication of, for example, water ponding, outcrops etc. and the wastewater treatment system is to be located within a relatively flat area of the site at the base of a gently sloping hill. Section 4.0 (Conclusion of Site Characterisation) of the Site Characterisation form states that the site is suitable for development including septic tank, a secondary treatment system and tertiary treatment system, all of which are discharging to ground water. Section 5.0 (Recommendation) of the Site Characterisation Form recommends that a secondary treatment system and soil

polishing filter (90sq.m.) be installed on site and the specifications for same. Having regard to the information on file and having inspected the appeal site, I am generally satisfied that the Applicant's proposals for the disposal and treatment of wastewater are acceptable. I also note that the Planning Authority's Environment Section have raised no objection to the Applicant's proposals for the disposal and treatment of wastewater. However, the report on file from the EHO notes that there is a c. 36m distance between the proposed percolation area (up-gradient) and the existing well of the property to the south (down-gradient) and it was unclear whether adequate separation distance are provided in accordance with the EPA Code of Practice. Should the Board be minded to grant permission for the proposed development, I would recommend the inclusion of a condition which shall require the design and installation of the proposed WWTS to comply with the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent ≤ 10 (2021). This may require the relocation of the percolation area to the north so that adequate separation distances are achieved (i.e. 45m as per Table 6.2 of the COP).

7.5. Appropriate Assessment

- 7.5.1. The nearest designated site is the Poulaphouca Reservoir Special Protection Area (SPA) (Site Code: 004063), located c. 2.1km to the north-east of the appeal site. I note the un-serviced nature of this rural location which means that the site does not benefit from access to public mains drainage or water supply. I also acknowledge the prevalence of agricultural activities and a large number of one-off dwellings in the wider vicinity.
- 7.5.2. Despite these factors, I am nonetheless of the opinion that taking into consideration the modest nature, extent and scope of the proposed development and based on best scientific information alongside having regard to the documentation on file which includes a Site Characterisation Report, that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

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

9.0 Reasons and Considerations

1. The site of the proposed development is located on lands identified as 'Zone 1' (Areas under Strong Urban Influence) in the Kildare County Development Plan, 2023-2029. Furthermore, the subject site is located in an area that is designated as an area under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, 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 the viability of smaller towns and rural settlements. Having regard to the documentation submitted with the planning application and appeal, the Board is not satisfied that the Applicant has a demonstrable economic or social need to live in this rural area, as per the requirements of Policy HO P11 of the Kildare County Development Plan, 2023-2029. The proposed development would result in a haphazard and unsustainable form of development in an un-serviced area and would contribute to the encroachment of random rural development in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Taken in conjunction with extent of existing development in the surrounding area, the proposed development would give rise to an excessive density of development in a rural area lacking certain public services and community facilities and would contravene the policy of the Planning Authority, including Policy HO P26 and Objective HO O59, as expressed in the Kildare County Development Plan 2023 - 2029, which seeks to manage rural residential density to avoid a proliferation of one-off houses, extensive ribbon development, and piecemeal and haphazard development that erodes the intrinsic character of the Irish countryside. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Enda Duignan

Planning Inspector

05/09/2023