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<b>Development</b>	<i>Sub-division of site for the construction of a single storey detached bungalow, single storey domestic garage, shared use of existing and permitted entrance to adjacent house and all associated site works.</i>		
<b>Location</b>	<i>Painestown, Kill, Co. Kildare</i>		
<b>Planning Authority Ref.</b>	<i>23650</i>		
<b>Applicant(s)</b>	<i>Tammy Talbot</i>		
<b>Type of Application</b>	<i>Permission</i>	<b>PA Decision</b>	<i>Grant Permission.</i>
<b>Type of Appeal</b>	<i>Third Party</i>	<b>Appellant</b>	<i>David Donnellan</i>
<b>Observer(s)</b>	<i>Thomas Kelleher</i>		
<b>Date of Site Inspection</b>	<i>23/12/2023</i>	<b>Inspector</b>	<i>Andrew Hersey</i>

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## Context

**1. Site Location/ and Description.** The site comprises part of an agricultural field situated approximately 1.5km northwest of the M7 and Kill off a local tertiary road. The site entrance comprises a wide recessed agricultural entrance which was locked on the day of the site visit, but which leads to some farm buildings There is a detached dwelling under construction (granted under 21/818) situated on adjacent site immediately to the west of the application site, and another more established dwellinghouse further due west. The roadside boundary comprises of

a ditch behind which there is a mature hedgerow which visually blocks the house under construction when viewed from the adjacent public road.

**2. Description of development.** *The proposed development comprises of Permission for:*

- *Sub-division of site for the construction of a single storey detached bungalow,*
- *single storey domestic garage,*
- *shared use of existing and permitted entrance to adjacent house and*
- *all associated site works*

### **3. Planning History**

*Site*

- Planning Reg. Ref. 23263 in the name of Vincent Talbot for permission for a 3.5m high timber fence to east and south of site and all associated site works - Application not yet decided. At further information stage.

*Site immediately adjacent to east*

- Planning Reg. Ref. 20/790 in the name of Rose Talbot for the construction of a single story detached house, single storey domestic garage, secondary effluent treatment system, utilisation of existing recessed entrance and all associated site works granted permission on the 19/11/2020
- Planning Reg. Ref Number: 21/818 in the name of Rose Talbot to to amend site boundaries and location of secondary effluent treatment system on previously approved permission (File Ref. 20/790) and all associated site works granted permission.

*To the rear of the site*

- Planning Reg. Ref. 14/415 in the name of Vincent Talbot granted permission for a hay shed and access driveway (this is located further to the north of the existing shed)

- Planning Reg. Ref. 21/1221 in the name of Vincent Talbot granted permission for a hay shed and access driveway (this is located further to the north of the existing shed)
- RL09.316012 Referral 'Whether the importation and on site works with soil and subsoil is or is not development or is or is not exempted development. Case not decided as yet

#### **4. National/Regional/Local Planning Policy**

##### **National Planning Framework 2040**

- National Policy Objective 19 states that '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

##### **The Kildare County Development Plan 2023-2029**

- The Kildare County Development Plan 2023-2029 is the statutory plan in force at present which came into effect on the 28<sup>th</sup> January 2023.
- Section 3.13 sets out policy with respect of Sustainable Rural Housing.
- The plan defines two distinct zones within the county - Zone 1: Areas under Strong Urban Influence and Zone 2: Stronger Rural Areas.
- Within areas designated as Zone 1: Areas under Strong Urban Influence, applicants for single rural house must be able to demonstrate an 'economic or social' need to live in the area having regard to the viability of smaller towns and rural settlements and the provision and availability of serviced sites in these areas
- With respect of 'social need' this is defined in the plan as Applicants must have grown up and spent 16 years living in the rural area of Kildare and who seek to build their home in the rural area on their family landholding

- Objective HO043 Require applicants to demonstrate that they do not own or have not been previously granted permission for a one-off rural dwelling in Kildare
- Objective HO046 Recognise and promote the agricultural and landscape value of the rural area and prohibit the development of urban generated housing in the rural area
- Objective 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.
- Objective HO P13 Restrict further development which would exacerbate or extend an existing pattern of ribbon development, defined as 5 or more houses along 250 metres on one side of any road
- Objective 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.
- Objective HO 059 Carefully manage Single Rural Dwelling Densities to ensure that the density of one-off housing does not exceed 30 units per square kilometre<sup>11</sup>, unless the applicant is actively engaged in agriculture, or an occupation that is heavily dependent on the land and building on their own landholding
- Objective 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 effects<sup>10</sup> will occur as a result of the development. In this regard, the Council will:

- examine and consider the extent and density of existing development in the area,
- the degree and pattern of ribbon development in the proximity of the proposed site.

#### **5. Natural Heritage Designations**

- The Grand Canal pNHA is located 1.3km to the north west of the site (Site Code 002104)
- There are no Natura 2000 sites within 10km of the site

### **Development, Decision and Grounds of Appeal**

**6. PA Decision.** *Permission was granted by Kildare County Council on 18<sup>th</sup> September 2023. Planners Report states:*

- That the applicant complies with Rural Housing Policy based on the evidence submitted
- That the proposal represents an acceptable level of housing density in this rural area on the basis that there 12 houses within a radius of 500 metres
- That the site is located 1.7km from Kill and would not interfere with the transitional lands around Kill
- The proposal would result in the 4<sup>th</sup> house in 250 metres of road frontage and therefore would not represent ribbon development.
- Design of the house submitted upon response to further information deemed acceptable

## **7. Local Authority Reports/Referrals**

- Water Services (dated 14/06/2023) states that the site is subject to fluvial flood risk and that as such a Flood Risk Assessment should be submitted.
- Naas Municipal District Planning Report (04/07/2023) no objection subject to conditions
- Irish Water (20/07/2023) no objection
- Roads, Transportation & Public Safety (21/07/2023) no objection subject to conditions

## **8. Submissions** *There are four submission on file from a*

- John Kerin (received 17<sup>th</sup> July 2023),
- David Donnellan (10<sup>th</sup> July 2023)
- Anne & Patrick O'Reilly (received 14<sup>th</sup> July 2023)
- Thomas and Margaret Kelleher (received 6<sup>th</sup> July 2023)

In summary the submissions raise issues with respect of:

- Rural Residential Density & Ribbon Development
- Traffic Concerns
- Drainage issues
- Commercial use of the farm and use of farmyard for parking heavy duty truck and industrial machinery

## **9. Third Party Appeal. Grounds:**

- That the proposed house is unnecessary and that the character of the area has changed from an agrarian environment to one which is akin to a low density suburb.
- That the house permitted under 20790 remains unfinished.
- That the Board verify that the proposed house is not urban generated
- That the applicant could reside in a settlement and still maintain ties with her family

- There are no services in the area – no footpaths or public lighting. Planning Reg. Ref. ABP300824-18 was in part refused permission on this basis.
- That while the density of houses in the immediate rural area is low there is generally a high density of rural housing in the wider area
- The proposed house would be the 5<sup>th</sup> house within 250 metres of road frontage and this therefore represents ribbon development.
- Concerns with respect of the concentration of wastewater treatment plants in a limited area

#### **10. PA Response (received 10th November 2023)**

- The Planning Authority states that it has examined the appeal and that regard has been had to the issues raised in the appeal.

#### **11. Observations**

*First party received 10<sup>th</sup> November 2023*

- The first party response to the appeal includes for a letter from the applicant Tammy Talbot and her agent
- Tammy's letter details her need and her daughters need to live in the area and that she helps out on the family farm, that she was brought up in Painstown and has a genuine attachment to the area
- She states that she intends to grow hedges and greenery around her home and that as such the house will not erode the countryside.
- The applicant's agent further reiterates that Tammy meets development plan policy with respect of rural housing and that the proposal does not exceed the density thresholds as set out in the development plan.

*Third Party (Thomas Kelleher) received 01/11/2023*

- Mr Kelleher states that he wishes to support the appeal lodged by David Donnellan.
- He states that he resides adjacent to the subject site

## Environmental Screening

### **12. EIA Screening**

*Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.*

### **13. AA Screening**

*Having regard to the modest nature and scale of development, location in an urban area, connection to existing services and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.*

## 2.0 Assessment

### 2.1. Introduction

2.1.1. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to relevant local development plan policies and guidance.

2.1.2. I am satisfied the substantive issues arising from the grounds of this third party appeal relate to the following matters-

- Principle of Development/Rural Housing Policy
- Traffic
- Housing Density
- Ribbon Development
- Wastewater Treatment
- Flooding
- Design & Visual Amenity



## 2.2. Principle of Development

- 2.2.1. The proposed development site is located on lands designated as Zone 1: Areas under Strong Urban Influence in the Kildare County Development Plan 2023-2029. In such areas
- 2.2.2. Within areas designated as Zone 1: Areas under Strong Urban Influence, applicants for single rural house must be able to demonstrate an 'economic or social' need to live in the area having regard to the viability of smaller towns and rural settlements and the provision and availability of serviced sites in these areas
- 2.2.3. With respect of 'social need' this is defined in the plan as Applicants must have grown up and spent 16 years living in the rural area of Kildare and who seek to build their home in the rural area on their family landholding
- 2.2.4. I note that the applicant has proven by way of documentary evidence that she has lived in and grown up in the area for over 16 years. Her parental home is located across the road from the proposed development site and within a few hundred metres of the same.
- 2.2.5. I further note that the applicant does not own a house in the local rural area at present and the said site forms part of the family farm.
- 2.2.6. On this basis I am satisfied that the applicant complies with rural housing policy as set out in the current development plan serving the area.
- 2.2.7. I am also satisfied that the applicant complies with NPO19 of the National Planning Framework 2040 which seeks, in part that in rural areas under urban influence, the provision of single housing in the countryside is facilitated based on the core consideration of demonstrable economic or social need to live in a rural area. I am satisfied that the applicant has a bone fide social need to live in this rural area.
- 2.2.8. I further note that the proposed development includes for the subdivision of an existing development site which was granted for a house to the west of the site under Planning Reg. Ref. 21/818. I note that construction has begun on the house permitted on the adjacent site. I consider the same acceptable.

## 2.3. Traffic

- 2.3.1. It is noted that access to the site is to be via a spur road from the driveway serving the adjacent house to the west which in turn shares an entrance to a farm road which serves an agricultural shed to the north.
- 2.3.2. This will result in three individual developments being served by a single splayed entrance.
- 2.3.3. I note that there is no objection from the Roads, Transportation & Public Safety department of Kildare County Council
- 2.3.4. I further note there are objections on file which raise concerns with respect of traffic safety and that heavy vehicles use the existing agricultural entrance and are stored on site. There was no evidence of the same on the day of the site visit and I note this issue was not raised in the appeal.
- 2.3.5. With respect of the same and having regard to the fact that the Roads, Transportation & Public Safety department of Kildare County Council are not opposed to the proposed development, I am satisfied that the proposed development will not result in a significant increase in traffic movements onto this local road that would render it hazardous.
- 2.3.6. I note the appellants concerns with respect of the lack of services in the area – footpaths and public lighting. I think it is an accepted norm that such services would not be available in rural areas such as this and I not think the lack thereof of such services would result in any increased risk to existing road users as a consequence of the proposed development.

## 2.4. **Housing Density**

- 2.4.1. Objective HO 059 of the Kildare County Development Plan 2023-2029 seeks to *Carefully manage Single Rural Dwelling Densities to ensure that the density of one-off housing does not exceed 30 units per square kilometre<sup>11</sup>, unless the applicant is actively engaged in agriculture, or an occupation that is heavily dependent on the land and building on their own landholding*
- 2.4.2. I note from the councils online planning portal that there is a toolkit which allows you to measure the number of houses within a square kilometre of the proposed dwelling. I have accessed this toolkit and I noted 13 other houses within a square kilometre of

the proposed dwelling. In this regard, I am of the opinion that the proposal is compliant with Objective HO 059.

## 2.5. Ribbon Development

- 2.5.1. Objective HO P13 of the Kildare County Development Plan 2023-2029 seeks to *Restrict further development which would exacerbate or extend an existing pattern of ribbon development, defined as 5 or more houses along 250 metres on one side of any road .*
- 2.5.2. Appendix 11 of the Kildare County Development Plan 2023-2029 (Single Rural Housing Density Toolkit) further elaborates on this definition and states that *ribbon development will also be evaluated on the basis of 10 houses or more over a 500m stretch; and/or 20 units or more over a 1,000m stretch of road. For the avoidance of doubt, the dwellings either side of the road will be used to form the calculation.*
- 2.5.3. I note first off that the proposed dwelling will be the fifth dwelling in a row within 250 metres of road frontage at this location. It would also be the 13<sup>th</sup> house within 1000 metres stretch of road i.e. 500metres either side of the proposed development site. In this respect both sides of the road have been taken into account as per the advice as set out in Appendix 11.
- 2.5.4. I am of the opinion in this regard that having regard to the fact that the applicant grew up in the immediate area of the proposed development site and having regard to the fact that the lands comprise of family lands it is considered that the number of dwellings along 1000 metres of road frontage should be taken into consideration in this instance. In this respect, I do not consider that the proposal constitutes ribbon development.

## 2.6. Flooding

- 2.6.1. The report from (dated 14/06/2023) states that the site is subject to fluvial flood risk and that as such a Flood Risk Assessment should be submitted. I further note that a third party submission on file raised concerns with respect of surface water drainage and that drainage works were carried in conjunction with Kildare County Council at this location

- 2.6.2. I note that this issue was not raised in the case planners report. However, I consider it an pertinent issue to establish as to whether fluvial flooding could prevent further development of these lands or not and in this respect it is considered that a Flood Risk Assessment needs to be carried out as per the report from Water Services on this issue
- 2.6.3. While it is noted that this issue seems to have been rectified in the adjacent site Planning Reg. Ref. 21-818 by way of a report from Water Services that flooding would not be a cause of concern, this same recommendation was not followed through under the current application. In this respect, I am of the opinion that permission be refused on the grounds of potential to flood.

**2.7. Wastewater**

- 2.7.1. With respect of wastewater treatment I note that a private wastewater treatment plant is proposed on site. There is no report on file from the Environment Section of Kildare County Council on file despite the case planners report which states that there are no objections from Environment
- 2.7.2. I do have concerns that if the site is prone to fluvial flood risk that this would impact upon the proper functioning of the wastewater treatment plant and that if flooding occurs that there is a threat that surface waters could be contaminated untreated sewerage.
- 2.7.3. On the basis of the above therefore it is recommended that permission be refused until it is established that there is no risk of the site flooding.

**2.8. Design & Visual Amenity**

- 2.8.1. A revised design was submitted for the proposed house upon response to further information. This was deemed acceptable to the planning authority.
- 2.8.2. The proposed house is a single storey residence with front porch and a floorspace of 230sq.m. The overall height is just under 6 metres.

2.8.3. Subject to the mature roadside hedgerow being maintained and subject to supplementary native tree planting, I consider the proposal to be acceptable at this location and I do not consider that there would be a significant impact upon the visual amenities of the area as a consequence of the same.

### 3.0 Recommendation

3.1. I recommend that permission be refused for the following reasons:

1. The proposed development is in an area which is at risk of flooding. The Board is not satisfied, based on the information lodged with the planning application and in response to the appeal, that the proposed development would not give rise to a heightened risk of flooding either on the proposed development site itself, or on other lands. Having regard to the same and having regard to the proposed wastewater treatment plant and percolation area proposed, there are concerns that there is risk of flooding of the treatment plant and associated percolation area which will not function properly and would give rise to contamination of surface waters from untreated foul effluent. The proposed development would, therefore, be prejudicial to public health and 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.

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Andrew Hersey  
Planning Inspector

7th February 2024