



An
Bord
Pleanála

Inspector's Report

ABP-319222-24

Development	Construction of a house with garage, wastewater treatment system and all associated site works.
Location	Gingerstown, Caragh, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	2360483
Applicant(s)	Cormac Cooke
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Cormac Cooke
Observer(s)	Mr. Gay & Ms. Annette O' Callaghan
Date of Site Inspection	12/06/2024
Inspector	Paula Hanlon

1.0 Site Location and Description

- 1.1. The site (stated area 0.96ha on submitted application form) subject to this appeal (hereafter referred to as 'the site') is in the townland of Gingerstown, Caragh, Co. Kildare. It is contained within a field which is laid in grass and is bound to east by the R409. The site is located on the SW corner of a staggered crossroads, approximately 200m south of the railway bridge that oversails the R409 and is approximately 200m north of Caragh Bridge, which is a single lane bridge over the River Liffey (a protected structure).
- 1.2. The site would be accessed off an established narrow lane which connects at two points onto the R409 and runs along the northern and western (rear) boundary of this site. This lane serves the former Caragh presbytery, a protected structure which is now in residential use, located approximately 100m north of this site and other adjoining lands which are in separate ownership. The landholding of Yeomanstown stud bounds the lane immediately to the west (rear) of the site and the Awillyinish stream traverses these lands, a distance of approximately 100m from the site.
- 1.3. The site is outside of the village plan boundary for Caragh. The character of the R409 within the immediate area is rural on the approach into the village, typified by agricultural lands and a generally dispersed rural settlement pattern. A pattern of linear development in the form of single houses on detached sites is established along a local road that connects with the R409 on its eastern side, immediately opposite the subject site and a low-rise dwelling at the western most end of this road fronts directly onto the R409. A footpath which aligns the eastern side of the R409 connects the village with the staggered crossroads to the NE of this site.
- 1.4. The site itself comprises a generally flat topography with gentle undulation. At time of site inspection, the site was dry and neither site features nor vegetation suggested any drainage issues. The 60kph speed limit is set along the adjoining regional road at a point where it connects with the serving lane.
- 1.5. It is located within the Northern Lowlands Landscape Character Area which is classified as low sensitivity (Class 1).

2.0 Proposed Development

- 2.1. Construction of a single storey dwelling house with a stated floor area of 232.56m², overall height 5.9m and an associated domestic garage (48.7m²), wastewater treatment system and all associated site works.

The internal layout proposed is such that the dwelling comprises two separate living wings (parents wing and applicant's wing) which are connected by an entrance hall, to accommodate the applicant's needs.

The external finishes are not shown on the plans submitted.

- 2.2. The application was accompanied by the following documentation of note

- Planning Statement with supporting appendices

[Appendix A (applicant's compliance with exceptional health circumstances in accordance with the Rural Housing Guidelines (2005);

Appendix B (applicant's compliance with exceptional health circumstances in accordance with requirements of the CDP, including supporting correspondence from 3(no) medical professionals and statement from applicant's parents]

- Letter of Consent from landowner
- Completed Site Characterisation Report.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 14 February 2024, Kildare County Council issued a Notification of decision to refuse planning permission for 1(no) reason as follows:

1. It is the policy of the Kildare County Development Plan 2023-2029 under HO P15 to preserve and protect the open character of transitional lands immediately outside of settlement boundaries 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. Having regard to the existing pattern and density of development in

the area and the nature and location of the proposed dwelling c. 200m from the boundary of Caragh, it is considered that the proposed development would detract from the open character of the transitional lands on the approach road to Caragh and would further contribute to the erosion of a clear demarcation and distinction between urban areas and the countryside, which would be contrary to HOP15 and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

One Planning Report completed on 14/02/2024 is attached to the file. The planning officer concluded that whilst the applicant demonstrated exceptional health circumstances that require him to live in the rural area, the receiving environment does not have capacity to absorb the development proposed. A recommendation to refuse permission issued for one reason, as outlined in Section 3.1 above.

3.2.2. Other Technical Reports

District Engineer: Further information sought (adjoining farm access arrangement)

Water Services: Conditions Recommended

Transportation, Mobility and Open Spaces Department: No objection, conditions recommended

Environment Section: Further Information sought (wastewater).

3.3. Prescribed Bodies

Department of Housing, Local Government and Heritage [Nature Conservation]: Report received (dated 26/01/2024): Requirements on hedgerow/tree(s) disturbances in accordance with The Wildlife Act 1976 (as amended) are outlined.

Irish Water (IW): Report received (dated 14/12/23): No objection.

3.4. Third Party Observations

The Planning Authority received one third-party submission during the course of their determination. The submission made by Mr. Gay and Ms. Annette O' Callaghan of Yeomanstown Stud, Naas, Co. Kildare raises a number of matters, the content of which are similar to those raised in the observation made to this appeal [Summarised in Section 6.3 below].

4.0 Planning History

[Note: Pl. History relates to this site and extended area within the associated land parcel]

Pl. Ref. 21/1505: Permission was refused to Cormac Cooke for a dwelling with the grounds for refusal based on the site's siting outside of the village boundary which would contribute to urban sprawl and exacerbate suburbanisation of the rural area, contrary to policy and inadequate sightlines.

Pl. Ref. 20/1470: Permission was refused to Kevin Cooke for a dwelling, with the grounds for refusal similar to those of Pl. Ref. 21/1505 on this site (refer above).

Pl. Ref. 19/1350: Permission was refused to Kevin Cooke for a dwelling for 4 reasons. The grounds for refusal include the two stated reasons within the more recent applications (notably pl. ref. 20/1470 & pl. ref. 21/1505) along with additional grounds in regard to non-compliance with local need policy and insufficient details on on-site wastewater.

Pl. Ref. 11/1007: Outline permission was refused to Kevin Cooke for a memorial woodland burial ground with the grounds for refusal premised on road network

deficiencies, inadequate sightlines, potential impacts to the setting of a protected structure (Caragh presbytery (former) on the local environment (ecology, flood risk).

5.0 Policy Context

5.1. Kildare County Development Plan 2023-2029

5.1.1. The Kildare County Development Plan 2023-2029 (CDP) which came into effect 28 January 2023 is the operative Development Plan for the county.

5.1.2. Relevant policies, objectives and standards within the CDP are set out under Housing (Chapter 3), Building and Cultural Heritage (Chapter 11) and the Development Management Standards (Chapter 15).

5.1.3. The county is classified into two areas for the purposes of rural housing policy, Zone 1 (Areas Under Strong Urban Influence) and Zone 2 (Stronger Rural Areas). The appeal site is located within Zone 1 (Areas under Strong Urban Influence) and therefore the applicant is required to demonstrate an economic (category A) or social (category B) need to build their home. Table 3.4 of the CDP outlines eligibility requirements which applicants must meet.

In summary,

A 'Category A' applicant i.e. Economic need in the context of rural housing policy is defined as a person (or persons) who is (are) actively engaged in farming/agricultural activity on the landholding on which the proposed dwelling is to be built, meeting either of the following: (i) A farmer of the land or son, daughter, niece or nephew of the farmer who it is intended will take over the operation of the family farm. Note; A farmer (for this purposes) is defined as a landowner with a holding of >15ha which must be in the ownership of the applicant's immediate family for a minimum of seven years preceding date of the application for planning permission....

(ii) An owner and operator of farming/horticultural/forestry/bloodstock/animal husbandry business on an area less than 15ha, who is engaged in farming activity on

a daily basis, where it is demonstrated through the submission of documentary evidence that the farming/agricultural activity forms a significant part of their livelihood, including but not limited to intensive farming.

A 'Category B' applicant i.e. - Social need in the context of rural housing policy is defined as (i) A person who has resided in a rural area for a substantial period of their lives i.e. 16 years within 5km ... of the site where they intend to build. Cluster type developments of five houses or less may be considered in rural areas on family farm holdings for applicants who are family members or adjacent to urban boundaries where no other land is available and comply with the social or economic element of the rural housing policy, where there has not been speculative sale of sites.

5.1.4. Policy 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... Documentary evidence of compliance with the rural housing policy must be submitted as part of the planning application.

5.1.5. Objective 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.

5.1.6. Policy 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.

5.1.7. Objective AH O32: Ensure that new development will not adversely impact on the setting of a protected structure or obscure established views of its principal elevations.

5.1.8. The following policies, objectives and sections contained within the CDP are also relevant to the consideration of this appeal: Objective HO O43 (applicant to demonstrate that they do not own/been granted permission previously for a one-off rural dwelling in Co. Kildare); Objective HO O46 (agricultural & landscape value); Policy HO P12 & Objective HO O50 (siting and design); Objectives AH O21 & AH O32 (protect setting of protected structure & established views of its principal elevations); Objective HO O51 (sightlines); Policy HO P27 (wastewater treatment), Policy HOP30 (retain/maintain hedgerows) and Objective HO O52 (biodiversity/ecosystem services value of hedgerows). Appendix 4 – Rural House Design Guide.

5.2. Sustainable Rural Housing – Guidelines for Planning Authorities

- These guidelines state that development plans should facilitate the housing need of the rural community while directing urban generated housing to settlements. The guidelines go on to state that the housing requirements of persons with a link to the rural area should be facilitated in the area it arises subject to normal siting and design requirements.
- Section 3.2.3 refers to ‘Rural Generated Housing’ and ‘Persons who are an intrinsic part of the rural community’. It states, “Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community...”
- Section 4.3 ‘Assessing Housing Circumstances’ sets out the need for balanced assessments regarding the circumstances and merits of the application, including recognition of “exceptional health circumstances”.

5.3. Architectural Heritage Protection Guidelines for Planning Authorities (2011).

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

5.5. National Planning Framework

NPO 19 of the National Planning Framework (NPF) states the following in relation to one-off rural housing in the countryside:

Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e., within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.6. Natural Heritage Designations

The appeal site is not located on or within proximity to any designated Natura 2000 site or Natural Heritage Area. Liffey at Osberstown pNHA (001395) is the nearest pNHA/NHA located approximately 1.6km SE of the site and the Grand Canal pNHA is

a distance of approximately 2.9km NE of the site. Mouds Bog SAC (002331) is the nearest European site, located approximately 4.5km SE of the site.

5.7. EIA Screening

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal (First Party)

6.1. Grounds of Appeal

- Applicant complies with objective HO O47 (exceptional health circumstances) of the CDP and the requirement to comply with other policies is not stated within this objective.
- Policy HO P15 should not form part of the assessment of this case. Should the Board consider differently, a number of points to be considered are setout in regard to
 - The wording of the policy, definitions and its interpretation.
 - The site is a substantial distance away from the settlement.
 - The site is separated from the village boundary by a rail line & separate residential property.
 - The planner's report does not apply the relevant test for a new house at this location.
 - The PA applied an unreasonable and unfair measurement on the distance between the proposal and the settlement boundary.
 - Proposal does not constitute or contribute to linear sprawl.
 - The rural character of the area would still be maintained on approach to Caragh.
 - A condition on landscaping is suggested.

6.2. Planning Authority Response

A response has been received from the PA dated 02/04/2024 which states that they have no further comments or observations to make on this application. It refers the Board to the PA's planning reports and accompanying internal reports from other sections which are referred to in its assessment of the application.

6.3. Observations

1(no) observation made on behalf of Mr. Gay and Ms. Annette O' Callaghan of Yeomanstown Stud, Naas (located SW of this site) was received. It requests that the decision to refuse be upheld.

A summary of matters raised within this observation is as follows:

- Further clarity on the applicant, proposal and justification on medical grounds is required given the planning history and the site's location.
- Reasons for refusal and the concerns in submission were not addressed.
- Impact on the character of the area and the setting & character of a protected structure due to removal of hedgerow/(trees).
- Compliance with Policy HO P15 and not just Policy HO O47 is required.
- Proposal prioritises the alleged need in this case over the proper planning & sustainable development of the area.
- The rail line as a boundary to the village should not suggest a 'free for all' for development beyond this boundary.
- Compliance with CDP, Rural Housing Guidelines and national policy is raised.
- Siting & Design concerns in regard to impacts on the open character of the transitional lands on the approach road to Caragh, character of the area and agricultural & landscape value.
- Capacity to absorb/impact on the open character of the transitional lands on the approach road to Caragh.
- An alternative solution in accommodating the applicant's needs is suggested.
- The proposal contravenes a number of policies in the CDP.

6.4. Further Responses

Department of Housing, Local Government and Heritage

Following a referral request by An Bord Pleanála, a response to this appeal was submitted by the Development Applications Unit, DHLGH [Architectural Heritage] (dated 09 May 2024). The submission outlined the following:

- The visual impact on the protected structure was not assessed in the planning process.
- The front elevation of the protected structure directly overlooks the site.
- In the absence of any impact assessment, the proposal may impact negatively on the protected structure and its appreciation, which is contrary to an objective of the plan.

7.0 Assessment

Compliance with adopted policy is a key consideration for any planning application for a single one-off house in a rural area and I note that this matter was cited as a primary issue in the grounds of this first-party appeal.

Having examined the application details and all other documentation on file, including the applicant's appeal submission, observation received, the report of the local authority, having inspected the site, and having regard to the relevant local/regional/national policy, objectives and guidance, I consider that the substantive issues in this appeal case to be considered are as follows:

- Rural Generated Housing Need
- Principle of Development within Transitional Lands
- Other Matters.

7.1. Rural Generated Housing Need

7.1.1. The site is located within Zone 1 Areas under Strong Urban Influence, as designated in the CDP. Policy HO P11 sets out the requirements sought by the PA, and which must be satisfied in order to facilitate a dwelling in the countryside, outside of settlements in conjunction with the rural policy zone map (Map 3.1). The applicant must satisfy the PA that their proposal constitutes a genuine rural generated housing need based on their social and / or economic links to a particular local rural area and must demonstrate that they comply with one of two categories of housing need, which I have summarised as follows:

‘Category A’ applicant (Economic): A person (or persons) who is (are) actively engaged in farming/agricultural activity on the landholding on which the proposed dwelling is to be built, meeting stated criteria in regard to one of the following: (i) A farmer of the land or son, daughter, niece or nephew of the farmer who it is intended will take over the operation of the family farm or (ii) An owner and operator of farming/horticultural/forestry/bloodstock/animal husbandry business on an area less than 15ha, who is engaged in farming activity on a daily basis, where it is demonstrated through the submission of documentary evidence that the farming/agricultural activity forms a significant part of their livelihood, including but not limited to intensive farming.

‘Category B’ applicant (Social): (i) A person who has resided in a rural area for a substantial period of their lives i.e. 16 years within 5km ... of the site where they intend to build. Cluster type developments of 5 houses or less may be considered on family farm holdings for applicants who are family members or adjacent to urban boundaries where no other land is available and comply with the social or economic element of the rural housing policy, where there has not been speculative sale of sites.

7.1.2. It is policy that documentary evidence of compliance with Kildare County Council’s rural housing policy must be submitted as part of the planning application (policy HO P11). In examining this case, I note that no documentation demonstrating compliance with Co. Kildare’s rural housing policy (Policy HO P11) accompanies this application. The cover letter attached to the application details that a Rural Housing Planning

Application Form was not attached with this application due to the findings contained within a previous planning report on this site (PI. Ref. 21/1505) in regard to the applicant's "substantiated demonstration for a residence".

7.1.3. However, it is clear from the contents of the submitted planning application that this application is not made on the basis of compliance with Policy HO P11.

7.1.4. In this case, the applicant makes clear in the submitted application that they seek to construct a dwelling at the subject location, based on their exceptional health circumstances. Appendix B of the Planning Statement which accompanies this application sets out the applicant's 'exceptional health circumstances' in substantiating their need for a dwelling in a rural location. It includes certified documentation from 2(no.) medical practitioners along with supporting documentation from a registered occupational therapist.

7.1.5. Objective HO O47 of the CDP seeks to facilitate the housing needs of persons who are considered to have exceptional health circumstances which require that they live in a particular environment. This objective applies to all rural housing policy areas in Co. Kildare, including those identified under Policy HO P11. I note that this objective is generally consistent with the provisions of the Sustainable Rural Housing Guidelines 2005 (Section 4.3). However, it does not provide for circumstances of family support, which I note is included within Section 4.3 of the Guidelines.

7.1.6. I note that the PA were satisfied that the applicant complied with objective HO O47 based on the information provided with this application, however I also note to the Board that the planning report attached to a previous decision on this site which relates to a similar application made by the applicant, notably PI. Ref. 21/1505, outlined that the evidence submitted was not site specific and considered that alternatives to a one-off house should be further explored.

7.1.7. Both Objective HO O47 of the CDP and the Rural Housing Guidelines (2005) require that relevant documentation from a registered medical practitioner/registered medical specialist be provided.

- 7.1.8. I have examined the documentation submitted with this case, provided within Appendix B of the accompanying Planning Statement, including that provided by medical practitioners insofar as it relates to the applicant's 'exceptional health circumstances', and the extent to which the details provided are consistent with the requirements of Objective HO O47 of the plan.
- 7.1.9. The application makes the case under 'exceptional health circumstances' based on the applicant's diagnosed condition. Based on the information provided, I do not doubt that the applicant's medical condition is bona fide. However, whilst the accompanying letters from 2(no) medical doctors recommend and support the applicant's case in residing within a rural setting, there is no certainty given for the Applicant's rural housing needs at the proposed location.
- 7.1.10. Notwithstanding the above and having considered the information submitted with the application and the appeal, I am not convinced that the Applicant's case has been appropriately justified in the context of exceptional health circumstances that require them to live in the particular environment of the application site. The proposed house will be jointly occupied by the applicant and his parents. No locational details or clarity is given on the current family home/parents place of residence. The Development Plan supports the development of 'family flats' to an existing dwelling as a way of providing additional accommodation with a level of semi-independence for an immediate family member, subject to meeting stated requirements set out within Section 15.4.14 of the plan. While I have considered the health circumstances made in this case and the benefits associated with living in this rural area, I am not satisfied that the development of a one-off house at this site specific location has been sufficiently demonstrated within documentation made available to me in the assessment of this case.
- 7.1.11. I note that no documentation from a qualified representative of an organisation which represents or supports persons with a medical condition, or a disability is attached to this application, however such documentation is not explicitly required under objective HO O47 of the plan.
- 7.1.12. I have also considered this information against the provisions of Policy HO P11. I am satisfied that the applicant has still not demonstrated their compliance with one of the

listed categories of housing need and, therefore, the proposal would not be in accordance with the rural housing policy as outlined in the County Development Plan.

7.1.13. Therefore, having considered all the above, in my view, the Applicant has failed to sufficiently demonstrate that the proposed development constitutes a genuine rural generated housing need based on social and / or economic links to the particular rural area in accordance with Policy HO P11 of the CDP. The applicant has also failed to demonstrate that there are exceptional health circumstances which require him to live in the particular environment at this rural location, as outlined in objective HO O47.

7.1.14. I recommend that permission be refused for this reason, however, this is a new issue, and the Board may wish to seek the views of the parties in this regard.

7.2. Principle of Development within Transitional Lands

7.2.1. The grounds of this appeal are premised on the PA's reason for refusal in regard to the relevance of policy HO-P15 of the CDP to this case. In the outset, for ease of reference, the policy states:

'to 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'.

7.2.2. The PA considers that the proposed development would detract from the open character of the transitional lands on the approach road to Caragh village and would further contribute to the erosion of a clear demarcation and distinction between urban areas and the countryside.

7.2.3. The applicant contends that policy HO P15 should not apply in this case, given that the proposal complies with Objective HO O47 regarding exceptional health

circumstances in this case. The applicant considers that the planner's report did not apply the relevant test for a new house at this location.

- 7.2.4. I have approached my assessment of this matter on the basis of whether the application submitted complies with Objective HO O47 of the plan. In my view, should the exceptional circumstances be considered and deemed acceptable by the Board, the proposed development would amount to a permitted exception to what would otherwise be impermissible development at this location based on the PA's determination that the site is considered to be within 'transitional lands' on the approach into Caragh village.
- 7.2.5. However, as previously stated, based on the specific information and documentation made available for consideration, I am not satisfied that the applicant's exceptional health circumstances is location specific and I therefore am of the view that the proposed development is contrary to Objective HO O47 of the Plan. Should the Board not share my view on this matter, I propose to carry out further assessment on the relevance of policy HO P15 to this site.
- 7.2.6. The site is located outside of the village boundary for Caragh [Map V2-3.5] and is sited on the southern approach into the village. I measured the distance between the NE corner of the site (excluding extended area required to achieve sightline) and the village boundary as 200m approximately.
- 7.2.7. The Development Plan is not definitive in prescribing the extent of area or distance measurement to be applied in identifying transitional lands immediately outside of settlement boundaries. I note the points raised by the applicant in this regard.
- 7.2.8. The appellant argues that the proposed house is a substantial distance (approx. 325m) away from the settlement boundary of Caragh and also refers to the site's physical separation from the village due to the existing rail line which runs along the southern boundary of the village and therefore, policy HO-P15 does not apply. However, both the PA and the observer consider that this policy does apply in the subject case.

7.2.9. I have carried out a site inspection and reviewed the village plan for Caragh and other relevant policies and objectives in the plan. In my view, this site is located on lands which provide an open and rural character on the immediate approach into Caragh Village. The site's context, with footpath along the eastern side of the R409, to the immediate NE of this site connecting the nearby lands into the village and established linear development and GAA club along a local road to the east of the R409 from this site reflects that this area is neither within the built area of Caragh village or in the countryside, In this regard and given that the subject lands are a distance of approximately 300m from the settlement boundary of Caragh, I concur with the PA that this site is within transitional lands and that they contribute to the open character of this area on the approach road into Caragh.

7.2.10. In regard to the matter of 'linear sprawl', whilst the western side of the regional road has retained a predominantly open character with just one house between the site and Caragh village, I consider that the proposed house notwithstanding setback off the R409 and access off an adjoining lane will contribute to a linear pattern of development that fronts onto the regional road along the southern approach into Caragh. Therefore, in my opinion, to permit this dwelling on lands where it is policy to preserve and protect its open character would result in the linear sprawl of Caragh along its approach road.

7.2.11. I am cognisant that this policy also provides that the integrity of the agricultural uses in these areas be protected and that a clear demarcation and distinction between the village (urban area) and the countryside be maintained. I note that the applicant's submission to the Board does not address these elements in substantiating their grounds of compliance with the policy.

7.2.12. I observed on-site inspection that these lands are in agricultural use, laid in grass with an established agricultural storage building sited to the SW of the delineated site. The landholding of Yeomanstown stud bounds the site to the west (rear). The development of a dwelling on this site, which fronts onto the R409 (access off laneway) within a largely open expanse of land would not protect the open character of these transitional lands. In my opinion, despite a modest max. height and the extent of hedgerow (existing and proposed), particularly along the site's eastern boundary (along the R409), the proposed house due to its siting and orientation would detract

from the largely rural character of this approach into Caragh village. I therefore do not agree with the applicant that the rural character of the area would still be maintained if this dwelling were to be permitted and I consider that additional landscaping to the east will not satisfactorily address the matter.

7.2.13. It is reasonable to conclude that any application for a one-off house in a rural area must foremost comply with the relevant policies and objectives of the Development Plan. In this regard, based on the documentation provided, I am not satisfied that the applicant has sufficiently demonstrated compliance with Objective HO O47 and I therefore consider that the proposal is contrary to policy HO-P15 of the plan. Should the Board come to a different conclusion on this matter, I recommend the inclusion of a condition restricting occupancy of the house specifically to the Applicant as set out in Objective HO O47.

7.3. Other Matters

7.3.1. Impact on Protected Structure

The appeal site is located on lands which adjoin a protected structure, notably Caragh Presbytery (former) [RPS No. B19-29]. This protected structure by reason of its siting and orientation on an open and flat topography is visually prominent on the southern approach into Caragh village and its front elevation directly overlooks the subject site. I note that the expressed concerns of the DHLGH submitted to the Board relate to the potential negative impact which the proposed development may have on the protected structure and its appreciation. Whilst reference is made to this protected structure within Section 2.6 of the Planning Statement, neither the applicant or the PA have made reference to any consideration of the potential for the proposed development to negatively impact on the setting of the protected structure and its appreciation. However, I note that the Heritage Officer, Kildare County Council in an internal report provided as part of the assessment of a similar proposal on this site (Pl. Ref. 21/1505) outlined that she had no issues in respect of the proposal.

The Development Plan sets out that it is an objective of Kildare County Council to ensure that new development will not adversely impact on the setting of a protected

structure or obscure established views of its principal elevations (Objective AH O32). I have inspected the site. Given the siting and single storey form of the proposed house, in excess of 100m south of the protected structure and that an established lane which runs along the site's northern boundary and its associated boundary treatment detaches the site, both physically and visually from the curtilage of this protected structure, I am of the view that the proposal would not have an adverse impact on the character and setting of this protected structure such that a refusal of permission would be warranted.

7.3.2. On-Site Wastewater

I note the content of the PA's Environment Section report attached to this case which sought that further details be provided in regard to proposed on-site wastewater provisions. The Board will note that the content of this report is not addressed within the Planner's Report. Notwithstanding, a completed and certified Site Characterisation Form in accordance with EPA requirements is attached to this application and it details that a pass percolation test result was recorded on this site (Aug. 2023). Based on the information to hand, I am satisfied that the development as proposed will not impact groundwaters or surface waters and in my view, there are no outstanding matters in this regard.

8.0 AA Screening

I have considered the proposed development which includes the development a house with garage, wastewater treatment system and all associated site works in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The appeal site is not located within any designated Natura 2000 site(s). The subject site is located a distance of approximately 4.5km from the nearest European site, being Mouds Bog SAC (002331). No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The nature of the works and development are small scale.
- The site is located on a greenfield and there are no hydrological or other ecological connections to any European site.
- I have taken into account the AA screening determination by the PA which determined that the proposed development will not have a significant effect on any European site(s).

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

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

10.0 Reasons and Considerations

1. Having regard to the location of the site of the proposed development outside of either a defined rural settlement or rural node and within an area designated 'Zone 1 - Areas under Strong Urban Influence' in the Kildare County Development Plan 2023-2029 and in the absence of sufficient evidence demonstrating that the applicant has a genuine and justifiable need for a dwelling house in this rural area, as well as considering relevant national and local policies and guidance, including National Policy Objective 19 of the National Planning Framework (2018) and the Sustainable Rural

Housing Guidelines for Planning Authorities (2005), the proposed development, if permitted would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. Accordingly, this development if permitted would be contrary to policy HO P11 and Objective HO O47 of the Kildare County Development Plan 2023-2029 and would be contrary to the proper planning and sustainable development of the area.

2. Based on the information received, given the siting of the proposed dwelling within transitional lands outside of the village boundary, on the approach into Caragh and to the pattern of development in the area, the development if permitted would detract from the open character and contribute to the erosion of a clear demarcation and distinction between Caragh village and the countryside, contrary to policy HO P15 of the Kildare County Development Plan 2023-2029 and would therefore be contrary to the proper planning and sustainable development of the area.

Paula Hanlon
Planning
Inspector

31 July 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319222-24		
Proposed Development Summary	A dwelling house with garage, wastewater treatment system and all associated site works		
Development Address	Gingerstown, Caragh, Co. Kildare		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No			
Yes	X	Class 10 (Infrastructure Projects)	Proceed to Q.4
4. Has Schedule 7A information been submitted?			

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	319222-24	
Proposed Development Summary	A dwelling house with garage, wastewater treatment system and all associated site works	
Development Address	Gingerstown, Caragh, Co. Kildare	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site is currently in grass and unzoned, in the open countryside and setback from the adjoining R409 regional road on the approach into Caragh village. The proposed development is not exceptional in the context of existing environment.</p> <p>The proposed development will not result in the production of any significant waste, emissions or pollutants.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing</p>	<p>No. The site area is stated on application form submitted as 0.96ha.</p> <p>There are no other developments under construction in proximity to the site. All other developments are established uses.</p>	No

and/or permitted projects?		
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	No. The appeal site is not located within any designated European site(s). The subject site is located a distance of approximately 4.5km from the nearest European site, being Mouds Bog SAC (002331). Due to the nature and scale of the proposal, the proposed development does not have the potential to significantly affect other significant environmental sensitivities in the area.	No
<p style="text-align: center;">• Conclusion</p>		
There is no real likelihood of significant effects on the environment. EIA not required.		

Inspector: _____

Date: _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)