



An
Bord
Pleanála

Inspector's Report

ABP-320229-24

Development	Demolition and re-construction of dwelling with wastewater treatment and all associated site works.
Location	Spire View, Balrath Road, Townparks, Kells, Co. Meath, A82 RK91.
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	2460211
Applicant(s)	Micheál McKeon.
Type of Application	Permission.
Planning Authority Decision	To grant permission.
Type of Appeal	Third Party
Appellant(s)	Boyne Catchment Anglers Association.
Observer(s)	None.
Date of Site Inspection	30/11/2024.
Inspector	R Taylor

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	7
3.4. Third Party Observations	7
4.0 Planning History.....	7
5.0 Policy Context.....	8
5.1. Development Plan.....	8
5.2. Natural Heritage Designations	14
5.3. EIA Screening	14
6.0 The Appeal	14
6.1. Grounds of Appeal	14
6.2. Applicant Response	16
6.3. Planning Authority Response	16
6.4. Observations	16
6.5. Further Responses.....	16
7.0 Assessment.....	16
8.0 AA Screening.....	23
9.0 Recommendation.....	24
10.0 Reasons and Considerations	24
11.0 Conditions	24

Appendix 1 – Form 1: EIA Pre-Screening & Form 2: EIA Preliminary Examination

1.0 Site Location and Description

- 1.1. The appeal site is located adjacent to the Balrath Road, the R941. The site is approximately 1km to the southwest of Kells.
- 1.2. The site comprises an unoccupied two storey dwelling with slate roof and rendered walls. There are also uncompleted block walls that has the appearance of an extension to the rear. The site is broadly rectangular in shape and is slightly elevated above the adjacent road along with the associated garden area to the rear. The site frontage is broadly level with the adjacent road. The dwelling is located approximately 5 metres from the edge of the public road at the closest point. The areas to the front, side, and rear of the dwelling have been cleared of vegetation and comprise bare earth and is devoid of any natural or man-made features. There is an existing access in the northeastern corner of the site with the internal area adjacent largely in gravel and is level in terms of topography with the adjacent public road. The eastern, southern, and western site boundaries comprise hedgerows approximately 1.5 metres in height. There are no trees within the site or the associated site boundaries. The boundary treatment along the site frontage has been removed and comprises metal fencing approximately 2 metres in height.
- 1.3. There are agricultural fields to the east and south of the site. An agricultural access lane and associated gate abut the western site boundary. To the west of the agricultural lane, there is a single storey detached dwelling located close to, and broadly parallel with, its eastern site boundary. There are a further 4 dwellings beyond to the west. There are further agricultural fields opposite the site to the north.
- 1.4. There are no protected features within the site boundary or immediately adjacent to the site.

2.0 Proposed Development

- 2.1. The development comprises the demolition of an existing detached dwelling, the construction of a new four-bedroom replacement dwelling with domestic garage. The layout of the dwelling is broadly “H” shaped. It is mostly single storey in height, save for 1 1/2 storey projecting gable elements at the eastern end of the building. Single storey projecting gable elements are located at the western end of the building. The

ridge height of the highest part of the dwelling is 7.6 metres above ground floor level. Most of the dwelling has a ridge height of 6 metres above ground level. The proposal also includes a new wastewater treatment system and percolation area. The proposal includes relocation of the site entrance from its current position to adjacent to the western site boundary, in the northwestern corner of the site. Landscaping and ancillary site works are also proposed.

3.0 Planning Authority Decision

3.1. Decision

The Council notification of decision granting permission is dated 24/06/2024 subject to 13 conditions.

3.1.1. Conditions

The 13 conditions attached are summarised as follows:

1. The development shall be constructed in accordance with the plans and particulars lodged with the Planning Authority.
2. DWWTS details in accordance with the Environmental Protection Agency Code of Practice for Domestic Wastewater Treatment Systems (2021).
3. The general design, external finish, height and roof materials of the proposed development shall be as shown on the plans submitted on 27/03/2024.
4. Prior to commencement entrance and sightline details provided in accordance with Meath Rural Design Guide.
5. Surface water disposal shall be by means of soakaways.
6. No debris or other material shall be deposited on the public road or verge by machinery or vehicles travelling to or from the site during the construction phase. The applicant shall arrange for vehicles leaving the site to be kept clean.
7. During construction the developer shall provide adequate off carriageway parking facilities for all traffic associated with the proposed development. no parking along the public road.

8. Time restrictions for the site and building works.
9. The Applicant/Developer shall be responsible for the full cost of repair in respect of any damage caused to any adjoining public roadway.
10. Landscaping shall be carried out as detailed on the site plan, and commence no later than the first planting season following commencement. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, replaced within the next planting season.
11. Conditions 11, 12, and 13 relate to development contributions.

3.1.2 I consider that the conditions attached are of a standard nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- There are two planning reports on file. The first dated 15th May 2024 states the following:
- Noted from a search on land registry that the site is in a different landownership, and there is a query on land registry for the site.
- The existing two storey dwelling has a floor area of 181.66sqm. It is not deemed to be of architectural or historical merit.
- The applicant is replacing a habitable dwelling, therefore local needs does not apply. In principle a replacement dwelling is acceptable at this location.
- The proposed replacement dwelling and design is considered acceptable.
- Noted there are existing boundaries with mature trees, however, these should be enhanced with further native planting. The applicant requested to submit a detailed landscaping plan.
- The current entrance is located to the northeast of the site, sightlines are not adequate. The applicant proposes to relocate the entrance to achieve sightlines. Sightlines of 90 metres are indicated in both directions from the site entrance.

- Appropriate Assessment: not be likely to have a significant effect on European Site(s).
- Environmental Impact Assessment: no real likelihood of significant effects on the environment.
- Development contributions will be calculated as per Meath County Development Contribution Scheme 2024-2029.
- Conclusion that further information shall be requested in relation to site ownership landscaping and third-party submission.
- 17th June 2024 – Second report:
- Ownership: the applicant's solicitor confirms they acted on his behalf during the purchase of the property and subsequently lodged an application for registration with land registry. The applicant has also attached a copy of the land registry application and evidence from landdirect.ie that the application was lodged for registration. The applicant has submitted sufficient evidence.
- Landscaping: submitted a detailed landscaping plan, The landscaping plan submitted is considered acceptable.
- first-party submission:
- The Eircode for the property is A82R9K1.
- Proof of ownership of the property has been provided
- It is understood that any grant of permission would be subject to the normal conditions regarding the timeframe for construction work starting.
- The proposed replacement dwelling would have its own on-site wastewater treatment system and as such would not impose any additional load on the town's sewerage treatment system.
- Response is considered acceptable.
- Development Contributions: The floor area of the replacement (new) dwelling shall be calculated in accordance with the Meath County Council Development Contribution Scheme 2024 - 2029. 51% of the floor area is exempt and the remaining 49% is subject to contributions.

3.2.2. Other Technical Reports

- Transportation: The site is located on the R-197 within the 60kph speed limit area. No objection to the proposed development subject to condition.
- Meath County Council Environment Flooding-Surface Water Section: Development is to be serviced by wastewater treatment system. The proposal broadly meets the requirements.
- Environment Flooding: the development site is situated in Flood Zone C for fluvial flooding i.e. the probability of flooding is less than 0.1% and therefore at low risk of flooding. No objections to the proposal.

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

- None.

4.0 Planning History

- The planning report states there is no previous planning history at section 3.0. However, the application form refers to reference: KA40076, with a receipt date by the Council of 18/02/2004. Details have not been provided.
- There is no appeal history on the site.
- The planning report refers to planning history on an adjacent site to the north:
- KA70433: George Armstrong. Permission refused for the construction of a new vehicular roundabout on Mullingar Road (N52), approximately 290m west of the junction with Athboy Road (R164). Works to comprise of new roundabout, carriageway tie-ins to existing highway, associated drainage works, all necessary traffic signs, road markings and public lighting to local authority standards. New access to the south to be formed from the new roundabout into previously approved development KA/50218. Temporary concrete post & panel fence and

soft landscaping to replace disturbed hedgerows. The application was refused for 2 reasons:

1. The proposed roundabout is considered excessive in scale and as such is inappropriate and unjustified at this location which encroaches on open space associated with an adjoining permitted residential development. The proposal would set an undesirable future precedent for similar developments which are considered premature pending proposals providing a justification for such development similar to that proposed. The proposal is therefore considered contrary to the proper planning and sustainable development of the area.
 2. Having regard to the nature of the development, whereby it is proposed to construct a section of the roundabout and access road on an area designated as part of the public open space provision for the overall development scheme, planning reference number KA50218, it is considered that the proposed development would seriously diminish the quality, quantity and amenity value of the public open space for future residents, thereby adversely impacting on residential amenity, would contravene parent permission on site KA50218, would set an undesirable precedent for future development of this kind and would be contrary to the proper planning and sustainable development of the area.
- There is no evidence on the planning report that this application was subject to appeal to the Board.
 - KA50218: W & G Armstrong (Kells) Ltd. the demolition of 2 no. non habitable cottages and 1 no. cattle shed and the construction of the following: 6 no. 3-storey 3-bed detached units, 4 no. 3 storey apartment blocks. Not built.

5.0 Policy Context

5.1. Development Plan

- The Meath County Development Plan, 2021-2027, was adopted by Meath County Council on the 22nd of September 2021 and came into effect on the 3rd of November 2021. This has been superseded by the Consolidated version of the Meath County Development Plan 2021-2027 (incl. Variations 1 & 2) adopted on

the 13th May 2024. It has regard to national and regional policies in respect of residential development and development in the countryside.

- 03. Settlement and Housing Strategy
- Map 18A Volume 2 indicates the site is within the Rural Area, outside the settlement boundary identified for Kells.
- Chapter 9 of the Development Plan sets out the Rural Development Strategy. 10 strategic objectives are provided at section 9.1. Relevant objectives to the case include:
 - RUR DEV SO 6: To protect and enhance the visual qualities of rural areas through sensitive design.
 - RUR DEV SO 9: To ensure that plans and projects associated with rural development will be subject to an Appropriate Assessment Screening and those plans or projects which could, either individually or in-combination with other plans and projects, have a significant effect on a Natura 2000 site (or sites) undergo a full Appropriate Assessment.
- The rural settlement strategy at 9.2 and includes the following “Goal”:
 - To ensure that rural generated housing needs are accommodated in the areas they arise, subject to satisfying good practice in relation to site location, access, drainage and design requirements and that urban generated rural housing needs should be accommodated within built-up areas or land identified, through the development plan process.
- This outlines that the Planning Authority recognises the long tradition of people living in rural areas and promotes sustainable rural settlement as a key component of delivering more balanced regional development. It sets out that rural development should be consolidated within existing villages and settlements that can build sustainable rural communities as set out in the National Planning Framework (NPF) and the Regional Spatial and Economic Strategy for the Eastern and Midlands Region (RSES). The Development Plan seeks to accommodate rural generated housing needs where they arise, subject to local housing need criteria and development management standards.
- The following strategic policies are of relevance:

- RUR DEV SP 1: “To adopt a tailored approach to rural housing within County Meath as a whole, distinguishing between rural generated housing and urban generated housing in rural areas recognising the characteristics of the individual rural area types”.
- RUR DEV SP 2: To ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed, subject to compliance with normal planning criteria. An assessment of individual rural development proposals including one-off houses shall have regard to other policies and objectives in this Development Plan.
- 9.3 Rural Area Types: three rural area types are identified on Map 9.1. The appeal site is within Area 1 - Rural Areas under Strong Urban Influence.
- Area 1: Key Challenge: To facilitate the housing requirements of the rural community while directing urban generated housing development to areas zoned for new housing in towns and villages in the area of the development plan.
- This area exhibits the characteristics of proximity to the immediate environs or close commuting catchment of Dublin, with a rapidly rising population and evidence of considerable pressure for development of housing due to proximity to such urban areas. This area includes the commuter- belt and peri-urban to areas of the county, and are the areas that are experiencing the most development pressure for one-off rural housing. These areas act as attractive residential locations for the inflow of migrants into the county. 3 policies are stipulated for this area:
 - RD POL 1: To ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed, subject to compliance with normal planning criteria.
 - RD POL 2: To facilitate the housing requirements of the rural community as identified while directing urban generated housing to areas zoned for new housing development in towns and villages in the area of the development plan.

- RD POL 3: To protect areas falling within the environs of urban centres in this Area Type from urban generated and unsightly ribbon development and to maintain the identity of these urban centres.
- 9.6 Rural Residential Development: Design and Siting Considerations
- RD POL 9: To require all applications for rural houses to comply with the 'Meath Rural House Design Guide'.
- The main criteria against which the degree of visual impact will be considered include;
- The location of the site within the landscape, the position of the building within the site and its relationship with surrounding buildings. This will help determine whether the development will be a prominent feature in the landscape;
- The attributes of the site and its landscape surroundings and whether these provide sufficient enclosure for the new building. This includes the existence or otherwise of natural boundaries and/or a visual backdrop, and whether there is any intervening vegetation or natural features between the site and critical views; and
- The suitability of the design of the building for the site and its locality, including its form, scale and massing.
- 9.6.1 Access and Other Ancillary Works
- 9.14 Vernacular Rural Buildings and Replacement Dwellings
- RD POL 31: To encourage and facilitate the appropriate refurbishment of existing housing stock in rural areas and in certain limited cases the replacement of existing dwellings subject to development assessment criteria outlined below.
- 9.14.1 Development Assessment Criteria:
- The Planning Authority shall assess applications for refurbishment and/or replacement of existing housing stock in rural areas, having regard to the criteria outlined hereunder:
- That in the case of refurbishment and extension proposals, that the scale and architectural treatment of proposed works are sympathetic to the character of the

original structure and the surrounding area including adjoining or nearby development;

- That in the case of replacement dwellings, to require that the original structure was last used as a dwelling and that its roof, internal and external walls are generally intact;
- That replacement dwellings are provided at locations where safe access and acceptable wastewater disposal arrangements can be put in place and where specific development objectives or other policies of the Planning Authority are not compromised, and;
- That the replacement dwelling shall be designed to be of a size and scale appropriate to the site, and;
- The design of replacement dwellings in rural areas shall comply with the 'Meath Rural Design Guide'.
- In the assessment of whether a house which it is proposed to replace is habitable or not, the Planning Authority will rely on the definition contained in Section 2 (Interpretation) of the Planning & Development Act 2000 as amended.
- A "Habitable House" means a house which:
 - is used as a dwelling;
 - is not in use but when last used was used, disregarding any unauthorised use, as a dwelling and is not derelict, or;
 - was provided for use as a dwelling but has not been occupied.
- 9.15.2 Regional and County Roads (Refer Map 9.2)
- RD POL 38: To ensure that all development accessing off the county's road network is at a location and carried out in a manner which would not endanger public safety by way of a traffic hazard.
- RD POL 39: To identify and protect those non-national roads of regional or local importance from unnecessary and excessive individual access/egress points, which would prejudice the carrying capacity and ultimately the function of the road.

- RD POL 40: To restrict new accesses for one-off dwellings where the 80km per hour speed limit currently applies in order to safeguard the specific functions and to avoid the premature obsolescence of identified regional and important county link roads (see Map No 9.2.) through the creation of excessive levels of individual entrances and to secure the investment in non-national roads.
- 9.15.3 Development Assessment Criteria (includes):
 - Where an existing dwelling with a vehicular entrance that is not considered to constitute a traffic hazard is to be demolished and replaced with a new dwelling.
 - 9.18.2 Groundwater Protection and the Planning System.
- RD POL 44: To ensure that new development meets the highest standards in terms of environmental protection.
- 9.18.3 Wastewater Disposal:
- RD POL 46: To ensure that new development is guided towards sites where acceptable wastewater treatment and disposal facilities can be provided, avoiding sites where it is inherently difficult to provide and maintain such facilities. Sites prone to extremely high water tables and flooding or where groundwater is particularly vulnerable to contamination shall be avoided.
- RD POL 48: To ensure all septic tank/proprietary treatment plants and polishing filter/percolation areas satisfy the criteria set out in the Environmental Protection Agency 'Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)' (2021) (or any other updated code of practice guidelines) in order to safeguard individual and group water schemes.
- RD POL 50: To ensure a maintenance agreement or other satisfactory management arrangements are entered into by the applicant to inspect and service the system as required. A copy of this must be submitted to the Planning Authority.
- 11. Development Management Standards and Land Use Zoning Objectives:
- Section 4 – General Development Standards: 11.4 General Standards applicable to all Development Types.

- 11.4.4 Trees and Hedgerows: DM OBJ 11: Existing trees and hedgerows of biodiversity and/or amenity value shall be retained, where possible.
- Other relevant Policy and Guidance:
- Meath Rural House Design Guide.
- Appropriate Assessment of Plans and Projects, Guidance for Planning Authorities (2009)
- Environmental Protection Agency 'Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)' (2021)
- DN-GEO-03060 TII Publications Geometric Design of Junctions (priority junctions, direct accesses, roundabouts, grade separated and compact grade separated junctions) May 2023.

5.2. **Natural Heritage Designations**

- This appeal site is not located within or directly adjacent to any Natura 2000 sites. The nearest sites are (c.2km north):
- The River Boyne and River Blackwater SAC (Site Code IE0002299).
- The River Boyne and River Blackwater SPA (Site Code IE0004232).

5.3. **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.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The applicant does not own the site as highlighted in their response to the Council during the application process. The Council queried this with the applicant who

provided a solicitor's letter confirming that they acted on his behalf during the purchase of the property and have lodged an application for registration with Land Registry. This is insufficient to confirm ownership. The relevant land folio remains registered with Mr Armstrong as of 20/07/2024.

- This is a failure in due diligence by the Council and evidenced by another appeal recently lodged by Boyne Catchment Anglers.
- The site has never been owned by the applicant. 4 other cases involving the applicant are referred to in which ownership was not demonstrated.
- The applicant has not demonstrated that they meet rural housing needs policy and there is no reference to need in the application or further information request by the planning authority. The applicant is a businessman already resident in the area.
- The application relates to a granted residential development on a greenfield site adjacent to the appeal site. Granting permission provides a means to procure road access for future housing developments on greenfield land to the rear and sides of the application site approved by the council.
- The adjacent greenfield lands surrounding the appeal site are not zoned for development under the 2021-27 development plan, however the plan is subject to review under draft variations. These sites may be zoned differently for future development as has been the case several times before for applications made by the applicant without ownership or evidence of legal interest. The appeal site would be more valuable as an essential road entry- exit for larger developments. The application file refers to a meeting with a council roads officer. It is queried why this would be necessary for the proposal. Other cases are highlighted as evidence that there is a precedence for significant alterations to granted permissions.
- Capacity and operating issues with the Kells wastewater treatment plant and sewage system are highlighted and discussed in reports commissioned by the Council and Uisce Éireann. The system is subject to overloading resulting in sewage pollution in the Boyne and Blackwater River SPA/SPC catchments. In recent applications to the Board, the Council have referred to a statement from

Uisce Éireann, claiming capacity has increased without any evidence. The Council are failing to provide appropriate oversight and due diligence on this issue.

- Appendices include a map highlighting adjacent planning history referred to in the evidence, extract of all online information associated with the case file, and commentaries on land folios, rights of way/easements, and “evidence of Meath Council intent to develop lands on both sides of Balrath Road, and adjoining Kells ring road.”

6.2. Applicant Response

- None received.

6.3. Planning Authority Response

- The planning authority response states that it is satisfied that all matters are considered in the planning report and request the Board uphold the decision to grant permission.

6.4. Observations

- None received.

6.5. Further Responses

- None received.

7.0 Assessment

7.1. Having examined all the application and appeal documentation on file and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The main issues, therefore, are as follows:

- a) Land ownership;
- b) Principle of development / need;
- c) Design;

- d) Traffic, access, and design issues;
- e) Development plan implications;
- f) Pre-application considerations;
- g) Revisions to Granted Permissions;
- h) Waste & Surface water impacts & EPA code of practice;
- i) Conditions.

a) Land ownership

- 7.2. The appellant contends that the application site is not within the ownership of the applicant and registered to a different party according to Land Registry records accessed on 20th July 2024. The council queried this issue with the applicant through a further information request. The response includes a solicitor's letter confirming that they acted in the sale of the land and that an application to revise the registry records has been lodged. The applicant has not provided a further response to the grounds of appeal. The council are satisfied that the applicant has sufficient interest in the site on the basis of the evidence submitted.
- 7.3. I note the appellants comments regarding ownership and Land Registry. The supporting information provided by the appellant does not constitute a sworn legal statement. However, I consider that it is sufficient to demonstrate that the applicant has an interest in the site. It is not a requirement under the planning legislation that subject lands and ownership is logged with Land Registry. It is confirmed in the supporting information that an application is lodged with Land Registry with an associated reference number, and a transfer from sale has been undertaken. There is no other evidence provided to conclusively demonstrate that the ownership of this site has not transferred to the applicant. It should be noted that, as section 34(13) of the Planning Act states, a person is not entitled solely by reason of a permission to carry out any development.
- 7.4. The appellant also refers to other cases of unsubstantiated claims of ownership. I do not consider that these are materially relevant to this case and must consider this appeal on the specific relevant evidence.
- 7.5. I therefore conclude that there are no grounds to withhold permission on ownership issues as argued by the appellant.

b) Principle of development / need

- 7.6. The appellant states that the applicant has not demonstrated a need to reside at this rural location.
- 7.7. The proposal seeks permission for a replacement dwelling. The relevant policy considerations based on the nature of the proposal are set out in RD POL 31: To encourage and facilitate the appropriate refurbishment of existing housing stock in rural areas and in certain limited cases the replacement of existing dwellings, subject to 6 criteria which are listed above. The criteria listed does not include a requirement to demonstrate a rural housing need, or for the applicant to be an intrinsic member of the rural community as discussed in the plan at section 9.5.1. The criteria listed clearly refers to rural “one off housing” which is not applicable in this case. As demonstration of rural need is not required, permission cannot be withheld on this basis. The policy supports replacement dwellings subject to criteria, and subject to these being met the proposal is acceptable in principle.
- 7.8. Of the six criteria listed for replacement dwelling proposals, criteria bullet points 2 -6 are applicable. Based on the submitted evidence and site visit, I consider the proposal complies with the second bullet point in that the original structure was last used as a dwelling as its roof, internal and external walls are generally intact, save for a small area of the rear roof which is open to the elements. The majority of the original roof tile covering remains in place. Internally the floors and main walls remain and whilst it is not currently habitable, I consider that it could be habitable subject to renovation works to the building fabric. The building is not in a state of dereliction, and therefore meets Part B of the habitable definition of the final bullet point which states “A “Habitable House” means a house which is not in use but when last used, was used, disregarding any unauthorised use, as a dwelling and is not derelict.” The layout and fabric indicate a previous residential use and there is no evidence on site or from the appellant to the contrary. Therefore, the final bullet point criterion is also satisfied. The existing dwelling is not of sufficient architectural or heritage merit to warrant retention and is not a protected structure. Replacement of the dwelling is therefore acceptable in principle subject to meeting other policy requirements.

c) Design

- 7.9. The 4th and 5th criteria of the replacement policy require proposals to be of size and scale appropriate to the site, and in accordance with the made rural design guide. The appellant has not appealed the decision on the basis of design considerations. The council considers the design is acceptable.
- 7.10. The design of the replacement dwelling is contemporary in approach and materials. It has a rectilinear layout and located further to the rear of the site from the front boundary than the existing dwelling. It is largely single storey in height, save for a projecting two storey gable element to the front elevation. Section 4.1 of the design guide sets out typologies of building form which would be both acceptable and unacceptable. From a review of the submitted plans and associated design guide, I consider that the form and proportions of the building are sufficiently reflective of a traditional dwelling. The fenestration and associated solid to void ratios of the design are also sufficiently reflective of rural architecture. I am satisfied that the proposed design is sufficiently reflective of the typologies identified as acceptable within the guide and therefore conclude that the proposal is compliant with this criterion of the policy.
- 7.11. I am also satisfied that the proposal will not adversely impact on the amenity of any existing properties adjacent to the site due to the separation distances between respective sites. Window openings are generally orientated towards the front and rear of the site and therefore no unacceptable privacy impacts will occur. Adequate private amenity space is also proposed.
- d) Traffic, access, and design issues;
- 7.12. The appellant has not appealed on the grounds of road and traffic safety. However, these issues require consideration. The 4th bullet point of the criteria for replacement dwellings requires safe access. This is also required under policy RD POL 38, and a criterion of 9.15.3.
- 7.13. There is an existing access located in the northeastern corner of the site. The alignment of the adjacent public road is broadly straight, save for a slight bend south-eastwards, located approximately 27m from the existing entrance.
- 7.14. The proposal seeks to relocate this entrance to the northwestern corner of the site. The access details include a setback distance of approximately 2.5m from the road edge to the site boundary, with visibility distances of 90m to the left hand side

emerging, and 55m to the right hand side emerging. Standards are set out in DN-GEO-03060. The set back distance is marginally larger than the requirements set out in table 5.4 which require a minimum of 2.4m for “simple junctions” onto national roads. Table 5.5 sets out visibility standards. The requirement for a 60kmph road, which is applicable in this case, is 90m. The left hand emerging distance complies with this requirement, however the right hand side emerging visibility distance is 55m. This is less than the requirements but would equate to the required provision for a 42kmph road. However, this represents an improvement to visibility compared to the existing entrance which is located approximately 15m to the east. I consider that this will provide safety benefits as it would further increase the right-hand side emerging visibility and locate the access further from the curvature in the public road alignment close to the site to the northeast.

- 7.15. Given that the proposal is for a replacement dwelling and relocation of an existing access, there are no issues with intensification of the access to the adjacent public road. I note the Council Municipal Engineer has no objections in relation to the proposal and therefore I conclude that the access is acceptable and complies with relevant policies. If approved, a condition is necessary to secure provision of the revised access. However, I also consider it necessary to require the permanent closure of the existing access to preclude an additional access at the site and ensure compliance with policy RD POL39.
- 7.16. In summary, the appellant has appealed on the grounds that the proposal would facilitate access for other significant residential development in the locality of the site. The proposals comprise the replacement of an existing dwelling. The replacement dwelling broadly occupies the width of the site such that, if permitted, there would be insufficient separation distance between the building and the western and eastern site boundaries to facilitate vehicular access. The access proposed includes a driveway area adjacent to the frontage of the dwelling. Accordingly, this proposal does not involve, or could facilitate, access to adjacent lands and there are no grounds to withhold permission on this basis.
- 7.17. I note that there is an existing access with associated field gate adjacent to the western site boundary which, based on the supporting information, is within the ownership of the applicant. The proposal does not include any revisions or alterations to this access, and this will remain regardless of the outcome of this

appeal that is before the Board. There is no evidence associated with the case that additional access alterations would facilitate development within the vicinity of the site. Access details would be necessary as part of any proposals to redevelop adjacent lands. This does not form part of the application/appeal and there are no grounds to withhold permission on this basis.

e) Development plan implications;

7.18. The appellant refers to the status of adjacent lands within the Kells Development Plan which is subject to review. The lands are not subject to any zoning but may be revised following review. They state that rezoning of lands has previously occurred in other instances involving the applicant, without ownership or evidence of legal interest.

7.19. The planning status of adjacent lands and their status within any review of the relevant development plan is a matter that is outside the remit of this appeal and therefore outside the jurisdiction of the Board. As indicated above, there is no evidence that the proposal will alter the status of any adjacent lands or property. Accordingly, permission cannot be withheld on this basis.

f) Pre-application considerations

7.20. The appellant queries the need for a pre-application meeting between the applicant and the Council Roads Officer. Pre-application discussions facilitate the resolution of issues prior to the assessment of a planning application. The associated content are a matter for the applicant and Council. The Board can only consider the details associated with any planning appeal and therefore I do not consider that this matter has a bearing on this case.

g) Revisions to Granted Permissions

7.21. The appellant also refers to other instances where significant alterations have been undertaken to granted permissions, citing a case where approval was granted which contravened conditions of a previous appeal.

7.22. Revisions to permissions can be sought and are commonplace. Consideration of such cases are a matter for the Council and subsequently the Board if subject to appeal. The Board can only consider the details associated with this case, and therefore I do not consider that this matter has a bearing on this appeal.

h) Waste & Surface water issues, impacts, and EPA code of practice

- 7.23. The appellant refers to capacity and operating issues with the Kells wastewater treatment plant and sewage system, and in particular to a perceived failure by the Council and to address sewage pollution and associated impacts on the Boyne and Blackwater River SAC and SPA catchments.
- 7.24. I note the appellants concerns in relation to the wastewater treatment facilities, however these wider issues are outside the scope of this appeal. There are requirements within the development plan to ensure that any development proposals do not adversely impact on natural heritage assets.
- 7.25. In relation to the appeal, the proposal seeks to replace an existing dwelling which already benefits from wastewater facilities associated water connections. The proposal also includes replacement wastewater treatment infrastructure. A soil characterisation and site suitability assessment report is submitted in support of the application by Traynor Environmental Ltd.
- 7.26. The report states that the water supply shall be provided by a mains connection. The aquifer is stated as poor, with high vulnerability. The Groundwater Protection Response Category is identified as 'R1', which is detailed in Table E1 (Response Matrix for DWWTSs) of the EPA Code of Practice Domestic Wastewater Treatment Systems, as being 'acceptable subject to normal good practice'.
- 7.27. The depth of the trial hole was 2.3 metres and bedrock was encountered at this point. The soil/sub-soil is classified as silt/clay with a crumb structure and low compactness. In respect of the percolation characteristics of the soil, the subsurface test result is indicated as 17.60min/25mm. The surface test result is stated as 9.33min/25mm. The comments on the results claim that the site is suitable for a wastewater treatment system and polishing filter to discharge to groundwater. The submitted drawings indicate that the required separation distances set out under Table 6.2: 'Minimum separation distances from the entire DWWTS' of the EPA's Code of Practice, based on site size and separation from site boundaries and identified features.
- 7.28. I am satisfied that the site is suitable for the wastewater and percolation works proposed and associated details are in accordance with the separation distances

specified at section 6.2 of the Code of Practice. Observations from my site visit did not indicate any drainage or surface water issues.

7.29. I note there are no objections from the Environment Wastewater section of the Council. I therefore consider that the proposal meets relevant policy requirements RD POL 46, 48, and 50 and the proposal will not adversely impact on natural heritage or features. Conditions are necessary to ensure the provision of the replacement facilities and appropriate maintenance arrangements.

i) Conditions

7.30. I have reviewed the conditions attached by the council in the notification of decision to grant permission. I consider that they are broadly standard in nature compliant with the requisite legal tests and are appropriate for the proposal.

7.31. An amended condition relating to the access details is necessary to ensure the existing access is permanently closed for road safety reasons as discussed above.

8.0 AA Screening

8.1. I have considered the proposed erection of a replacement dwelling and associated works in light of the requirements S177U of the Planning and Development Act 2000 as amended.

8.2. The subject site is located within a rural area and approximately 2km to the nearest European Site as discussed at section 5 above.

8.3. The proposed development comprises the erection of a replacement dwelling and associated works as discussed at section 2 above.

8.4. 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 works and limited scale of the development.
- The site is not within or adjacent to a protected site or feature, and the location and distance from nearest European site and lack of connections.

- 8.5. 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.
- 8.6. 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

- 9.1. I recommend that permission for the development be granted.

10.0 Reasons and Considerations

Having regard to the policies of the Meath County Development Plan, 2021-2027, and all material considerations, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the zoning objective for the site, would not detract from the visual amenity of the area, would provide an acceptable standard of residential amenity for the prospective residents, would not seriously injure the residential amenity of surrounding properties, and would not endanger public safety by reason of access, traffic generation, drainage proposals, or otherwise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	The development shall be constructed in accordance with the plans and particulars lodged with the Planning Authority on 27/03/2024 & 31/05/2024 except where conditions hereunder specify otherwise. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.
----	---

	Reason: In the interests of the proper planning and development of the area.
2.	<p>a) The onsite DWWTS proposed shall be constructed in accordance with the recommendations provided in Sections 4, 5 and 6 of the Site Characterisation Form submitted with the application and contained in the Environmental Protection Agency Code of Practice for Domestic Wastewater Treatment Systems (2021). Certification from an appropriately trained and qualified person, as well as the manufacturer or supplier in the case of secondary packaged wastewater treatment system, that the complete DWWTS has been satisfactorily installed and commissioned to accord with the provisions of the EPA Code of Practice, Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021 and the Site Characterisation Form submitted on 27/03/2024, shall be submitted to the Planning Authority prior to occupation of the house. The certification shall include an as constructed cross-sectional drawing through the installed DWWTS, including any associated infiltration/treatment area.</p> <p>b) The installation and maintenance of this DWWTS shall be such as to not give rise to any polluting matter entering any waters, tidal waters or any part of any river, stream, lake, canal, reservoir, aquifer, pond, watercourse or other inland waters, whether natural or artificial, or any contiguous to those mentioned which for the time being is dry. In this, all minimum separation distances to receptors, as outlined in Table 6.2 of the EPA Code of Practice (2021) must be adhered to.</p> <p>c) The applicant shall provide and arrange for the continuous and indefinite maintenance of the entire DWWTS installed, which shall be maintained in accordance with the manufacturer's instructions and in line with Table 12.1 of the EPA Code of Practice (2021).</p> <p>Reason: In the interests of public health and to provide for the protection of the environment.</p>
3.	The general design, external finish, height and roof materials of the proposed development shall be as shown on the plans submitted on

	<p>27/03/2024 unless otherwise agreed in writing with the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>[a] Prior to commencement, the applicant shall provide and maintain unobstructed sightlines as per site layout plan dated 27/03/2024 to the nearside edge of the road from a setback of 2.4 metres, in accordance with TII Document DN-GEO-03060, from the entrance. The nearside road edge shall be visible over the entire sight distance. The entrance layout shall comply with the Meath Rural Design Guide – the face of the entrance piers shall be at least 4 metres from the edge of the road and the entrance gate shall be recessed at least 7 metres from the edge of the road. A verge of 4 metres in width shall be provided between the edge of the road and the development boundary.</p> <p>[b] Prior to the occupation of the dwelling hereby permitted the existing vehicular access shall be permanently closed in accordance with the approved plans and retained as such thereafter.</p> <p>. Reason: In the interest of traffic safety.</p>
5.	<p>. Surface water disposal shall be by means of soakaways. The applicant shall complete BRE 365 tests for the proposed soakaways on site. The applicant shall include 20% for an increase in rainfall due to climate change and design the attenuation system suitable for the ground conditions in line with the Greater Dublin Strategic Drainage Study, Volume 3 Environmental Management. Soakaways shall not be constructed within 5 metres of the foundations of the buildings or under a road.</p> <p>. Reason: In the Interest of Surface Water Management.</p>
6.	<p>. No muck, dirt, debris or other material shall be deposited on the public road or verge by machinery or vehicles travelling to or from the site during the construction phase. The applicant shall arrange for vehicles leaving the site to be kept clean.</p> <p>. Reason: In the interest of orderly development.</p>

7.	<p>. During construction the developer shall provide adequate off carriageway parking facilities for all traffic associated with the proposed development, including delivery and service vehicles/trucks. There shall be no parking along the public road.</p> <p>. Reason: In the interest of traffic safety.</p>
8.	<p>. The site and building works required to implement the development shall only be carried out between the hours of 8.00 am to 7.00 pm Monday to Friday and 9.00 am to 1.00 pm on Saturdays.</p> <p>. No activity on site Sundays and Bank Holidays. In exceptional circumstances, hours of operation may be extended for a specific period of time subject to written agreement for the Planning Authority.</p> <p>. Reason: To safeguard the amenities of adjoining residential occupiers.</p>
9.	<p>. The Applicant/Developer shall be responsible for the full cost of repair in respect of any damage caused to any adjoining public roadway arising from the construction work and shall make good any such damage forthwith to the satisfaction of Meath County Council.</p> <p>. Reason: In the interests of the proper traffic management of the area.</p>
10.	<p>. (a) Landscaping shall be carried out as detailed on the site plan submitted on 31/05/2024 unless otherwise agreed. Existing hedgerows, trees and shrubs on site shall be preserved, except where required to be removed to accommodate the entrance. New site boundaries shall consist of timber fencing back planted with hedgerow of species native to the area.</p> <p>. (b) Planting shall commence no later than the first planting season following commencement of development on site. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>. Reason: To protect the visual amenity and natural heritage of the area.</p>

11.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting the development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
-----	--

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.

J. R Taylor
Planning Inspector

27 January 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-320229-24		
Proposed Development Summary	Demolition and re-construction of dwelling with wastewater treatment and all associated site works.		
Development Address	Spire View, Balrath Road, Townparks, Kells, Co. Meath, A82 RK91.		
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	√
		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)?			
Yes	√	Class 10, (b), (i) (threshold is 500 dwelling units)	Proceed to Q3.
No			Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	√		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	√	Class 10, (b), (i) (threshold is 500 dwelling units) Proposal is for 1 dwelling	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP- 320229-24
Proposed Development Summary	Demolition and re-construction of dwelling with wastewater treatment and all associated site works.
Development Address	Spire View, Balrath Road, Townparks, Kells, Co. Meath, A82 RK91.
<p>The Board carried 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> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The development has a modest footprint, comes forward as a standalone project, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<p>Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and</p>	<p>The development is situated in a rural area on agricultural land which is abundant in the area. The development is removed from sensitive natural</p>

approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	habitats, centres of population and designated sites and landscapes of identified significance in the County Development Plan.	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	N/A
There is a real likelihood of significant effects on the environment.	EIAR required.	N/A

Inspector: R Taylor Date: 27 January 2025

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)