



An
Bord
Pleanála

Inspector's Report

ABP-321085-24

Development	Construction of 5 dwellings and all ancillary site works. NIS submitted with application.
Location	Roseberry, Newbridge, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	2460732
Applicant(s)	Emmet Burke and Others
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First-Party
Appellant(s)	Joanne Burke, William Burke, Stephen Burke, Patrick Burke and Emmet Burke
Observer(s)	None.
Date of Site Inspection	19/03/2025
Inspector	Catherine Hanly

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	6
3.4. Third Party Observations	6
4.0 Planning History	6
5.0 Policy Context	7
5.1. Kildare County Development Plan 2023 – 2029	7
5.2. Sustainable Rural Housing Guidelines for Planning Authorities, 2005	10
5.4. Natural Heritage Designations	11
5.5. EIA Screening	11
6.0 The Appeal	11
6.1. Grounds of Appeal	11
6.2. Planning Authority Response	14
6.3. Observations	14
7.0 Assessment	15
8.0 AA Screening	20
9.0 Recommendation	26
10.0 Reasons and Considerations	26
11.0 Appendix 1 - Form 1	27
12.0 Appendix 2 - Form 2	29

13.0	Appendix 3: Table 8.1 Table of European Sites within a Possible Zone of Influence of the Proposed Development	32
14.0	Appendix 4 – Table 8.2 Summary of Appropriate Assessment of Implications of the Proposed Development on the Integrity of the Mouds Bog SAC alone and in combination with other plans and projects in view of the site’s Conservation Objectives	38

1.0 Site Location and Description

- 1.1. The site is located approximately 864 m to the north of the development boundary of Newbridge. The site is positioned to the west of the Ring of Roseberry Road. The northern boundary of the site is bound by the public road and an existing shed.
- 1.2. A number of one-off rural dwellings are located along the Ring of Roseberry Road.
- 1.3. The site consists of a relatively flat grassed field which is in agricultural use. The site is enclosed by trees and hedgerow on all sides. The site measures 3.995 ha. The site is part of a wider landholding of agricultural land associated with Roseberry House, which is located to the south of the site.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Five detached dwellings and domestic garages in a clustered arrangement on the family farm
 - Waste water treatment systems
 - Creation of a new entrance internal road
 - Ancillary site works

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Refuse Permission issued on 24th September 2024 for 1 no. reason, as follows:
- 3.1.2. *“The proposed development, when taken in conjunction with the level of existing development in the vicinity, would exacerbate an excessive density of development in this rural area, would contribute to the further erosion of the rural character of the area and would contravene objective HO O59 of the Kildare County Development Plan 2023-2029, which seeks to carefully manage Single Rural Dwelling Densities to ensure that the density of one-off housing does not exceed 30 units per square kilometre (the Single Rural Dwelling Density is applied on a pro-rata basis, and part*

of the area to the land north of the subject site are excluded from the calculation area, the permitted area would equate to .56km² which, in terms of objective HO 059 would be a density not exceeding 17. The existing density for this area (.56km²) is 27 and therefore contravenes objective HO 059 of the Kildare County Development Plan 2023-2029). It is considered the proposed development would set an undesirable precedent for similar proposals of this nature. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Report

- Four of the applicants comply with the local need criteria under Category B. One of the applicants has applied under Category A and it has not been demonstrated that the applicant complies with the relevant criteria. However sufficient information has been submitted demonstrating that the applicant complies under Category B.
- Objective HO 059 ensures that the density of one off housing does not exceed 30 units per square kilometre. The permitted area is 0.56 km² which in terms of Objective HO 059, would be a density of 17. The existing density for this 0.56 km² area is 27 and therefore exceeds the HO 059 density calculated at 17. The proposed addition of 5no. dwellings would contravene Policy HO P26 and Objective HO 059. The development would contribute to increasing suburbanisation of the area.
- Each dwelling has a garage. Three of the garages are located forward of the proposed dwelling and does not comply with Section 15.4.13 of the *Kildare County Development Plan 2023 – 2029 (Kildare CDP)*.
- A Natura Impact Assessment has been submitted. It concludes that through the implementation of the mitigation measures, the proposed works do not have the potential to significantly affect the conservation objectives or qualifying interests of the Mouds Bog SAC.

3.2.2. Other Technical Reports

- Environmental Department: No objection subject to 8no. conditions.
- Roads and Transportation: Recommends requesting Further Information in relation to 3no. items.
- Chief Fire Officer: No objection.
- Water Services: No objection, subject to 1no. condition.
- Building Control and Development Control: Recommends the inclusion of 1no. condition should permission be granted.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. Two no. observations were received by the Planning Authority from Ronan O'Halloran and Sean O'Feaghail T.D. in relation to the planning application. The issues raised are as follows:

- Traffic
 - An observation was received which contained what was referred to as the correct Traffic Report.
 - The Traffic Report notes that the volume of vehicles on the road is low. It outlines that the development will generate very few daily trips and that visibility sightlines can be provided within the proposed site access off the laneway.
- Support
 - An observation in support of the application was received from Sean O'Feaghail T.D.

4.0 Planning History

4.1. Relevant Planning history for the site:

- **Ref. 22/638.** Construction of 5 no. dwellings. 2022 **Refusal.** Refused for 3 no. reasons. Firstly, given that the proposed development would exacerbate the density of the rural area. Secondly, the proposed development is in close proximity to Newbridge, and would exacerbate the level of development in proximity to Newbridge where new residential lands have been identified. Thirdly, the Planning Authority is not satisfied that the site is suitable to accommodate the proposed on-site wastewater treatment system and that there is adequate sight distance available from the access point.

5.0 Policy Context

5.1. Kildare County Development Plan 2023 – 2029

5.1.1. The site is located outside of the town boundary for Newbridge on unzoned land.

5.1.2. The site is located on central undulating lands which have a landscape sensitivity level of 1 (low).

Rural Housing

5.1.3. Section 3.13.3 relates to compliance with the rural housing requirements. Applicants must submit documentary evidence highlighting compliance with table 3.4 in section 3.13.3 of the *Kildare CDP* in relation to economic and or social need.

5.1.4. Table 3.4 – Schedule of Local Need Criteria in Accordance with the NPF (NPO 19)

Applicant Category	Rural Housing Need Assessment Criteria	
Category A – Economic	Zone 1 Areas under Strong Urban Influence	Zone 2 Stronger Rural Areas
i) A farmer of the land or the son/ daughter/ niece/ nephew of the farmer who it is intended will take over the operation of the family farm or (ii) An	A farmer (for this purpose) 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 the date of the application for planning permission. The owner/operator [as referred to in Category A (ii)] must	

owner and operator of a farming/ horticultural/ forestry/ bloodstock/ animal husbandry business on an area less than 15ha.	be engaged in that farming activity on a daily basis, as their main employment. Same must be demonstrated through the submission of documentary evidence to include confirmation that the farming/agricultural activity forms a significant part of the applicant's livelihood, including but not limited to intensive farming.	
Category B – Social	Zone 1 Areas under Strong Urban Influence	Zone 2 Stronger Rural Areas
(i) A person who has resided in a rural area for a substantial period of their lives within an appropriate distance of the site where they intend to build on the family landholding.	Applicants must have grown up and spent 16 years living in the rural area of Kildare and who seek to build their home in the rural area on their family landholding. Where no land is available in the family ownership, a site within 5km of the applicant's family home may be considered.	Applicants must have grown up and spent 16 years living in the rural area of Kildare and who seek to build their home in the rural area on their family landholding. Where no land is available in the family ownership, a site within 5km of the applicant's family home may be considered.

5.1.5. Section 3.13.3 outlines the following in relation to cluster type developments:

“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.”

5.1.6. Policy HO P12: *“Ensure that the siting and design of any proposed dwelling shall integrate appropriately with its physical surroundings and the natural and cultural*

heritage of the area whilst respecting the character of the receiving environment. Proposals must comply with Appendix 4 Rural House Design Guide and Chapter 15 Development Management Standards”.

- 5.1.7. Policy HO P13: *“Restrict further development which would exacerbate or extend an existing pattern of ribbon development, defined as 5 or more houses along 250 metres on one side of any road.”*
- 5.1.8. Section 3.14 relates to Rural Residential Density. It states that the Single Rural Dwelling Density (SRDD) *“is not intended to be a rigid tool and there may be instances where the existing pattern of development may facilitate some consolidation of one-off housing due to the prevailing pattern in the area, local topographical conditions or in very enclosed country (defined by mature trees and hedgerows). In these instances, the planning authority may deem a site to have the capacity to absorb additional residential unit/s without any significant adverse visual/physical/environmental impact on the countryside. Generally, such one-off housing would be facilitated only in very exceptional circumstances, where there is a significant need demonstrated, for example, those actively engaged in agricultural or in an occupation heavily dependent on the land.”*
- 5.1.9. Policy HO P26: *“Sensitively consider the capacity of the receiving environment to absorb further development of the nature proposed through the application of Kildare County Councils ‘Single Rural Dwelling Density’ Toolkit (see Appendix 11) and facilitate where possible those with a demonstrable social or economic need to reside in the area. Applicants will be required to demonstrate, to the satisfaction of the planning authority that no significant negative environmental effects will occur as a result of the development. In this regard, the Council will:*
- examine and consider the extent and density of existing development in the area,*
 - the degree and pattern of ribbon development in the proximity of the proposed site.”*
- 5.1.10. Objective HO O59: *“Carefully manage Single Rural Dwelling Densities to ensure that the density of one-off housing does not exceed 30 units per square kilometre, unless the applicant is actively engaged in agriculture, or an occupation that is heavily dependent on the land and building on their own landholding.”*

- 5.1.11. Page 86 contains a note in relation to the Single Rural Dwelling Density which states:

“In calculating the Single Rural Dwelling Density, key landscape features shall be excluded from the calculation area, for example, if the application site adjoins a large area of important habitat such as a natural peatland or extensive cut-away bog, a Natural Heritage Area, a Special Area of Conservation, a Special Protection Area or notable open landscape such as the Curragh, Punchestown Racecourse, Pollardstown Fen, Mouds Bog or a large protected demesne landscape (such as Castletown House or Carton House), such areas may be excluded from the calculation area and the Single Rural Dwelling Density will be applied on a pro-rata basis for the remainder of the 1 square kilometre catchment area. This is to avoid a more intense proliferation of one-off housing immediately adjoining key landscape and habitat features or a much higher density of development emerging immediately adjoining such key landscape features which might erode the intrinsic rural character, amenity value or environmental quality of the landscape. A clearly defined urban area may be omitted from the calculations (applying a pro-rata density on the balance of area within the square kilometre buffer), however, where extensive sprawl and ribbon development extends from an urban centre or village, then these units – if they fall within the circle – may be used in the calculation of the rural residential density. If the circle/area passes through the curtilage of a residential site, then it is included within the calculation.”

5.2. Sustainable Rural Housing Guidelines for Planning Authorities, 2005

- 5.2.1. Section 1.2 makes the distinction between rural and urban generated housing.
- 5.2.2. Section 4.3 relates to the assessing housing circumstances.
- 5.2.3. Section 4.7 relates to occupancy conditions.

5.3. Quality Housing for Sustainable Communities, 2007

- 5.3.1. Section 5.1 sets out the space provision and room sizes for typical dwellings.

5.4. Natural Heritage Designations

- 5.4.1. The site is positioned approximately 0.236 km to the south of Mouds Bog Special Area of Conservation (SAC) and proposed Natural Heritage Area (site code 002331).
- 5.4.2. The site is positioned approximately 2 km to the north-east of Pollardstown Fen Special Area of Conservation (site code 000396).
- 5.4.3. The site is positioned approximately 4.3 km to the north of the Curragh proposed Natural Heritage Area.
- 5.4.4. The site is positioned approximately 6.5 km to the west of the Grand Canal proposed Natural Heritage Area (site code 002104).
- 5.4.5. A Natura Impact Statement (NIS) accompanies the application. The potential impacts of the development on the designated sites are addressed in full in Section 8 below.

5.5. EIA Screening

- 5.5.1. See completed Forms 1 and 2 in Appendices 1 and 2.
- 5.5.2. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, I have concluded at preliminary examination stage that there is no real likelihood of significant effects on the environment arising from the proposed development having regard to the criteria set out in Schedule 7 to the Planning and Development Regulations 2001 (as amended). I conclude that 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

- 6.1.1. A First-Party appeal has been lodged in this instance. The grounds of the appeal can be summarised as follows:
 - Background

- The appeal sets out the background of the 5 no. applicants, their involvement in the local area and how they meet the local need criteria.
- Planning History – Ref. **22638**
 - Ref. **22638** was refused for 3 no. reasons.
 - The first reason for refusal related to the capacity of the area to absorb further development. The First-Party considers that the subject application does not exceed the density limit.
 - The second reason for refusal considered that the development would result in piecemeal and haphazard development of the rural area. The First-Party considers that the clustered type housing proposed on the family farm holding overcomes the second reason for refusal.
 - The third reason for refusal related to the site's ability to accommodate an on-site wastewater treatment system and the provision of sightlines at the access point. The First-Party has now submitted a Site Characterisation Assessment and proposes a new access point.
- Planning Policy
 - The development accords with National Policy Objective 19 in the National Planning Framework.
 - The development accords with section 3.2.3 of the Sustainable Rural Housing Guidelines in relation to rural generated housing.
 - The development accords with the *Kildare CDP*, in particular sections 2.3.1, 3.1.3, 3.13.1, 3.13.2 and 3.13.3 and Policy HO P11 in relation to the development of rural areas.
- Development in Rural Areas
 - The development complies with objectives HO O43, HO O44, HO O45, HO O46, HO O47 and HO O48, in that they do not own houses, have not been granted planning permission previously for a one-off house in Kildare, there have been no speculative sale of sites on the landholding and the application is not an urban generated housing application. The applicants are willing to accept an occupancy condition.

- Design
 - The design is rural in character and that the cluster of housing will not be visually obtrusive.
 - The development accords with Objective HO 050 in the *Kildare CDP* in relation to sustainability through the proposed materials, insulation, solar gain, road surfacing and landscaping.
 - The development accords with Objective HO 051 in the *Kildare CDP* in relation to the provision of a safe vehicular access as it will provide a shared entrance on a private road with appropriate sightlines and will maintain the majority of the hedgerow along the site boundary.
 - The development accords with HO P26, HO 059, HO P13 and HO P15 in the *Kildare CDP* through the design and clustering of houses.
- Density
 - There is flexibility in objective HO 059 with regards to the density calculation.
 - The development will not extend ribbon development which exists in the area and will instead bookend existing development.
 - The development will not impact the SAC.
 - The area mapped for Mouds Bog SAC on the online Rural Density Toolkit is not accurate. Approximately 0.145 km² falls within the applicants' families landholding. The area within the landholding should not be included in the SAC area as it is currently in agricultural use. There is a discrepancy between the mapping for Landscape Character Areas and the map used on the online rural density toolkit.
 - The First-Party states that based on their own assessment, the allowable density is exceed by 4 and not 10 as stated in the Planner's Report.
 - The First-Party states that there have been a number of applications granted in the area that have exceeded the allowable density (Ref. Nos. **108205**, **104371** and **108054**), other applications without

connections to the area have since sold sites, three of the applicants are engaged in agricultural work related to the landholding and winter testing undertaken between 2022 and 2023 resulted in this application being assessed under the new Development Plan.

- Availability of Housing
 - There is a lack of housing in the area and no affordable housing available in the locality.
- Similar Cluster Developments
 - Ref. Nos. **2360093**, **2460103**, **18191** and **20902** are examples of similar rural cluster developments that were granted in Kildare.
- Response to the Report from the Roads Department
 - The report from the Roads Department recommended requesting that the site entrance be relocated. The First-Party would be happy to relocate the site entrance and this could be addressed by condition.
 - The First-Party are willing to install an EV charging point at each house.
 - The First-Party would be willing to submit a lighting report by way of condition.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response to the grounds of appeal can be summarised as follows:

- The Planning Authority confirms its decision and asks that An Bord Pleanála refer to the Planning Reports, internal department reports and prescribed bodies reports in relation to the assessment of the application.

6.3. Observations

6.3.1. None.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Rural Housing Need
- Density
- Design
- Access
- Wastewater
- Other Matters

7.2. **Rural Housing Need**

7.2.1. In accordance with the Rural Housing Policy Zones Map in the *Kildare CDP*, the site is located in zone 1 which encompasses areas under strong urban influence. I note the 2 no. applicant categories and the rural housing need assessment criteria set out in table 3.4 of the *Kildare CDP*.

7.2.2. I have reviewed the supporting documentation submitted by the applicants to identify how they comply with the rural housing need criteria. Two of the applicants have applied under category A for economic reasons. I am satisfied that Stephen Burke has submitted sufficient information to comply with the requirements for category A. However, I consider that sufficient information has not been submitted in the case of William Burke to demonstrate that he is engaged in farming activity on a daily basis, as his main employment. Nonetheless, I consider that all five applicants meet the rural housing need assessment criteria under category B, for social reasons.

7.2.3. Notwithstanding the fact that the applicants meet the rural housing need criteria, the application must identify how the development does not prejudice the environment and rural character of the area. This is examined in further detail in the following sections of this report.

7.3. Density

- 7.3.1. In the reason for refusal, the Planning Authority state that the development would exacerbate an excessive density of development in this rural area. The reason for refusal further states that the development would contravene objective HO O59 of the *Kildare CDP* which seeks to ensure that the density of one-off housing does not exceed 30 units per square kilometre. The Planning Authority outlines that the single rural dwelling density is applied on a pro-rata basis as part of the land to the north is excluded, resulting in the permitted area equating to 0.56 km². The Planning Authority notes that in accordance with objective HO O59, the maximum density would be 17 and that the existing density for the area is 27 and is therefore already in excess of the density specified in objective HO 059 of the *Kildare CDP*.
- 7.3.2. The First-Party has raised concerns that approximately 0.145 km² of Mouds Bog SAC is within the applicants' landholding. The First-Party also contends that there is a discrepancy between the mapping for Landscape Character Areas and the map used on the online rural density toolkit in relation to the outline of Mouds Bog SAC. As such, the First-Party states that the allowable density is exceed by 4 and not 10 as stated in the Planner's Report.
- 7.3.3. I have examined the mapping for Landscape Character Areas and the map on the online rural density toolkit and I note that there are differences between the 2no. maps in relation to Mouds Bog. The Rural Density Toolkit map extends the exclusion zone from Mouds Bog which is located to the north of the site, into the middle of the subject site. I note that this differs from the Landscape Character Areas identified on the online mapping service which identifies the outline of Mouds Bog. However, I note that page 86 of the *Kildare CDP* contains a note which states that when calculating the single rural dwelling density, key landscape features shall be excluded from the calculation area. It gives the example of excluding a Special Area of Conservation and explains that the reasoning is to avoid a more intense proliferation of one-off housing immediately adjoining key landscape and habitat features. I have compared the Landscape Character Areas identified on the online mapping service against the Rural Density Toolkit map, and I note that there are other areas where there are differences, including to the north of Mouds Bog where the exclusion zone extends between Grangehiggin and Clongorey into Lattensbog. Having regard to the note contained on page 86 of the *Kildare CDP*, I am satisfied

that the Rural Density Toolkit map is accurate. I consider that in this instance the Rural Density Toolkit map has included a buffer area to the south of Mouds Bog in order to avoid a more intense proliferation of one-off housing immediately adjoining Mouds Bog.

- 7.3.4. I have used the Rural Residential Density Toolkit and I agree with the findings of the Planning Authority that the permitted area equates to 0.56 km² when taking into account the exclusion zone to the north of Mouds Bog. As such, in accordance with Objective HO O59 the maximum density would be 17. Furthermore, I have examined all of the existing dwellings located within the permitted area and I agree with the Planning Authority that there are already 27 no. dwellings in the permitted area.
- 7.3.5. As there are already 27 no. dwellings within the permitted area, development in the area is already in excess of the density specified in objective HO O59 of the *Kildare CDP*. I therefore agree with the Planning Authority that the provision of an additional 5 no. dwellings would result in an excessive density in this rural area.
- 7.3.6. In accordance with Objective HO O59, the density of one-off housing can exceed 30 units per square kilometre if the application is actively engaged in agriculture, or an occupation that is heavily development on the land and building on their own landholding. I have examined the occupations of each of the five applicants and I consider that only one of the applicants is considered to meet this criteria. I therefore do not consider that this exemption is applicable to the subject application, which is for 5 no. dwellings.
- 7.3.7. To conclude, I consider that the proposed development would contribute to the erosion of the rural character of the area and would contravene objective HO O59 of the *Kildare CDP*.

7.4. **Design**

Size

- 7.4.1. I note the sizes of the 5 no. dwellings all accord with the minimum gross floor areas for four bedroom dwellings set out in *Quality Housing for Sustainable Communities*.

Layout

- 7.4.2. The Planning Authority states that the development does not accord with section 15.4.13 of the *Kildare CDP*, which states that a domestic garage shall be located behind the front building line of the dwelling. From an examination of the layout, I note that the garages for all of the 5 no. dwellings have been placed in front of the building line of the dwelling. I therefore consider that the development does not accord with section 15.4.13 of the *Kildare CDP*.

Ribbon Development & Rural Character

- 7.4.3. The First-Party states that the design of the development is rural in character and that the cluster of housing will not be visually obtrusive. The First-Party further states that the development will not extend the ribbon development in the area and will instead bookend existing development.
- 7.4.4. The Planning Authority however concluded that the layout and design of the dwellings, would contribute to the increasing suburbanisation of the area.
- 7.4.5. I note Policy HO P13 defines ribbon development as 5 or more houses along 250 metres on one side of the road. I consider that the pattern of development along the Ring of Roseberry Road constitutes ribbon development.
- 7.4.6. I also note section 3.13.3 of the *Kildare CDP* in relation to cluster type developments. The applicants propose to retain a large portion of the existing trees and hedgerow along the boundaries of the site. Whilst the retention of the natural boundaries will assist in screening the development, I note the site's location off the Ring of Roseberry Road which has a pattern of ribbon development along it. From my site inspection, I observed that development on the site would be visible from the Ring of Roseberry Road to the east of the site. Whilst I accept that the design is in a clustered arrangement and that the entrance is off a laneway to the north, however, having regard to the quantum of 5 no. houses proposed and the positioning of the site, off a road with a pattern of ribbon development, I consider that the development would extend the pattern of development in Roseberry. I therefore consider that the development would erode the rural character of the area and would increase suburbanisation of the area.

7.5. Access

- 7.5.1. The site is proposed to be accessed from the public road located to the north of the site. I note the report from the Roads, Transportation and Public Safety Department which requested that the entrance is repositioned to the northwest corner of the site, in order to achieve lines of sight of 150 m in accordance with the TII Geometric Design of Junctions DN-GEO-03060. I note the layout as proposed provides lines of sight measuring 90 m and therefore does not meet the 150 m requirement. However, I note that as of the 7th February 2025, the speed limit on rural, local roads reduced from 80 km/h to 60 km/h. As such, in accordance with the TII Geometric Design of Junctions DN-GEO-03060, I note that a visibility distance of 90 m is required. I therefore consider that the proposed site entrance meets this requirement.

7.6. Waste-Water

- 7.6.1. The development proposes that the 5no. dwellings are served by septic systems. I note that the Environment Section in Kildare County Council (KCC) had no objection to the proposed development subject to conditions. Should the Board consider granting permission, I recommend that the conditions recommended by the Environment Section are included in any grant of planning permission.

7.7. Other Matters

- 7.7.1. The First-Party has stated that the rural density has been exceeded in a number of other planning applications. The First-Party has provided reference numbers for three different planning applications. From an examination of KCC's online planning enquiries, I note that there are no results available for the 3 no. reference numbers provided.
- 7.7.2. The First-Party has provided planning reference numbers for 4 no. examples of rural cluster developments in Donadea, Naas and Monasterevin. Whilst I accept that these applications were permitted for cluster style developments, every application must be assessed on its own merits, taking into account the quantity and style of development permitted in the area and against the relevant policies and objectives in the Development Plan in place.

8.0 **AA Screening**

8.1. **Context**

8.1.1. The requirements of Article 6(3) as related to Appropriate Assessment of a project under Part XAB and Section 177U and 177V of the Planning & Development Act, 2000 (as amended) are considered fully in this section with the areas addressed as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Description of the Development
- Information received with the application
- Screening for Appropriate Assessment
- Appropriate Assessment

8.2. **Compliance with Article 6(3) of the EU Habitats Directive:**

8.2.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

8.2.2. The proposed development at Roseberry, Newbridge, Co. Kildare comprising the construction of 5 no. detached dwellings and domestic garages, wastewater treatment plants and the creation of a new entrance and internal road is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

8.3. Description of the Development

- 8.3.1. The proposed development comprises the construction of 5 no. detached dwellings and domestic garages, wastewater treatment plants and the creation of a new entrance and internal road.

8.4. Information Received with the Application

- 8.4.1. The application included the submission of a Natura Impact Statement (NIS) (dated June 2024).
- 8.4.2. The submitted NIS outlines the methodology used for assessing potential impacts on the habitats and species within one Natura site, Mouds Bog SAC, which has the potential to be affected by the proposed development. It predicts the potential impacts for this site and its conservation objectives, it suggests mitigation measures, assesses in-combination effects with other plans and projects and it identifies any residual effects on the European site and its conservation objectives.
- 8.4.3. The submitted NIS concludes that *“it is considered that with the implementation of the mitigation measures, that the proposed works do not have the potential to significantly affect the conservation objectives or qualifying interests of the Mounds Bog SAC. The integrity of the site will not be adversely affected.”*
- 8.4.4. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, clearly identifies the potential effects, and uses best scientific information and knowledge. Details of mitigation measures are provided, and they are outlined in section 5 (pages 29 – 33) of the NIS. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development. Set out below is my own independent assessment.

8.5. Screening for Appropriate Assessment

Natura 2000 Sites

- 8.5.1. The proposed development is examined in relation to any possible interaction with European sites designated Special Areas of Conservation (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European site(s).

- 8.5.2. The site itself is not located within or does not border a designated European site. The nearest designated sites are:

Special Area of Conservation	Distance
Mouds Bog SAC	236 m
Pollardstown Fen SAC	2 km
Ballynafagh Lake SAC	10.8 km
Ballynafagh Bog SAC	9.48 km
River Barrow and River Nore SAC	14.1 km

- 8.5.3. European sites within the potential zone of influence (Zol) of the proposed development must be evaluated on a case-by-case basis. The preferred method of doing this is by using the Source-Pathway-Receptor (SRP) model. The submitted NIS used the SRP model to establish or discount potential connectivity between the site of the proposed development and any European sites. Table 1 in the submitted NIS provides details of all relevant European Sites as identified in the preceding steps and assesses which are within the potential likely Zol. Having regard to the nature of the proposed development, the nature of the receiving environment and the SRP model, it is considered that this is a reasonable approach to defining the Zol.
- 8.5.4. I note that the applicant considered that the following Natura sites, Pollardstown Fen SAC, Ballynafagh Lake SAC, Ballynafagh Bog SAC, River Barrow and River Nore SAC could be ruled out from further examination due to the lack of ecological connections. I agree with the applicant that the aforementioned sites can be removed from further consideration due to the unlikely event that these will have any significant direct or indirect impacts on the remaining Natura 2000 sites, and as such are not considered further in the screening assessment. This is assessed further in table 8.1 (Appendix 3) which lists the qualifying interests of the Natura Sites within the potential Zol, their conservation objectives and identifies possible connections between the proposed development (source) and the sites (receptors).
- 8.5.5. Having regard to: the information and submissions available; the nature, size and location of the proposed development; its likely direct, indirect and in-combination

effects; the source-pathway-receptor model; and the sensitivities of the ecological receptors, I consider that one Natura 2000 site is relevant to include for the purposes of initial screening for the requirement for Stage 2 Appropriate Assessment on the basis of likely significant effects, and this is Mouds Bog SAC (site code 002331).

Screening Determination

- 8.5.6. Based on my examination of the submitted NIS and supporting information, the NPWS website, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European Sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I conclude that a Stage 2 Appropriate Assessment is required for one European Site: Mouds Bog SAC (site code 002331). This conclusion is consistent with the documentation submitted by the applicant.

8.6. Appropriate Assessment

- 8.6.1. The proposed development will not give rise to any drainage works or peat removal with Mouds Bog SAC and therefore direct impacts will not arise. However, potential impacts from the development on Mouds Bog SAC include the following:

- Deterioration of surface or ground water quality in Mouds Bog SAC arising from pollution from surface water run-off during site preparation and construction.
- Deterioration in ground or surface water quality in Mouds Bog SAC arising from pollution during the operation of the proposed development.
- Habitat loss and fragmentation.
- Cumulative impacts.

- 8.6.2. The information contained in table 8.2 (Appendix 4) is a summary of the objective scientific assessment of the implications of the proposed development on the qualifying interest features of Mouds Bog SAC (site code 002331) using the best scientific knowledge in the field. All aspects of the proposed development which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

Potential In-Combination Effects

- 8.6.3. In combination effects are examined within the submitted NIS report and have also been considered under table 8.2 below in appendix 3. The NIS outlines how the site is located within the Liffey sub-catchment. As such, any plans or existing or proposed projects further upstream in the catchment have the potential to affect water quality which has the potential to act in combination to affect the European sites. However, the NIS outlines that any plan or project which may affect the Natura 2000 sites must adhere to environmental protective policies of the relevant land use plan.
- 8.6.4. The proposed development was also considered in combination with previous applications in the Roseberry and Newbridge area for the last five years.
- 8.6.5. The NIS concludes that *“this current development will have no cumulative impacts upon the SAC identified when considered in combination with any other development that has been screened for no impacts themselves (stage 1) or where potential impacts have been mitigated against (stage 2 AA/ NIS).”*

Mitigation Measures

- 8.6.6. The mitigation measures that are proposed in the NIS to address the potential adverse effects of the construction and operation of the proposed development are listed under section 5 of the NIS.
- 8.6.7. Site specific mitigation measures include the erection of silt fences to protect water quality in the local drains. The five treatment plans will also be installed and commissioned by a suitably qualified engineer.
- 8.6.8. I consider that the mitigations measures are reasonable, practical and enforceable, having regard to the nature and scale of the proposed development. I am satisfied that the mitigation measures outlined fully address the potential effects arising from the proposed development namely, the risk of the release of silt/sediment and contaminants to surface waters. If implemented in full, I am satisfied that the proposed development would not give rise to adverse effects on water quality or biodiversity.

Residual Effects and Integrity Test

- 8.6.9. The submitted NIS concludes that *“it is considered that following mitigation, that the proposed project does not have the potential to significantly affect the conservation objectives of these aforementioned Natura 2000 sites and the integrity of these sites as a whole will not be adversely impacted”*.
- 8.6.10. I consider the information and assessment presented in the NIS to be comprehensive and I concur with this conclusion.
- 8.6.11. Following the Appropriate Assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of the Mouds Bog SAC (site code 002331), in view of the Conservation Objectives of that site. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with other plans and projects.

Conclusion

- 8.6.12. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000, as amended.
- 8.6.13. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the Mouds Bog SAC (site code 002331). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of this site in light of its conservation objectives.
- 8.6.14. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site, no. 002331, or any other European site, in view of the site’s Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and proposed mitigation measures and there is no reasonable doubt as to the absence of adverse effects.

9.0 Recommendation

- 9.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

10.0 Reasons and Considerations

1. The proposed development would give rise to an excessive density of development in a rural area and would contravene objective HO O59 of the Kildare County Development Plan 2023 – 2029 in relation to single rural dwelling densities. Furthermore, the development when taken into account with existing development in the vicinity of the site, would contribute to the sprawl of development in an open rural area. This would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities. The development would therefore contribute to the erosion of the rural character of the area and would increase suburbanisation of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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

Catherine Hanly
Planning Inspector

24/03/2025

11.0 Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321085-24		
Proposed Development Summary	<ul style="list-style-type: none"> • Five detached dwellings and domestic garages in a clustered arrangement on the family farm • Waste water treatment plants • Creation of a new entrance and internal road • Ancillary site works 		
Development Address	Roseberry, Newbridge, 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)?			
Yes	X	Class 10 (b) (i) of Part2: threshold 500 dwelling units	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			

Yes			
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	The threshold is more than 500 no. units and the proposed development is for 5 no. units.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____

12.0 Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-321085-24
Proposed Development Summary	<ul style="list-style-type: none"> • Five detached dwellings and domestic garages in a clustered arrangement on the family farm • Waste water treatment plants • Creation of a new entrance and internal road • Ancillary site works
Development Address	Roseberry, Newbridge, Co. Kildare
<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>	
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).	The development involves the construction of 5 no. dwellings on a 3.995 ha site. The site is located in a rural area with one-

		<p>off housing in proximity to the site.</p> <p>During the construction phase, the proposed development would generate waste during excavation and construction.</p> <p>However, given the moderate size of the proposed houses, I do not consider that the level of waste generated would be significant in the local, regional or national context.</p>
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and 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).		<p>The site is not located in or immediately adjacent to any European site. The closest Natura 2000 site is Mouds Bog Special Area of Conservation which is located 0.238 km to the north of the site.</p>
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).		<p>Localised construction impacts will be temporary. The proposed development would not give rise to waste, pollution or nuisances beyond what would normally be deemed acceptable.</p>
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.	X
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.	
There is a real likelihood of significant effects on the environment.	EIAR required.	

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

13.0 **Appendix 3: Table 8.1 Table of European Sites within a Possible Zone of Influence of the Proposed Development**

European Site	Qualifying Interests (summary)	Conservation Objectives	Distance	Connections	Considered further in Screening
Mouds Bog SAC 002331	Active raised bog Degraded raised bogs still capable of natural regeneration Depressions on peat substrates of the Rhynchosporion	To restore the favourable conservation condition of active raised bogs. To re-establish the peat-forming capability for degraded raised bogs and depressions on peat substrates of the Rhynchosporion.	236m north	Having regard to the proximity and potential connectivity linkage between the application site and this SAC, then potential significant effects upon this site cannot be ruled out and will be considered further	Yes

. Pollardstown Fen SAC 000396	. Calcareous fens with Cladium mariscus and species of the Caricion davallianae . Petrifying springs with tufa formation . Alkaline fens . Vertigo geyeri . Vertigo angustior . Vertigo moulinsiana	. To restore the favourable conservation condition of Calcareous fens with Cladium mariscus and species of the Caricion davallianae. . To restore the favourable condition of Petrifying springs with tufa formation (Cratoneurion). . To restore the favourable conservation condition of Alkaline fens and Narrow-mouthed Whorl Snail. . To maintain the favourable conservation condition of Geyer's Whorl Snail and Desmoulin's Whorl Snail.	. 2 km to the south-west	. There are no source-pathway-receptor linkages.	. No
. Ballynafagh Lake SAC 001387	. Alkaline fens . Vertigo moulinsiana . Euphydryas aurinia	. To restore the favourable conservation condition of Alkaline fens.	. 10.8 km to the north	. There are no source-pathway-receptor linkages.	. No

		. To maintain the favourable conservation condition of Desmoulin's Whorl Snail and Marsh Fritillary			
. Ballynafagh Bog SAC 000391	. Active raised bogs . Degraded raised bogs still capable of natural regeneration . Depressions on peat substrates of the Rhynchosporion	. To restore the favourable conservation condition of active raised bogs. . To re-establish the peat forming capability and depressions on peat substrates of the Rhynchosporion.	. 9.48 km to the north	. There are no source-pathway-receptor linkages.	. No
. River Barrow and River Nore SAC 002162	. Vertigo moulinsiana . Freshwater pearl mussel . White-clawed crayfish . Sea lamprey . Brook lamprey . River Lamprey	. To maintain the favourable conservation condition of Desmoulin's whorl snail. . To maintain the favourable conservation condition of white-clawed crayfish, estuaries, mudflats and sandflats, Salicornia and other annuals colonizing mud and sand, water courses of plain to	. 14.1 km to the south	. There are no source-pathway-receptor linkages	. No

	<ul style="list-style-type: none"> . Allis Shad . Twaite shad . Salmon . Estuaries . Mudflats and sandflats not covered by seawater at low tide . Saliconia and other annuals colonizing mud and sand . Spartina swards . Atlantic salt meadows . Otter . Mediterranean salt meadows . Killarney fern . Pearl mussel 	<p>montane levels with the Ranunculion fluitantis and Callitriche Batrachion vegetation, European dry heaths, Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels and petrifying springs with tufa formation.</p> <p>. To restore the favourable conservation condition of Sea lamprey, Brook lamprey, River lamprey, Twaite shad, salmon, Atlantic salt meadows, otter, Mediterranean salt meadows, Killarney Fern, Nore freshwater pearl mussel, Old oak woodland with Ilex and Blechnum and Alluvial forests with Alnus glutinosa and Fraxinus excelsior.</p>			
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	<p>. Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachium vegetation</p> <p>. European dry heaths</p> <p>. Hydrophilous tall herb fringe communities of plains and the montane to alpine levels</p> <p>. Petrifying springs with tufa formation</p> <p>. Old sessile oak woods with Ilex and Blechnum in British Isles</p>				
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	. Alluvial forests with Alnus glutinosa and Franxinus excelsior				
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14.0 **Appendix 4 – Table 8.2 Summary of Appropriate Assessment of Implications of the Proposed Development on the Integrity of the Mouds Bog SAC alone and in combination with other plans and projects in view of the site’s Conservation Objectives**

Natura Site	Qualifying Interest Feature	Potential Adverse Effects	Mitigation Measures	In-combination effects	Can adverse effects on the integrity be excluded?
Mouds Bog SAC (Site Code: 002331)	Active raised bog Degraded raised bogs still capable of natural regeneration Depressions on peat substrates of the Rhynchosporion	. Deterioration of surface or ground water quality in Mouds Bog SAC arising from pollution from surface water run-off during site preparation and construction. . Deterioration in ground or surface water quality in	. All works with the development should be confined to the site only and work areas should be clearly marked and condoned off in advance of commencement. . All workers should be aware of the ecological sensitivity of the site prior to commencement. . All construction waste should be removed by a registered contractor to a registered site.	Having reviewed the information submitted and having considered any possible residual impacts as outline in the NIS, I am satisfied that no in-	. Yes – there is no doubt as to the effectiveness or implementation of mitigation measures proposed to prevent direct or indirect effects on integrity.

		<p>Mouds Bog SAC arising from pollution during the operation of the proposed development.</p> <p>. Habitat loss and fragmentation</p> <p>. Cumulative impacts</p>	<p>. Clearance of vegetation should take place outside of the bird nesting season.</p> <p>. There should be no deterioration in water quality in the drains that lie along the perimeter of the site. Strict controls of erosion, sediment generation and other pollutants should be implemented.</p> <p>. Erect silt fences to surround each individual construction area prior to construction and monitor them daily. Install interceptor trenches.</p> <p>. Pollution control measures should be implemented including a dedicated re-fueling location, spill kit stations, training on spill control, appropriate bunding for</p>	<p>combination effects will occur as a result of the proposed development.</p>	
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			<p>all fuel storage containers, appropriate storage of chemicals and fuel, inspections of fuel and oil tanks for leaks, only designated trained operatives should refuel plant, use of dip trays, procedures for spillages, plant inspections, safety precautions for handling materials.</p> <p>. Best practice concrete/ aggregate management measures should be employed on site including no works during heavy rain, best practise in bulk liquid concrete management, stockpile areas should be kept to a minimum size, control of cement dust and correct removal of waste concrete.</p>		
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			<ul style="list-style-type: none"> . Installation of 5no. treatment plans by a suitably qualified engineer. . Retention of mature vegetation along the boundaries. . Use of low intensity lighting. . Planting of native Irish species. 		
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