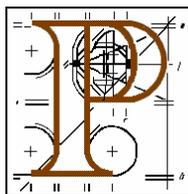


# An Bord Pleanála



## Inspector's Report

### 1. APPEAL DETAILS :

- |                                       |   |
|---------------------------------------|---|
| (1) An Bord Pleanala Ref. No.:        | PL17.240433   |
| (2) Planning Authority:               | Meath Co. Co.   |
| (3) Planning Authority Reference No.: | DA/110708   |
| (4) Applicant:                        | Mark Lynam  |
| (5) Nature of the Application:        | Permission  |
| (6) Planning Authority's Decision:    | Refusal   |
| (7) Location:                         | Mill Land, Dunshaughlin,<br>Co. Meath   |
| (8) Description of Development:       | One & a half storey dwelling<br>house & garage, WWTS, new<br>dual entrance & all assoc. site<br>works |
| (9) Appeal Type:                      | 1 <sup>st</sup> Party (vs. Refusal)   |
| (10) Appellant:                       | Mark Lynam  |
| (11) Observers:                       | None  |
| (12) Date of Site Inspection:         | 21 <sup>st</sup> July 2012  |
| (13) Inspector:                       | Leslie Howard   |

## **2. SITE CONTEXT AND DEVELOPMENT DETAILS / DESCRIPTION:**

### **(1) Site Location and Description:**

The application site, contextually rural in character, is located approx. 3km S of Dunshaughlin, Co. Meath (see copy of the regional locality map & OSI satellite imagery attached). Specifically, the stated 0.3830ha site, is located as part of parent-lands (approx. 3ha) fronting directly onto the E-edge of the co. road between the R154 and the R147 (old N3). The generally rectangular shaped site enjoys a W-boundary frontage of approx. 39m directly onto the co. road. A gated agricultural entrance exists approx. midway along this frontage. The sites W-boundary comprises a mature hedgerow, the N-lateral & E-rear boundaries open to the parent landholding & the S-lateral boundary shared with the existing developed property to the S, by a new fence.

The site forms part of a larger parent landholding (A. Dempsey). Topographically, the site may be described as level. Whilst vacant, with no particular land use apparent at the time of inspection, land use may be described as agricultural (evidence of mature pasture). Whilst on the fringe of Dunshaughlin (and proximate to Greater Dublin), the primary land use in the surrounding area may be described as agricultural, but with a presence of what appear as standalone urban generated single houses consistent with urban sprawl. The property adjacent and to the S is developed with a single house, with small stable block & exercise ring to the rear. Notable non-agricultural related traffic loading was apparent along the co. road passed the site at the time of physical inspection (assumed as consequent of the road serving as a link between the R154 and the R147 (old N3)). The co. road is in good condition, with adequate sightline visibility apparent (see attached photographs taken at the time of physical inspection).

### **(2) Description of the Proposed Development:**

Application was made by Mark Lynam (c/o Jarlath Rattigan Design) for permission for development on the stated 0.3830ha site, advertised as – “...the construction of a new one & a half storey type dwelling

house & garage, also the installation of a wastewater treatment system with filtration area, & the modification of an existing field gate entrance to form a dual entrance to site & lands, & all associated site works”, all at Mill Land, Dunshaughlin, Co. Meath.

The proposed 270sq.m. 1½ storey house (+ 62.5sq.m. garage) is proposed set back approx. 35m from the co.-road to the W, with a ‘ground floor’ FFL of 50.15OD. Located generally centrally on the application site, access is proposed via a new ‘dual use’ entrance through the N end of the W-boundary frontage onto the co. road, with access driveway up to the house, and then passed the N-gable end of the garage. Water supply is proposed via new connection to ‘a Private Well’ (located to the front SW-corner of the site); wastewater management / treatment via new onsite ‘Proprietary Waste Water Treatment System’ (located to the rear SE-corner of the site), and storm water disposal proposed to onsite ‘soakpit’ (located to the S-gable end of the house & to the rear NE-corner of the site) (see series of plans and drawings prepared by Jarlath Rattigan Design & Project Management Services date stamped received by the PA on the 25<sup>th</sup> July 2011 & as F.I. date stamped the 07<sup>th</sup> Feb. 2012).

### **3. PLANNING CONTEXT:**

#### **(1) Meath Co. Development Plan (2007-2013):**

Relevant provisions are referenced as follows –

- The application site is located on rural lands, outside of any identified settlement in the Co. Dev. Plan;
- Sect. 6.7.3 of the Co. Dev. Plan sets out the relevant ‘policy’ regarding the assessment of housing within in rural areas;
- Sect. 6.7.3.1 of the Plan provides the detailed requirements relating to the establishment of ‘local housing need’. This section sets out a number of categories of person, who will be considered to be ‘an intrinsic part of the rural community’;
- The Co. Dev. Plan provides for three distinct rural area types within Co. Meath, which reflect the different levels of

development pressure across the county. The application site is located on lands designated as “Area 1 – Rural Area under Strong Urban Influence” (see copy of Map6.1 – Rural Area Types Dev. Pressure attached). Applicants are required by the provisions of the Co. Dev. Plan to demonstrate that they are an intrinsic part of the rural community;

- Chapter 10 of the Co. Dev. Plan sets out Development Standards, including the ‘Rural Housing Design Guide’.

(2) **Planning History of the Appeal Site and its environs:**

The following relevant planning history apparent –

**Reg.Ref.No. DA/70016:** Applicant: Charlotte Morgan;  
Proposed dev.: “... construction of a revised house type to dormer dwelling house with a BAF waste treatment system and ND percolation area and revised domestic garage, including new site layout from that previously granted under planning register ref.;DA/30266 and all associated site works..

PA decision: Permission granted, subject to Conditions (Managers Order No. DN/136/07; ‘grant’ dated 17/04/2007).

**Reg.Ref.No. DA/30266:** Applicant: Charlotte Morgan;  
Proposed dev.: “...construct a bungalow dwelling house with a BAF wastewater treatment system and percolation area, domestic garage and new entrance onto public road and all associated site works.  
PA decision: Permission granted, subject to Conditions (Managers Order

No. DN/517/03; 'grant' dated 31/12/2003).

**Reg.Ref.No. DA/20115:** Applicant: Charlotte Morgan;  
Proposed dev.: "...bungalow, domestic garage, septic tank & recessed entrance".  
PA decision: Refusal (Managers Order No. DN/150/02; dated 20/05/2002).

(3) **Planning Authority Reports:**

(a) The Planning Officers report dated the 09<sup>th</sup> March 2012 (subsequent to initial planning report dated the 13<sup>th</sup> Sept. 2011, and the applicant's F.I. submission dated the 02<sup>nd</sup> Feb 2011 – copies flagged on the appeal file) recommends that permission be REFUSED, generally for the same Refusal Reason set out in the Managers Order below. This recommendation was made having regard to:

- (i) Confirmation of the nature and composition of the proposed development;
- (ii) Consideration of the locational context of, and character of the application site;
- (iii) The relevant planning history (see 3(2) above);
- (iv) Confirmation of infrastructure services proposals:
  - Water Supply – Private Well;
  - Sewage Disposal – New private WWTS; &
  - Surface Water Disposal – Soakpit;
- (v) The relevant Co. Dev. Plan 2007 provisions, partic. Sect. 6.7.3 re. 'rural housing';
- (vi) Confirm no 3<sup>rd</sup> party objections / submissions lodged;
- (vii) No referrals re. Departmental / Statutory Bodies;
- (viii) Confirm no 'pre-planning' consultations;
- (vii) Confirm key planning issues as:
  - Local housing need;
  - Road Access;

- Infrastructure servicing;
- House design & siting;
- Electricity lines; &
- Appropriate Assessment;

(viii) **Planning assessment:**

- **Local housing need:**
  - Confirm site location within area designated “Rural Area under Strong Urban Influence”;
  - Reference applicant’s motivation of rural housing need based on “social / family links to this rural area”;
  - However, note clarification on applicant’s ‘local need form’ “that his spouse owns an apartment in Navan indicated to be an investment property”. Deem necessary the applicant declare legal interest in this property. If an investment property, confirmation of such status required;
  - To be addressed under F.I.;

**F.I. Response:**

- Acknowledge correspondence confirming property in Navan:
  - is solely owned by applicant’s wife;
  - was purchased by herself; &
  - the mortgage is solely in her name;
- Accordingly, PA satisfied:
  - the property in question is not an investment property; &

- the applicant has no legal interest in the property;

- **Road Access:**

- Note proposed access arrangements;
- Refence Area Engineer F.I. request re. sightline dimensions & drainage;

- **F.I. Response:**

- PA apparent satisfaction re.:
  - sightline geometry;
  - drainage along site frontage; &
  - the front boundary treatment;

- **Infrastructure servicing:**

- **Wastewater:**

- Note proposal for private WWTS & the site suitability tests dated 2003 (carried out as part of the previous application **Reg.Ref.No. DA/30266**);
- Having weighted reference to the new 2009 EPA Code of Practice, consider necessity that applicant carry out & submit new soil suitability tests on the application site, in compliance with the new 2009 EPA Standards. These results should inform the new WWTS design proposed to service the development;
- Reference Co. Environment Sect. Concurrence with this approach & that they be advised by the applicant when the new soil tests are proposed
- To be addressed under F.I.;

- **F.I. Response:**

- Note the following:

- Revised site boundary to the same as that permitted under **Reg.Ref.No.DA/70016**;
- No new soil suitability tests conducted; &
- The Co. Environment Sect. not contacted;
- **PA Assessment:**
  - A new 2009 EPA Code of Practice was published since the April 2007 permission granted;

Weighted reference to the Environment Sect. report as follows:

  - proposed WWTS based on the 2000 EPA Manual, & not the 2009 Code of Practice;
  - the soil suitability tests results submitted, not compliant with the Standards set down in the 2009 Code of Practice; &
  - that permission be ‘refused’;

**Water Supply:**

- Having regard to proposal for supply via “a private onsite well”, note the position of same shown inside the site boundaries;
- **House design & siting:**
  - Consider overall design, scale & position of the house on site as acceptable, and in accordance with the overall principles of the Meath Rural House Design Guide;
  - Design & position of the proposed garage also considered acceptable;

- **Electricity lines:**
  - Note site's proximity to high voltage electricity lines;
  - Applicant to obtain confirmation from relevant electricity company re. satisfactory separation distance between the proposed development and the electricity lines;

**F.I. Response:**

- Note applicant's clarification from the ESB "that the separation distance provided between your proposed house development and these electricity lines is adequate";
- PA comment their own response from the ESB as "outstanding";
- **Appropriate Assessment:**
  - Under the DoEHLG direction, note the nearest designated Natura Site as being approx. 10.4km S of the application site;
  - Conclude AA not necessary in this instance;
- **'Revised public notices':**
  - Consequent of the applicant's F.I. note the 'revised public notices' submitted;

(ix) **Summation:**

- the applicant has satisfactorily demonstrated a local housing need; &
- the site is deemed as unsuitable for the disposal of effluent; &
- therefore refusal recommended

(b) **Objections / Submissions:** No. 3<sup>rd</sup> party objections / submissions apparent.

(c) **Departmental and Statutory Body Comments:**

**Environment Sect.:** Comments summarised as follows –

- Applicant failed to liaise with the Environ. Sect prior to new site suitability testing, as requested under F.I.;
- The site suitability testing was carried out under the EPA 2000 manual, & not the EPA 2009 Code of Practice applicable to applications' for single dwellings assessed from 20<sup>th</sup> October 2009;
- T-Test submitted initially failed at pre-soak stage, giving site t-values well in excess of 90mions/25mm. Assert the site will not be able to meet the requirements of the EPA 2009 Code of Practice;
- Conclude – site unsuitable & unable to adequately treat & dispose of wastewater effluent; &
- Accordingly, recommend refusal (see report dated 05<sup>th</sup> March 2012).

**Area Engineer – Dunshaughlin:** No apparent objection. No. of issues raised for attention – sightline drawings; roadside drainage; front boundary treatment & planting (see report dated 26<sup>th</sup> Aug. 2011).

No other Departmental or Statutory Body comments apparent.

(4) **Planning Authority Decision Details:**

Meath Co. Co. as Planning Authority, by Managers Order No. D233/12 dated the 09<sup>th</sup> March 2012, decided to REFUSE PERMISSION for the proposed development, for a single 'refusal reason' as follows (see appeal file):

**Refusal Reason:** "The Planning Authority is not satisfied on the basis of the information submitted in relation to this application that the ground would be suitable for the disposal of effluent. The proposed development would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area";

**4. 1<sup>st</sup> PARTY GROUNDS FOR APPEAL – Mark Lynam (c/o Jarlath Rattigan – 02<sup>nd</sup> April 2012):**

(1) **Previous Planning History:**

- (a) Reference planning history on the site (see pg.1);
- (b) Point out "there was planning permission on the site at the time the application was lodged";

(2) **Present Application – DA/110708:**

- (a) Contextualisation of the existing landownership of the site & parent landholding;
- (b) Confirm applicants
  - (i) consent from landowner to make the application; &
  - (ii) demonstrated local need
  - (iii) compliance with Sect. 6.7.3 of the Co. Dev. Plan;
- (c) Clarify that whilst there was an existing permission on the site, due to changes made by the current applicant (ie. size reduction);
- (d) Reference chronology of the PA's processing of the current application (partic. re. F.I. requests & submission, & revised public notices)

(e) Confirm PA decision to ‘refuse’, for one reason;

(3) **Grounds of Appeal:**

(a) Assert opinion that PA decided to refuse “because they were not satisfied with the information submitted in relation to the ground”, when in fact, having regard to the refusal reason wording, “the ground did not come into it”. Assert conviction in this regard based on:

(i) the WWTS was not being applied for;

(ii) therefore an application was not before the PA re. the treatment of effluent; &

(iii) “it was decided to use the previously granted WWTS already granted on the site”;

(b) Emphasise the applicant decided to “use the larger site, which had planning for a WWTS and therefore was entitled to have the use of it as the PA previously granted it”;

(c) Reference the WWTS granted permission in 2007 under **Reg.Ref.No. DA/70016**. Argue the absence of clarity from the PA’s refusal reason. re. whether –

(i) the current application required a new WWTS; or

(ii) the permission granted under **Reg.Ref.No. DA/70016** was not to their satisfaction.

Assert that the PA’s opinion is unclear in this regard;

(d) Reference “sweeping statement” in the PA refusal reason “that the development would be prejudicial to public health”. If so, argue that all systems granted before 2009 “would require changing and could be a health risk if you were to agree with the PA’s view”;

(e) Comment that if the development was completed & the WWTS installed:

(i) there would be no issue from the PA;

(ii) it would be up to the Council to monitor the system;

(iii) it would be up to the applicant to have it registered with Council.

All of which is normally the case, “as there is not many systems installed under the new EPA Guidelines for single houses”;

- (f) Argue the main issue is:  
“The PA made a decision on an application, which relates to another issue, which was not part of the planning application because the trust (sp.?) of the application was revised as stated in the F.I. letter & subsequent advertisement of the revised development on the site”.

Therefore assert the opinion that “the PA was not entitled to refuse the development for the reason it states on the decision”;

- (g) Argue the PA “cannot overturn a previous decision of their own, when they decided to grant permission for a WWTS on the site in 2007 under **Reg.Ref.No. DA/70016**”;
- (h) Acknowledge the F.I. request that soil tests be carried out. However, respond that “it did not suit the owner to do a test and a test had already passed on the site, so it was decided to use the already granted WWTS on the site”;
- (i) Comment the PA “gave no chance to clarify the situation”, and that a test would be required to support the application;
- (j) Acknowledge a new test could have been carried out on the site. However, assert that “as it had passed before it was likely to pass again under the new 2009 EPA WWT manual”;
- (k) Reference the Co. Environmental Sect. report, recommending that the application be refused. Argue the Co. planner should have overruled this opinion “as an existing system was already granted on the site, and the extension of the use of that system should be conditional on agreement that the new EPA Guidelines be app[lied] before the development commenced on the site”;

(4) **Other Issues:**

- (a) Express consideration that no other issues exist relating to the PA’s refusal decision;

- (b) Comment that:
  - (i) the applicant has satisfied local need requirements;
  - (ii) the house style is similar to that previously granted; &
  - (iii) an entrance was also granted previously;
- (c) All the PA's F.I. were addressed, and applicant "not aware of any concerns from the local engineer";

(5) **Conclusion:**

- (a) Conclude the main issue in this case relates to:
  - (i) "...the decision of the PA to refuse the application on the basis of information they did not receive from us"; and / or
  - (ii) "...overturn the previous decision to grant a wastewater treatment system on the site";
- (b) Argue it is clear that if the PA did not have a new soil test, "they then had to base their decision on the previous soil test carried out, and they had already granted permission for a wastewater system based on that soil test";
- (c) Request Board overturn the PA's decision, and grant permission based on:
  - (i) the information in the application; &
  - (ii) the information in the appeal;
- (d) Assert willingness to accept any Conditions deemed necessary by the Board, if required.

**5. RESPONDENTS TO THE 1<sup>st</sup> PARTY APPEAL:**

- (1) **Planning Authority Response (03<sup>rd</sup> May 2012):**
  - (a) Contextualise site location and description;
  - (b) Confirm specificity of the appeal re. "effluent disposal";
  - (c) PA's response:
    - (i) The original permission was granted in the name of Charlotte Morgan, dated April 2007. A WWTS was permitted having regard to compliance with the EPA 2000 Manual;

- (ii) However, weight reference to the new EPA Code of Practice published in 2009. Emphasise that all applications post 2009 are assessed against these 2009 Guidelines;
- (iii) Having regard to the current application point out:
  - no new soil suitability tests were conducted in accordance with the 2009 EPA Guidelines; &
  - the Co. Environmental Sect. were not contacted in this regard;
- (iv) Weighted reference to the Environment Sect. report dated 05<sup>th</sup> March 2012 as follows:
  - Env. Sect. Noted based the proposed WWTS on the 2000 EPA Manual, and not the 2009 Code of Practice;
  - that the soil suitability tests submitted would not comply with the Standards as set down in the 2009 Code of Practice; &
  - that planning permission be refused;
- (v) Having regard to the above, “the PA are satisfied that the development would not accord with the policies and objectives as set down within the 2009 Code of Practice and that planning permission be refused in this instance”;
- (vi) Request the Board uphold the PA decision to refuse.

**6. PLANNING ASSESSMENT:**

- (1) I have considered all of the points raised in the appeal, inspected the site and its environs, reviewed the planning history and assessed the proposed development in the light of the Meath Co. Dev. Plan 2007 and of National Policy (ie: the D.o.E’s. Sustainable Rural Housing Guidelines 2005 & the EPA Code of Practice 2009 on Wastewater Treatment and Disposal Systems serving single houses (ref. circular letter PSSP 1/10 issued by the DoEH&LG, dated 05<sup>th</sup> Jan. 2010)).

I believe that the relevant issues in review of the merits of this appeal relate to:

- (a) Planning History – **Reg.Ref.No.DA/70016**;
- (b) The need for rural housing, and location of the development;
- (c) Services and Infrastructure – Road Access, Traffic Safety and Sanitation Services.

(2) **Planning History – Reg.Ref.No.DA/70016:**

I have had careful regard to the applicant's weighted reference to the chronology and detail of the above historical application on the site, and in rationalising the current proposed development. However, notwithstanding this site specific recent planning history, I am of the view that the current application be considered 'de novo'. I share Meath Co.Co's. conviction in this regard. Certainly, the contextual statutory planning references against which the current application requires consideration have changed. 1stly, Sect.34(2)(a)(i) of the Planning & Dev. Act 2000 requires that regard be had to "the provisions of the development plan". The current Dev. Plan is the Meath Co. Dev. Plan 2007 – 2013, specifying a suite of targeted provisions refined from those in the previous Co. Dev. Plan (Note: The 2007 Co. Plan adopted on 02<sup>nd</sup> March 2007 & took effect from Thursday 29<sup>th</sup> March 2007. The previous application **Reg.Ref.No.DA/70016** was received by the PA dated the 16<sup>th</sup> Jan. 2007, with a 'Decision Date' of 08<sup>th</sup> March 2007). Secondly, implementation of the new EPA Code of Practice 2009 on Wastewater Treatment and Disposal Systems serving single houses, is necessary (ref. circular letter PSSP 1/10 issued by the DoEH&LG, dated 05<sup>th</sup> Jan. 2010). These set out stricter water quality protection measures, from that applied at the time of the historical case **Reg.Ref.No.DA/70016**. I again share the conviction of the PA in emphasising this point.

Further, whilst noting the weighted and principal arguments consistently made by the applicant (c/o Jarlath Rattigan Design), in favour of transferability of the site soil suitability assessments and

proposed onsite WWTS included in the permission granted to the previous applicant – Charlotte Morgan, under **Reg.Ref.No.DA/70016**, I can find no statutory provision within the Planning & Dev. Act 2000 (as amended), or the Planning & Dev. Regulations 2001 clearly enabling the applicant’s case in this regard. Notwithstanding the argued specificity of the wording of the revised public notices, argued by the applicant as clearly referencing the “...continuation of the permission for the WWTS previously granted under **Reg.Ref.No.DA/70016**”, a decision on the current application is required in my view, in respect of the entirety of the works to be permitted on site. In my view the applicant’s conviction is further undermined by the fact that the permission granted under **Reg.Ref.No.DA/70016**, itself recently expired (ie. ‘decision date’ – 08<sup>th</sup> March 2007 & ‘grant date’ – 17<sup>th</sup> April 2007). I therefore cannot agree with the applicant’s argument that the PA “cannot overturn a previous decision of their own, when they decided to grant permission for a WWTS on the site in 2007 under **Reg.Ref.No. DA/70016**”

These same contextual references are now relevant to the Board’s own considerations of the current proposed development (**Reg.Ref.No.DA/110708**) under Sect. 37(1)(b) of the Act 2000 (as amended).

(3) **The need for rural housing, and location of the development:**

Having regard to the information on file, I am satisfied that a satisfactory rural housing need has been demonstrated by the applicant, in compliance with the requirements of the Meath Co. Dev. Plan 2007 and of the D.o.E.’s Sustainable Rural Housing Guidelines (April 2005). Clearly Mr M. Lynam (the applicant) is a member of the local Lynam family, he has lived most of his life in the local area, his family home is approx. 500m from the application site (within which he has lived for more than 5-years), he attended school locally, he is an active member of the local GAA Club Blackhall Gaels and having regard to there being no capacity on the family home site to build, is now

seeking to consolidate residency locally on nearby lands Mill Land, for which he has received permission from the existing owner (Mr A. D. Dempsey) to make application for planning permission (see letter dated 01<sup>st</sup> July 2012).

Further, having regard to the F.I. consultations, I am satisfied that the property in Navan is solely owned by applicant's wife (ie. purchased by herself & that the mortgage is solely in her name), that the Navan property is not an investment property of the applicant, and that the applicant has no legal interest in that property.

I share the conviction of both of the applicant and of the PA in this regard, that a satisfactory rural housing need has been demonstrated.

However, notwithstanding the practicality of the applicant's access to lands locally at Mill Land, located within "Area 1 – Rural Area under Strong Urban Influence", and as will be discussed further below, I believe that the application site fails the test regarding site suitability in terms of consideration of 'normal planning criteria and good planning practice' provided for in the Meath Co. Dev. Plan 2007, which in my view are set out as critical qualifications to the fulfilment of the planning need for housing development in the rural areas of Co. Meath. Accordingly, I am of the view that it will be the sites location and site specific character in local context, which presents the significant challenge to the proposed development being in accordance with the proper planning and sustainable development of the area.

Having regard to the above, I consequently am of the view that whilst a satisfactory local need for a rural house exists in favour of the applicant, the proposed site itself, on the information available, cannot be considered as suitable. Having made observations of the Mill Land environs and the application site at the time of physical inspection, I deem this to be reasonably the case (see photographs taken at the time of physical inspection).

Having regard to further planning assessment set out below, and to the absence of required compliance with the provisions of the ‘EPA Code of Practice 2009 on Wastewater Treatment and Disposal Systems Serving Single Houses’ I specifically consider the site’s soil suitability to be unproven as satisfactory for onsite wastewater treatment and disposal in the public interest. Accordingly, the development of the site as proposed would be contrary to the proper planning and sustainable development of the area.

(4) **Services and Infrastructure – Road Access, Traffic Safety and Sanitation Services:**

In my view, the proposed development would exacerbate a local undesirable, ‘non-agricultural’ type and density of single house development, in an underserviced rural area, and would lead to increased demands for the uneconomic provision of public services and facilities in this local context, where they are neither available, nor proposed in terms of the Meath Co. Dev. Plan 2007. However, as proposed, and on the information available, satisfactory water and electricity supply are possible to serve the proposed new house.

Specifically, in consideration of the physical accessibility of the application site, I acknowledge the capacity of the existing local rural road network. Notable non-agricultural related traffic loading was apparent along the co. road passed the site at the time of physical inspection. In itself, this reflects its evolving historical and contextual role from solely servicing rural livelihoods and assoc. agricultural land use activity, to serving as a link between the R154 and the R147 (old N3) and the Greater Dublin Function Regional beyond.

The current geometric, spatial and topographical context of the location of the proposed new dual entrance junction is clearly shown in photographs no. 1-5 attached, taken at the time of physical inspection. Having thoroughly inspected this location, I note that a sightline of 90m (to Dev. Plan Standard) is achieved to each of the N and S

approaches, that adequate intervisibility from each of the forward approaches along the co. road towards the proposed new entrance exists, that generous separation distances in excess of required Standard exist along the co. road in this vicinity between the proposed new dual entrance and the existing entrances, and that improved local traffic safety will be enabled by the front boundary set back and treatment as proposed. In my view, satisfactory compliance has been achieved with the relevant traffic safety Standards set out in the Meath Co. Dev. Plan 2007, and that no obviously serious threat to traffic safety is apparent, consequent of the creation of a new dual entrance directly off the co. road at this location.

Having weighted regard to the information and 'dated' documentation included on file, in particular the Co. Environment Sect. report dated 05<sup>th</sup> March 2012 on this issue, to the absence of required compliance with the provisions of the 'EPA Code of Practice 2009 on Wastewater Treatment and Disposal Systems Serving Single Houses' and to my own observations of the on-site ground and soil conditions made at the time of physical inspection, I am of the view that satisfactory effluent treatment and disposal is a serious challenge facing the applicant. The significance of this challenge is emphasised when having regard to the circular letter PSSP 1/10 issued by the DoEH&LG in relation to the implementation of the new EPA Code of Practice on Wastewater Treatment and Disposal Systems serving single houses (dated 05<sup>th</sup> Jan. 2010).

The applicant may have included a 'Site Suitability Assessment' report, prepared for Mrs C. Morgan by K. Ludlow (?) (dated 13<sup>th</sup> October 2003, & incl. under previous **Reg.Ref.No.DA/70016**) as part of the application documentation. However, the conviction articulated in this report, and those by the applicant (c/o Jarlath Rattigan Design) in motivating the current application, in my view is undermined completely by the impossibility of its compliance with the

requirements of the 2009 EPA Code of Practice. I share the conviction put to the applicant by the PA and the Co. Environment Sect. throughout their consideration of the current application. Unfortunately, and particularly having regard to the second chance afforded to the applicant by way of the PA's F.I. request, the applicant did not enhance the merits of the proposed development by commenting in the F.I. response (see 02<sup>nd</sup> Feb. 2012) that "...no new soil test is submitted with this reply to the F.I. request", and that "the Environmental Section has not been contacted as no new soil test was carried out...". I acknowledge the applicant's weighted reliance on the argument that the 'soil suitability tests' and proposed WWTS were considered and granted permission under **Reg.Ref.No.DA/70016**. As discussed at 6(2) above, I am of the opinion, consistent with that of both the PA and the Co. Environment Sect., that no case exists in favour of transferability of the site soil suitability assessments and proposed onsite WWTS included in the permission granted to the previous applicant – Ms. C. Morgan, under **Reg.Ref.No.DA/70016**, to the current application. Firstly, no statutory provision within the Planning & Dev. Act 2000 (as amended), or the Planning & Dev. Regulations 2001 is apparent, enabling such a case. Secondly, the permission granted to Ms. C. Morgan, under **Reg.Ref.No.DA/70016**, itself expired earlier this year. Lastly, the Circular Letter PSSP 1/10 issued by the DoEH&LG in relation to the implementation of the new EPA Code of Practice on Wastewater Treatment and Disposal Systems serving single houses (dated 05<sup>th</sup> Jan. 2010), requires all new applications for rural housing to be assessed against the Standards provided in the 2009 EPA Code of Practice. Clearly, not only has the applicant not achieved this, but as he submitted in his F.I. response to the PA, he consciously chose not to. The applicant did not assist his case in this regard. Unfortunately, without demonstrated compliance under the 2009 EPA Code of Practice, the PA were clearly left with no alternative but to refuse the application, in the interests of public and environmental health. In my view, nothing has changed in the

applicant's case, as presented to An Bord Pleanála under the current appeal

Of relevant interest, I note that the K. Ludlow 'Site Suitability Assessment' report dated 13<sup>th</sup> October 2003 itself comments re. "...a high water table level during wetter months"; "a poor result can be expected from the T-test given the clay nature of the soil" and that under the T-test results "As expected the clay nature of the soil did not allow the pre-soak to dissipate. Therefore no T-test was carried out". This result in the 2003 'Site Suitability Assessment' was itself picked up on with concern, by the Co. Environment Section in their report 05<sup>th</sup> March 2012, as indicative of "site T values well in excess of 90mins/25mm. This site will not be able to meet the requirements of the EPA Code of Practice". Therefore, even on a technical level re. site T-testing, I share the precautionary approach advocated by the PA and the Co. Environ. Sect.

Without the required demonstrated compliance with the 2009 EPA Code of Practice, I therefore cannot accept that no consequent threat exists of ground and surface water pollution from the proposed development. Adopting the precautionary approach, whilst I am of the view that the application site itself should not be developed as proposed, in the information available, I believe that this opinion is further strengthened in the context of potential threat by way of precedent for further similar undesirable development at this locality, which would also be dependent on septic tank and / or proprietary treatment system method of sewage disposal, all in an area of what I would have regard to as challenged soil permeability (ie. heavy clay soils – see K. Ludlow report dated 13<sup>th</sup> Oct. 2003 & having regard to my own observations at time of physical inspection). I am therefore strongly of the view that the granting of permission for the proposed development would result in unnecessary increased threat of both

ground and surface water pollution, and therefore, be prejudicial to public and environmental health.

Accordingly, I must conclude in concurrence with the PA and the Co. Environment Sect. particularly, that from a public good perspective, and without demonstrated compliance with the 2009 EPA Code of Practice, the proposed development would be a threat to public and environmental health, and contrary to the proper planning and sustainable development of the area.

**7. RECOMMENDATION:**

Having regard to all of the above, I recommend to the Board that permission be REFUSED in accordance with the following schedule –

**REASONS AND CONSIDERATIONS**

The applicant has not demonstrated to the satisfaction of the Board that the proposed septic tank system taken in conjunction with those existing in the area, would not give rise to the risk of contaminated effluent entering the ground waters at this location. This notwithstanding the proposed use of a proprietary wastewater treatment system and site improvement works. In these circumstances it is considered that the proposed development would, if permitted, result in an excessive concentration of development served by septic tanks in the area, be prejudicial to public health and ground water ecosystem functioning and would be contrary to the proper planning and sustainable development of the area.

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**Leslie Howard**  
**Inspector**  
**03/08/2012**