



An
Bord
Pleanála

Inspector's Report PL15.247047

Development	Dwellinghouse, new vehicular access, domestic garage, wastewater treatment system and all associated site works.
Location	Commons, Townrath, Co. Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	15/824.
Applicant(s)	Fergal Sarsfield.
Type of Application	Planning Permission.
Planning Authority Decision	Granted with Conditions.
Type of Appeal	Third Party
Appellant(s)	William Cummins and John McDonnell.
Observer(s)	None.
Date of Site Inspection	14/10/2016.
Inspector	L. W. Howard

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	5
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.1. Development Plan.....	7
5.2. Natural Heritage Designations	13
6.0 The Appeal	13
6.1. Grounds of Appeal	13
6.2. Applicant Response	14
6.3. Planning Authority Response.....	20
6.4. Observations	20
6.5. Further Responses.....	21
7.0 Assessment.....	21
8.0 Recommendation.....	27
9.0 Reasons and Considerations.....	27
10.0 Conditions	27

1.0 Site Location and Description

- 1.1. The stated c.0.769ha application site is located within a rural area some 3km north of Drogheda, County Louth. The site has a c.70m frontage onto the northern side of the County Road 326, comprising a mature hedgerow and trees.
- 1.2. Located within the designated Green Belt, the area is rural in character, with a row of four roadside individual houses, directly opposite the application site. The primary land use locally may be described as agricultural. The property adjacent and to the east is developed with a single house, and which separates the application site from the Dublin to Belfast railway line.
- 1.3. A low level of vehicular traffic passed the site frontage, at the time of site visit. No access point / entrance currently exists off / onto the site from the County Road 326, at present. The County Road 326 is in good condition.

2.0 Proposed Development

- 2.1. 2-storey dwelling unit, wastewater treatment system, attached garage and all associated site works.

The 300m² dwelling to be located set back c.85m from the CR326, within the 0.79ha site. The new house has a ridge height of 8.9ha and an external render finish.

The detached domestic garage has a floor area of 50m².

3.0 Planning Authority Decision

3.1. Decision

Decision to Grant Planning Permission, subject to 6no. generally standard Conditions. Noteworthy however, are the following Conditions :

C.2 Occupancy restriction – 7-years

C.4 Financial Contributions in respect of public infrastructure and facilities benefiting development in the area. Contributions determined in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended.

C.9 Restriction on use of the garage.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Subsequent to Further Information (F.I.) consultations, the key issues considered were as follows :

Rural Housing Need :

Having regard to :

- applicant's birth cert indicating his address as Drybridge,
- copies of correspondence giving the applicant's address as Drybridge, Drogheda,
- copy of map illustrating the location of the family home in Drybridge, in relation to the application site at Townrath, approximately 5km away,
- letter from the Principal of Saint Josephs National School, Mell, Drogheda, confirming the applicant's attendance from 1982-1990, and
- F.I. letters from St. Josephs National School and St. Olivers Community College,

the Planning Authority conclude the applicant has satisfactorily documented compliance with the qualifying criteria for residential development in Zone 4.

Sanitation Services :

Having regard to the supervised percolation tests completed on site, consider the percolation rate as adequate. Further, note no evidence of any mottling in the trial hole, and no water in the trial hole. The proposed onsite wastewater treatment and disposal, considered to be satisfactory.

Road Access and Traffic Safety :

The revised site layout plan submitted as F.I., satisfactorily demonstrated the provision of sightline visibility of 75m in both directions. Further, clarification established that all works required are within the site boundaries. Accordingly, the proposal is considered to be satisfactory.

Impact on Adjoining Properties :

Having regard to proposed location, orientation, screening and design, no negative impact on the residential amenities of dwellinghouses in the vicinity will result.

Natura 2000 Sites – Impact :

- Site is not located within a proposed Natural Heritage Area, a Special Area of Conservation, or a Special Protection Area.
- The proposed development will not impact on any of the pNHA, the pSAC or the SPA in the area.
- An Appropriate Assessment is not required.

Sanitary Services and Flooding :

Site not located within the area of known fluvial / pluvial flooding, as indicated on the OPW maps.

Recommend a Grant of Planning Permission, subject to Conditions.

3.2.2. Other Technical Reports

Infrastructure Office : Permission be granted, subject to Conditions.

Environmental Compliance Section : Consequent of supervised F.I. percolation tests and trial hole tests being completed, no objection.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

Three 3rd party submissions were received by the Planning Authority. The issues raised in addition to those covered by the grounds of appeal can be summarised as follows :

- the field is in agricultural use.
- application is urban generated and not in compliance with Zone 4 Development Plan Policy.
- negative impact on the character of the local environment.
- the removal of an extensive amount of hedgerow
- proposed entrance is located in an area that will create traffic hazard
- there are too many septic tanks in the area.

4.0 Planning History

73/783 – Permission granted for 5no. dwellinghouses. The permitted development was not implemented.

5.0 Policy Context

5.1. National

Sustainable Rural Housing Guidelines 2005

Both the National Spatial Strategy and the Sustainable Rural Housing Guidelines 2005 distinguish between rural generated housing and urban generated housing and seek to ensure that the needs of rural communities are identified in the development plan process. The guidelines make clear that in all cases, consideration of individual sites will be subject to satisfying normal planning considerations relating to siting and design, including vehicular access, drainage, integration with the physical surroundings and compliance with the objectives of the development plan in general.

EPA Code of Practice

The EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses, 2009 applies.

5.2. Development Plan

Louth County Development Plan 2015-2021.

Relevant provisions include :

S2.19 One-Off Rural Housing Policy :

SS18 To permit rural generated housing in order to support and sustain existing rural communities and to restrict urban generated housing in order to protect the visual amenities and resources of the countryside, subject to the local needs qualifying criteria as set out in Section

2.19.1.

S2.19.1 Local Needs Qualifying Criteria :

The application site is located within Development Control Zone 4.

Development Zone 4 : “to provide for greenbelt area around the urban centres of Dundalk, Drogheda and Ardee”.

Applicants for single rural houses must demonstrate compliance with at least one of the following qualifying criteria :

1. applicant a child of a qualifying landowner, and must
 - demonstrate a rural housing need
 - show that they do not already own a house, or have not owned a house within the rural area for a minimum of 5-years prior to the application

OR

2. applicant has lived for a minimum of 10-years in the local rural area (including cross-border), and
 - has a rural housing need,
 - does not already own a house , or have not owned a house within the rural area for a minimum of 5-years prior to the application

OR

3. applicant is actively and significantly involved in agriculture, sufficiently to support full time or significant part time occupation. Where applicant is similarly employed in a part time basis, the predominant occupation shall be in agriculture.

In all cases –

- provide supporting documentation outlining that the nature of the activity is sufficient to support full time or significant part time work.

Restrictions – house to be located immediately adjacent to or within the boundaries of that agricultural enterprise.

OR

4. applicant is actively and significantly involved in the bloodstock and equine industry, forestry, agri-tourism or horticultural sectors or rural based enterprise –

- which is sufficient to support full time or significant part time occupation, and
- can demonstrate a specific functional need to live at the site of work

Where applicant is similarly employed in a part time basis, the predominant occupation shall be in these sectors. In these cases–

- provide supporting documentation outlining that the nature of the activity is sufficient to support full time or significant part time work.

Restrictions – house to be located immediately adjacent to or within the boundaries of that enterprise.

OR

5. applicant is a carer for an elderly person or a person with disability, living in an isolated rural area and does not have an able bodied person residing with them.

Restrictions – 1no. house only, to be located adjacent the dwelling of the elderly or disabled person.

SS19 Require applicants demonstrate compliance with the Local Needs Qualifying Criteria relevant to the respective Development Zone as set out in Section 2.19.1.

S2.19.2 Definition of Local Rural Area :

Local Rural Area – “being a radius of 6km from the qualifying rural family residence. Where the qualifying area is reduced by reason of its location, for example, proximity to the coast, county boundaries or development zone boundaries, the 6km radius may be extended to include an area equivalent to the area lost”.

The rural area excludes those lands which lie within Level 1, 2, 3 and 4 Settlements inclusive.

S2.19.6 Application of Occupancy Conditions :

The dwelling shall be first occupied as a place of permanent residence by the applicant or his / her heirs, and shall remain so occupied for a period of at least 7-years.

SS23 To attach an occupancy condition of 7 years in respect of all planning permissions for new dwellings in rural areas and Level 4 Settlements.

S2.19.7 **Development Management Assessment Criteria for One-Off Rural Housing :**

Listing of considerations for the attention of the Planning Authority in assessing all applications for one-off rural houses (see copy attached).

S2.19.11 **Dwelling Gross Floor Areas and Minimum Site Size :**

In order to protect the unspoilt natural environment of Greenbelt Areas, amongst others, Planning Authority will limit the floor area of new dwellings in such sensitive landscapes in order to curb the visual impact in these sensitive areas.

Table 2.9 Dwellings Gross Floor Area and Minimum Site Size :

<i>Development Zone :</i>	<i>Minimum Site Size in Hectares :</i>	<i>Maximum Cumulative Gross Floor Area in Square Metres :</i>
4	0.2	220 (or see SS 52)

S2.19.12 **Ribbon Development :**

Definition – “four or more houses in a continuous row along a public road, includes those houses constructed prior to 1st October 1964”.

Buildings still represent ribbon development, “if they have a common frontage or they are visually linked”.

SS53 To prevent the creation of ribbon development by not permitting more than four houses in a row along any public road.

A minimum gap of 300m shall be maintained between such developments.

An exception to this requirement may be considered where the dwelling is required to meet the housing needs of a son / daughter / foster child of a qualifying landowner and where the planning authority is satisfied that there is no other suitable site available on the landholding

SS54 To preserve a clear break of a minimum of 300m between the boundary of existing settlements and any permitted development along adjoining roads.

S2.19.15 Access :

Safe access must be provided, in terms of :

- the visibility from a proposed entrance, and
- the impact on existing road traffic, through generation of stopping and turning movements

All applications to demonstrate compliance with the required visibility standards appropriate to the class of road as detailed in Table 7.4 and 7.5 of the Plan (Ch. 7 – Transport). Where compliance requires removal of large stretches of roadside hedgerow etc., consideration to be given to an alternative site, in the interests of protecting the landscape character and the visual amenity of the area.

SS59 Require that access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic by demonstrating compliance with the appropriate visibility and traffic safety standards as set out in Section 7.3.6 of the Development Plan.

SS60 New accesses to be located so as to minimise impact on existing roadside boundaries.

2.19.17 Roadside Boundaries :

SS 63 Require that new accesses are located having regard to both :

- road safety, and
- the protection of existing roadside hedgerows, trees and boundaries

SS 64 where roadside boundary removal or modification required in the interest of traffic safety, the new boundary, consistent with the nature and character of the area to be located behind the visibility sightline.

2.19.18 WasteWater :

Required full compliance with –

- the guidelines and requirements of the Environmental Protection Agency (EPA) 'Code of Practice : Wastewater Treatment Systems for Single Houses – 2009', and
- the policies and criteria relating to the Environment, as set out in Chapt 8 of the Development Plan

SS 65 All sites requiring individual waste water treatment systems to be assessed by suitably qualified persons, in accordance with the recommendation contained in the 'Code of Practice : Wastewater Treatment Systems for Single Houses', published by the Environmental Protection Agency (EPA), 2009.

2.20 Rural Housing Design and Siting Criteria :

Specific considerations include - Site-Sensitive Design (2.20.1); Build into the Landscape (2.20.2); Build, Shape and Plant to create Further Shelter (2.20.3); Presence in the Landscape (2.20.4); Proportions (2.20.5); Materials (2.20.6); Boundaries (2.20.7) and Details (2.20.8).

Other rural settlement policies of relevance :

RD 29 To apply a presumption in favour of granting planning permissions to bone-fide applicants for rural generated housing where the qualifying criteria set down in Chapter 2 are met and where standards in relation to inter-alia siting, design, drainage and traffic safety set down in the Louth County Development Plan 2015-2021 are achieved.

RD 30 To apply a presumption against urban generated housing in the rural areas of the county or where standards in relation to inter alia siting

design, drainage and traffic safety set down in the Louth County Development Plan 2015-2021 are not achieved.

5.3. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

- The site is located in Development Zone 4, a Green Belt Area, as outlined in the Louth County Development Plan 2015-2021. This is a local needs area on the outskirts of Drogheda.
- Applicant's for single rural houses "must meet certain criteria within County Development Plan (Section 2.19.1, pgs 38-39) and Draft County Development Plan (Section 4.6.1-4, pgs 72-75)".
- The site is currently in use and has always been used as agricultural land. It has been rented out to local farmers , mainly for cattle grazing, and also for making hay / silage.
- The site is designated as local needs usage, in accordance with Sustainable Rural Housing Guidelines 2005 (pgs 5, 23-25).
- The applicant does not meet the necessary criteria for the planning application and has not provided adequate information to support the application, including – site notice and address to support local needs.

Numerous auctioneers currently operate within the Drogheda Environs. It is not credible that the applicant could not have had his housing needs solved by any one of these auctioneers. Having further regard to the rural housing provisions of the County Development Plan 2015, argue the applic should not be granted planning permission for a dwelling within this field , when many other housing options are available to the applicant within the Drogheda area.

The applicant's case is based on an urban generated interest. The applicant is not local to Townrath, or the surrounding hinterland. Having regard to existing pressure for similar development in the area, argue the preservation of Green Belt / Agricultural Land is critical for preserving the local environment.

The applicant only purchased the 7.9acre field in March 2014. Therefore he does not meet the 10-year ownership criteria. Nor does attending primary / secondary school in Drogheda, justify the applicant being classed under local needs.

Several houses locally along the Townrath Road have been for sale, recently. Any one of these would have resolved the applicant's housing needs, in accordance with relevant planning policy / guidelines for the area.

From the date of lodgement, to the date of the Planning Authority's decision to grant planning permission, "is an incredible length of time for Louth planning office to be involved in processing an application for one-house".

If lodged incomplete, the Planning Authority should have rejected the application in the first instance.

- Application documentation did not contain photographs of the erected site notice in situ, prior to submission.
- The location of applicant's test holes appear too close to their own adjacent well, as per the Waste Water and Soakaway Layout drawing.
- Whereas the County Development Plan defines a Qualifying Landowner as being where a person has owned a landholding of at least 3-hectares for a minimum of 10-years, the applicant has not owned the field for 10-years, having purchased it in March 2014.
- Conclude, "the area needs to be protected from one-off housing for non-locals, who are not involved on any way in agriculture".

6.2. Applicant Response

- Challenge the validity of the original 3rd party objections by W. Cummins and J. McDonnell, as being outside of the statutory time period allowed (5-weeks

from date of receipt of application). If these original 3rd party objections were received outside of the required period, then the current 3rd party appeal should also be deemed as invalid.

- Rather than submitted as a single letter of appeal, co-signed by each of the 3rd party appellants, the current appeals are separate letters of appeal, and should be treated separately. As the single payment received for two separate appeals does not meet the Board's requirements, these should therefore be considered as invalid.

- Local Needs assessment :

- Council thoroughly investigated the location of the applicant's qualifying address – schools letters show the family home address (a combined period of 14-years), as do the utility bills / bank statements, and the birth certificate.
- The 3rd party appellants appear to misunderstand the school address as the qualifying address.
- With the application site location within Zone 4, the applicant is required to demonstrate a local need by satisfying one of five criteria set out in the County Development Plan 2015. The applicant complies with Criteria No.2.
- Whereas Local Rural Area is defined as a radius of 6km from the qualifying rural family residence, the applicant's qualifying family residence is 5.14km from the application site.
- The applicant has demonstrated his residence within the Local Rural Area for longer than the minimum requirement of 10-years.

The applicant is indigenous to the Local Rural Area, where he was born and raised. Further, both his mother and sister live on properties within the Local Rural Area.
- There is no doubt, the applicant has a genuine local rural housing need.

- The applicant does not already own a house, nor has he owned a house within the rural area of the County for a minimum of 5-years prior to lodging this application. The applicant has never owned a house in the rural area of County Louth.
- The applicant fully complies with Criteria No. 2 of the 'Local Needs Qualifying Criteria' set out at Section 2.19.1.
- Site Notice :
 - The Council accepted full compliance with the relevant Planning Regulations.
 - Confirm removal of the site notice by other parties on two occasions, and its immediate replacement by the applicant..
 - Rather, the 3rd party appellant was aware of the planning application, as he was enabled to lodge a 3rd party objection and then a 3rd party appeal, inclusive of photographs of the site notice.
- The Well :
 - The report by Hydrocare Ltd. clearly shows compliance with all required EPA Standards.
 - adequate separation exists between the 3rd party appellant's well and the location of the applicant's waste water treatment system.
- Distinguish that some of the 3rd party appeal documentation is from a former Development Plan. These references have no relevance to current planning.
- An Bord Pleanala granted permission for 5no. houses on the application site, in May 1974. If proceeded with, this planning permission would have eliminated any agricultural use on these lands.
- Conclusion :
 - The proposed development satisfactorily complies with the relevant provisions of the County Development Plan 2015.
 - The Conditions attached to the PA's decision to grant permission intend on preserving the local environment.

- Besides the application site, the applicant also owns 6-acres of land abutting the site, which he is to use for agricultural / horticultural purposes.
- Request the Board dismiss the 3rd party appeal.

3rd Party Appellant's Response to Applicant's Response :

Invalid Appeal :

- The guidelines and procedures for lodgement of planning appeals were checked with the Boards staff, prior to lodgement of the 3rd party appeal.
- The joint 3rd party appeal submissions were both accepted and processed by An Bord Pleanála staff, in accordance with their protocols.
- The 3rd party appeal submission cannot be deemed as invalid.

Local Needs Criteria :

- Qualifying Address :
 - Notwithstanding the applicant's arguments that public disclosure of his address constitutes "sensitive and personal" data, argue that this information regarding the applicants "qualifying address", is a material consideration as to whether the applicant has met the local needs criteria for rural housing.
 - By removing this information from the file, or blacking it out on relevant documents, 3rd parties were left in a position where they were forced to accept that due process had been followed. 3rd parties had no way of verifying whether local needs criteria had been satisfied, as they had no idea where the qualifying address is.

- The applicant's "qualifying address" was not available and on the public record at the time of the planning application.
- Primary Schools :
 - The applicant's attendance at Tullyallen NS does not qualify for local needs. Other schools have rather served the needs of the children of Townrath.
 - Townrath is not within the catchment area of Tullyallen National School.
- Distance from Qualifying Address to the Proposed Development :
 - The applicant's qualifying address at Drybridge, Co. Louth is located within Zone 6.
 - Whereas the applicant states the application site is located 5.14km from the qualifying address at Drybridge, this measurement is taken "as the crow flies / is a radial measurement". Rather, if the local road network were used, the more realistic measurement is 8km.
 - Distinguish that whereas in the County Development Plan 2009-2015, a local area was defined as a radius of 4km from the qualifying family residence, this distance was arbitrarily increased in the County Development Plan 2015-2021 to 6km.
- Qualifying Address located within Zone 6 :
 - The applicant's qualifying address at Drybridge, Co. Louth is located within Zone 6. The applicant has been granted local needs based from within a different zone and is not local to Zone 4.
 - Residents of Townrath do not consider themselves part of the Drybridge community and vice versa. Having regard to underlying archaeological and heritage considerations within Zone 6, residents would be restricted in making application for planning permission.

Rather, “moving zones and purchasing the field at the Commons, Townrath, would be a solution to planning difficulties within Zone 6.

- Affirm the application site’s location within Zone 4 – the Green Belt, under the County Development Plan 2015-2021, consistent with the 2009-2015 Plan.
- Strongly reject the Council’s decision to grant local needs to the applicant, as the qualifying address is located within Zone 6 and not Zone 4.

Genuine Rural Housing Need :

- The applicant has not owned property in County Louth, and has not owned property in the Local Area in the last five years. Therefore, the sole basis for applying for planning permission at Townrath is on “a so called local need from a qualifying address at Drybridge, County Louth”.
- Challenge the validity of the applicant as a genuine rural dweller, as the qualifying address was not included as part of the planning application and made available on the public record.

Rather, the applicant’s need could be accommodated from the stated five houses within Townrath, for sale, and without the need for constructing a house within the green belt.

- The applicant could have had his housing need facilitated by any one of the approximately 20no. auctioneers within the Drogheda Environs. Other housing accommodation options are available to the applicant, than a new dwelling within this field.
- Sensitivities regarding the applicant’s qualifying address make it unclear whether this application is urban generated, and whether the applicant is not local to Townrath.
- Townrath Townlands are already under pressure from Ribbon Development, despite the presumption against this.

- Contrary to the County Development Plan provisions regarding a Qualifying Landowner, the applicant has not owned the field for 10years and only purchased it in March 2014.

Change of Use – application site :

- Contrary to the applicant’s references in the planning application form, a clear change of land use will result, from the current agricultural use within the Green Belt. The proposed development “would destroy the integrity of the Green Belt agricultural area within the Townrath community”.
- Whereas the applicant states an intention to use the land for agricultural purposes, no evidence exists substantiating the applicant’s agriclutral background. Therefore, no credible genuine rural need exists for agricultural usage.
- The applicant’s reference to the 5no. dwellinghouses permitted on appeal, by the Board in 1974, is not credible. An Bord Pleanala was founded under the Local Government (Planning and Development) Act (Section 3.1) of 1976.

Site Notice / Correct Signage Procedures :

- Affirmation of argument that with particular regard to the Site Notice, the applicant did not comply with the requirements of the Planning and Development Regulations 2001 (as amended).

Planning Authority Response to Applicant’s Response :

No further planning comments.

6.3. Planning Authority Response

None.

6.4. Observations

None

6.5. Further Responses

None.

7.0 Assessment

7.1. I have examined the file and available planning history, considered the prevailing local and national policies, physically inspected the site and assessed the proposal and all of the submissions. The issue of appropriate assessment also needs to be addressed. The following assessment covers the points made in the appeal submissions, and also encapsulates my de novo consideration of the application. The relevant planning issues relate to :

- Principle and Location of the proposed Rural House development
- Visual Amenity Impact
- Road Access and Traffic Safety
- Sanitation Services
- Other Issues : Validity of the 3rd Party Appeal and Site Notice / Correct Signage Procedures
- Appropriate Assessment.

7.2. Principle and Location of the proposed Rural House development :

7.2.1. The application site is located within Zone 4 - Green Belt, for the purposes of rural housing policy under the County Development Plan 2015. Policies SS18 and RD29 outline the presumption in favour of rural generated housing within Zone 4, provided the “local needs qualifying criteria” relevant to Zone 4 are met, and the Standards relating to siting, design, drainage and traffic are achieved.

7.2.2. The local needs qualifying criteria are set out in Section 2.19.1 of the County Development Plan 2015. The Development Plan 2015 requires that the applicant meet only one of these qualifying criteria. As the applicant is not the son / daughter

of the landowner, involved in agriculture or other rural based enterprise, or adjacent to the dwelling of an elderly person / person with a disability, the remaining criteria under which the applicant could qualify is that he must have lived for a minimum of 10years in the local area, have a housing need and have not owned a house within the rural area for the previous 5years. Having regard to the information available, qualification with respect to local needs under Section 2.19.1 Zone 4 – Green Belt, has been satisfactorily demonstrated by the applicant.

7.2.3. Section 2.19.2 defines “local rural area” as being a radius of 6km from the applicant’s qualifying rural family residence. This local rural area excludes those lands located within Level 1, 2, 3 and 4 Settlements.

7.2.4. It is clear from the information available that the applicant is from Drybridge, Drogheda, approximately 5km south-west from the application site at Townrath. I have regard to Drybridge as the “qualifying rural family residence” address of the applicant, for the purposes of Section 2.19.2 of the County Development Plan 2015. I therefore believe that the application site location at Townrath, satisfactorily complies with the definition of a local rural area for the purposes of the applicant’s motivation.

7.2.5. Having regard to all of the information available, and to further planning assessment below, I conclude both that a genuine rural housing need has been satisfactorily demonstrated by the applicant, and that the proposed location and general site suitability at Townrath, to be satisfactory for a single rural house development. Accordingly, I conclude that subject to satisfactory compliance with relevant Standards relating to siting, design, drainage and traffic are achieved, the development of the site as proposed, would be in accordance with the proper planning and sustainable development of Townrath.

7.3. **Visual Amenity Impact :**

7.3.1. Having regard to the potential for negative visual amenity impact on the rural character of the Zone 4 - Green Belt area, I note that no designated Scenic Views or Viewing Points exist in the vicinity of the application site at Townrath.

- 7.3.2. Whilst the applicants broader landholding itself is expansive and open, it is well screened from view from the local rural road network, by mature, dense and full hedgerows. This is particularly so along the application site's approximate 70m frontage onto the County Road 326.
- 7.3.3. Set back approximately 85m from the CR326, I believe the proposed dwellinghouse would be satisfactorily secluded in the Townrath landscape, when viewed from the CR326 and the rural road network beyond .
- 7.3.4. Accordingly, I believe the scale, form and design of the proposed dwellinghouse would not appear incongruous in the context of other development and land use in the Townrath vicinity. In my view, the visual impact would be mitigated by the flattish, even topography, and the approximately 85m set back from the CR326, both behind mature, dense and mature hedgerow along the road. Further mitigation of visual impact would be achieved by supplementary landscaping and planting around and within the application site. In this regard, I note the Planning Authority attached a Condition to its decision to grant planing permission, requiring such landscaping and planting.
- 7.3.5. Accordingly, I believe no disproportional negative visual impact will result on the rural character of the Townrath Green Belt area, and that subject to supplementary landscaping and planting, to be Conditioned, the proposed development would be in accordance with the proper planning and sustainable development of the area.

7.4. Road Access and Traffic Safety :

- 7.4.1. A new access is required off the CR326, to facilitate the proposed development. The current geometric, spatial and topographical context of the location of the proposed new single entrance junction is clearly shown in the photographs, taken at the time of site visit.
- 7.4.2. The CR326 is straight, passed the application site frontage. Sightline visibility is satisfactory, to County Development Plan 2015 Standard, to each of the western and eastern approaches along the CR326. In this regard, I note that the applicant submitted details at F.I. stage demonstrating that sightline visibility of 75m in both directions can be achieved. Further, the applicant's F.I. submission clarified that all

works required, are to be accommodated within the application site boundaries. Therefore, no legal agreements are required in order to achieve required visibility.

7.4.3. Further, satisfactory separation distances and intervisibility exists along the CR326 in this vicinity between the proposed new entrance and the existing domestic entrances. Improvement to local traffic safety will also be enabled by the front boundary set back and treatment as proposed.

7.4.4. In my view, satisfactory compliance has been achieved with the relevant traffic safety Standards set out in the Louth County Development Plan 2015, and that no obviously serious threat to traffic safety is apparent, consequent of the creation of a new single entrance directly off the CR326 at this location.

7.5. Site Drainage / Waste Water Treatment :

7.5.1. I have given careful regard to the “Site Characterisation Form” report on file, conducted by Hydrocare Environmental Ltd. (dated 27/11/2015). I have further had regard to my own observations made at the time of site visit, where test ‘trial’ and ‘percolation’ holes had been covered up (see photographs attached) and to the topographical, environmental and drainage characteristics of the site observed at that time, most notably the absence of any standing water collection (this after rains). Consequently, I was unable to verify what appear to be satisfactory at least Trial Hole (ie: no water and no rock), and ‘T’- Value (ie: 61.50) and ‘P’ – Value (ie: 41.22) results. I note the ‘Trial Hole’ and ‘Percolation Hole’ photographs included with the report, and I have verified the shown classification of the site on the ‘GSI Vulnerability Map’ as Low.

7.5.2. Whilst no obvious ponding and standing water was evident, nor reeds and hydroponic type vegetation, surface soil conditions generally on site were firm under foot. In this regard, on the information available, I deem the applicants’ proposed “site improvement works” including ‘O’Reilly Oakstown P6 Effluent Treatment System’ and sand polishing filter consisting of a minimum 21m² area, underlain by a stone filled distribution area of at least 100m², all in accordance with EPA Code of Practice - 2009, as reasonable precautionary mitigation intervention towards adequate ground water protection, and of local wells.

- 7.5.3. I further, give weighted reference to the F.I. supervised trial hole and percolation retesting carried out on the application site on 14/06/2016, and to the opinion expressed in this regard by the County Environmental Compliance Section (14/06/2016), that there is an adequate percolation rate on site, and no water or evidence of any mottling in the trial hole. I also note the clarification demonstrated by the applicant in the F.I. submission (c/o Hydrocare Environmental Ltd.) that all wells and wastewater treatment systems within 100m are clearly marked on the site layout plan.
- 7.5.4. I am satisfied as to the capacity of the site's ground and soils, to facilitate on-site effluent treatment and disposal without threat to public and environmental health, subject to compliance with the recommendations contained within the site characterisation report completed by Hydrocare Environmental Ltd. (27/11/2015), and including required certified compliance that the percolation area has been designed, laid out and constructed in accordance with the design proposed.
- 7.5.5. Accordingly, I conclude that on the information available, the proposed development would have no serious threat to public and environmental health, and in this regard would be in accordance with the proper planning and sustainable development of the area.

7.6. Other Issues :

7.6.1. Validity of the 3rd Party Appeal :

In his response to the 3rd party appeal submission, the applicant challenges the validity of the original 3rd party objections by W. Cummins and J. McDonnell, as being outside of the statutory time period allowed (5-weeks from date of receipt of application). If these original 3rd party objections were received by the Planning Authority outside of the statutory period, then the current 3rd party appeal should also be deemed as invalid.

I do not share the applicant's conviction in this regard. I point out the Louth County Council letters dated 22/01/2016 respectively, to each of the 3rd party objectors, acknowledging receipt of their individual submissions in response to the proposed development, and clearly confirming to each of J. McDonnell and W. Cummins that "You will be notified of the decision as soon as it is made together with details of your

right of appeal to An Bord Pleanala". These letters were duly issued to each of the 3rd parties under Louth County Council letterhead dated 14/07/2016.

Further, I note with respect to the 3rd party appeal lodged, the applicant's argument that rather than submitted as a single letter of appeal, co-signed by each of the 3rd party appellants, the current appeals are separate letters of appeal, and should be treated separately. Therefore, as the single payment received for two separate appeals does not meet the Board's requirements, the applicant argues these should therefore be considered as invalid.

Again, I do not share the applicant's conviction in this regard. I have had regard to the provisions of S127 of the Planning and Development Acts. I am satisfied that the 3rd party appeal lodged satisfactorily meets the requirements of S127 and accepted as valid.

Having regard to the above, I believe the applicants arguments regarding the 3rd party appeal as invalid, cannot be sustained.

7.6.2. Site Notice / Correct Signage Procedures :

I note the 3rd party appellant's argument that with particular regard to the Site Notice, the applicant did not comply with the requirements of the Planning and Development Regulations 2001 (as amended). To the contrary, I have had regard to the Planning Authority's processing of the application, and validation of site notice, as being satisfied that satisfactory compliance has been achieved. I confirm that what remained of the site notice was still present on the application site verge, at the time of my own site visit. I also point out that notwithstanding their arguments, the 3rd party appellants rights have not been compromised. Clearly, they were able to lodge 3rd party objections with the Planning Authority, and subsequently their 3rd party planning appeals with An Bord Pleanala.

Accordingly, I believe the 3rd party appellants arguments against the proposed development in this regard, cannot be sustained.

7.7. Appropriate Assessment :

Having regard to the nature and modest scale of the proposed development, to the location of the site within a rural environment, and to the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend that planning permission should be granted for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Louth County Development Plan 2015-2021 and of the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health or to traffic safety and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 22nd day of June 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason : In the interest of clarity.

2. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the Planning Authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.
- (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the Planning Authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.
- (c) This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason : To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. The construction of the development shall be managed in accordance with a Construction and Waste Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of surplus excavation material and construction waste.

Reason : In the interests of public health and safety, residential amenity and to provide for the protection of the environment.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason : In the interest of public health.

5. Physical infrastructure and servicing arrangements to enable the proposed development, shall comply with the requirements of the Planning Authority for such works and services.

Reason : In the interest of public health, traffic safety and orderly development.

6. Details of the materials, colours and textures of all the external finishes to the proposed dwelling and garage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason : In the interest of visual amenity.

7. Details of boundary treatment and a Landscaping Scheme shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This scheme shall include the following :

- (a) the establishment of a hedgerow along all side and rear boundaries of the site,
- (b) planting of trees at intervals along the boundaries of the site, and
- (c) use of indigenous deciduous trees and hedging species only.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason : In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

8. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 11th day of December, 2015, and the 22nd day

of June 2016 and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the Planning Authority.

- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakaways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

- 9. The garage shall be used solely for purposes incidental to the enjoyment of the dwellinghouse, and not for any residential, industrial, business, commercial or anti-social purposes.

Reason : To protect the amenity of the area.

10. All public service lines and cables servicing the proposed development, including electrical and telecommunications cables, shall be located underground except where otherwise agreed with the Planning Authority. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development

Reason: In the interest of orderly development and visual amenity.

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

Reason : It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

L. W. Howard
Planning Inspector

18th November 2016