



An  
Bord  
Pleanála

## Inspector's Report ABP-304518-19

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<b>Development</b>	Construction of a house, domestic garage, waste water treatment system, and all associated site works.
<b>Location</b>	Riverstown, Kilmessan, Co. Meath.
<b>Planning Authority</b>	Meath County Council.
<b>Planning Authority Reg. Ref.</b>	AA181546.
<b>Applicant(s)</b>	Shauna Cahill.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Vicky and Bernard Daly.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	7 <sup>th</sup> August 2019.
<b>Inspector</b>	Patricia-Marie Young.

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## 1.0 Site Location and Description

- 1.1. The shaped 0.1579ha site lies c3.5km to the north east of Kilmessan village in the Townland of 'Riverstown' and c4.5km to the south west of M3's Junction 7, by road, in County Meath.
- 1.2. The site itself is relatively flat with part of its north and eastern boundary demarcated. The south-eastern most corner of the site is situated c16m to the west of a T-junction between a local road that the southern side of the site bounds with and another local road that has a north south alignment. Both of these roads appear to be unnamed. The area between it and this intersection accommodates a single-story dwelling house. This dwelling house and a detached structure behind it are situated in close proximity to the eastern boundary of the site. There are two one-off detached dwelling houses on the adjoining and neighbouring properties to the west. The dwelling house immediately adjoining the western boundary of the site is part single storey and part dormer in its built form. The land to the rear of the site appears to be in agriculture use.
- 1.3. The roadside boundary contains several mature trees, hedging and a low ditch. This roadside boundary is c22.6m in length, it is porous in places and it contains no existing entrance or evidence of a previous entrance onto the adjoining local road.
- 1.4. Access onto the main area of the site was not possible due to its overgrown and unkempt condition.
- 1.5. There is a castle ruin that forms part of the skyline to the west of the site.
- 1.6. The site and its surrounding area forms part of the open countryside and lies outside of any settlement boundaries; notwithstanding, there is a pre-dominance of one-off dwelling houses aligning with the local road network in this area. At the time of inspection, I observed a steady volume of traffic on the adjoining local road and more so at the intersection to the west. I also observed some vehicles travelling at high traffic speeds despite coming up to a road intersection and away from a road intersection to the east. In addition, the road markings at the intersection are poor and the posted speed limit of the adjoining local road is 80kmph.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a new detached dwelling house (174.28m<sup>2</sup>), a detached domestic garage (60m<sup>2</sup>), a waste water treatment system, a new access onto the adjoining local road from the southern boundary of the site together with all associated site works.
- 2.2. The Planning Application Form indicates that a new connection to a public mains water supply is proposed to serve the dwelling house. Accompanying this application is a 'Local Needs Application Form', a Site Suitability Assessment; and, a number of documentations to support the applicants purported local need.
- 2.3. This application was subject to a request for **further information**. The applicant's submission includes a drawing indicating that the proposed new entrance would benefit from 40m sightlines to the east and 90m to the west of the amended roadside boundary. It also includes the removal of windows serving habitable rooms at first floor level on both the eastern and western side elevations. It also included the removal of a large corner window on the north-eastern corner elevation.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority decided to **grant** planning permission subject to 17 no. conditions including but not limited to:

Condition No. 2:                   Occupancy Clause.

Condition No. 6:                   External Finishes.

Condition No. 7:                   Preservation of hedgerows and landscaping.

Condition No. 13:                 Restricts the use of the garage.

### 3.2. Planning Authority Reports

- 3.2.1. **Planning Reports:** Following the applicant's further information request the Planning Officer recommended a grant of permission subject to conditions. Thus, the Planning Authority's decision reflects this recommendation.

The initial Planning Officer's report concluded with a request for further information on the following matters:

- Item 1: The applicant's rural need for a dwelling in this location.
- Item 2: Overlooking from the first-floor level of the side elevations.
- Item 3: Landscaping and site boundaries.
- Item 4: Clarification of sightlines from the proposed entrance.
- Item 5: Seeks a response to the 3<sup>rd</sup> Party submission received.
- Item 6: Requires new public notices in the event of significant alterations to the proposed development.

### 3.2.2. **Other Technical Reports**

**Water Services:** Their final report raised no objection.

### 3.3. **Prescribed Bodies**

3.3.1. None.

### 3.4. **Third Party Observations**

3.4.1. The Planning Authority received a submission from the appellant to the proposed development. The substantive concerns raised correlate with those raised by them in their appeal submission and further response to the Board (See: Section 6.1.1 and 6.4.1 below). No other submissions were received.

## 4.0 **Planning History**

4.1. No relevant planning history pertaining to the site and in the vicinity.

## 5.0 **Policy Context**

### 5.1. **National Policy Provisions**

- **National Planning Frameworks, 2018.**

- **Sustainable Rural Housing Guidelines, 2005.**

Map 1 of the said guidelines which sets out the indicative outline of NSS rural area types indicates that the site is located on lands identified as being under strong urban influence.

## 5.2. Local Planning Policy Provisions

5.2.1. Meath County Development Plan, 2013 to 2019, is the applicable Development Plan under which the site is identified in Map 10.1 of the Development Plan as forming part of a rural area “*under strong urban influence*” (Area 1).

5.2.2. Section 2.7 of the Development Plan in relation to such areas states that: “*this area exhibits the characteristics of proximity to the immediate environs or close commuting catchment of Dublin, with a rapidly rising population and evidence of considerable pressure for development of housing due to proximity to such areas. This area includes the commuter belt and peri-urban areas of the county, and the areas that are experiencing the most development pressure for one-off rural housing. These areas act as attractive residential locations for the inflow of migrants into the county*”. It also includes the following policies for such areas:

- **RD POL 1:** To ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed, subject to compliance with normal planning criteria.
- **RD POL 2:** To facilitate the housing requirements of the rural community as identified while directing urban generated housing to areas zoned for new housing development in towns and villages in the area of the development plan.
- **RD POL 3:** To protect areas falling within the environs of urban centres in this Area Type from urban generated and unsightly ribbon development. It also seeks to maintain the identity of these urban centres.

5.2.3. Section 10.7 of the Development Plan deals with the matter of ‘Rural Residential Development: Design and Siting Considerations’.

5.2.4. Policy HS POL 3 To integrate new housing into the existing social and urban fabric of the County’s settlements detailed in Table 3.2.

### 5.3. Natural Heritage Designations

- The site is located at its nearest point c2.7km to the south west of the Special Protection Areas: River Boyne & River Blackwater SPA (Site Code: 004232) and the Special Area of Conservation: River Boyne & River Blackwater SAC (Site Code: 002299).
- The site is located at its nearest point c12.9km to the south west of the Natural Heritage Areas: Jamestown Bog NHA (Site Code: 001324).

### 5.4. Built Heritage Designations

- The site lies c200m to the east of National Monument ME01392 and c214m to the east of National Monument ME01393.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The grounds of appeal can be summarised as follows:

#### **Landownership/Procedural**

- The applicants lack legal consent to make this application and they have provided a false declaration in their planning application.
- The applicants have falsely misled the Planning Authority by indicating legal ownership of the site.

#### **Compliance with Settlement Strategy**

- The applicants as part of their application did not make it clear by way that they satisfied the criteria of local need for a dwelling at this location at this location.

#### **Residential Amenity Impact**

- The proposed development by reason of its height, mass, projection and proximity would seriously diminish the levels of daylight to their property, their private open space.
- The proposed dwelling due to its proximity to the appellants dwelling would result in overlooking.

- The proposed development would result in a significant injury to their established residential amenity.

### **Environmental & Public Health Impact**

- The documentation fails to indicate the relationship between the proposed waste water treatment system and private wells on adjacent properties.
- The site is not served by a public mains water supply and properties in the vicinity are served by private wells.
- The documentation submitted incorrectly shows the separation distances between the proposed dwelling and the wastewater treatments system.

### **Design and Layout**

- The proposed dwelling is backland developments and is at odds with the prevailing pattern of development in this area.

### **Visual Impact**

- The relative ground levels of the proposed dwelling, together with its built form, would be visually obtrusive and overtly dominant when viewed from the appellants property.

### **Access**

- The sightlines for the proposed entrance onto the local road are inadequate.
- It is concerning that the Planning Authority decided to slash the safety requirements in relation to sightlines in order to facilitate a grant of planning permission for this proposed development.

### **Other Matters**

- No consultation was had with neighbouring properties.
- The proposed development would result in a devaluation of their property by 15 to 20%.
- The Board is requested to refuse planning permission for the development sought.



## 6.2. Applicant's Response

6.2.1. The applicant's response can be summarised as follows:

- It is now proposed to serve the dwelling by way of a well to be located within the front garden. A revised site layout drawing indicating the same is provided.
- A letter of consent from the landowner of the site is provided.
- The applicant contends that they meet the local needs requirement for a dwelling at this location.
- It is not accepted that the proposed dwelling or the proposed garage would cause overshadowing or any significant diminishment of the appellants residential amenities.
- The site characterisation form lodged as part of the planning application identifies no issues arise on-site from the proposed wastewater treatment system.
- The proposed development fronts onto a public road and does not meet the definition of backland development.
- The proposed storey and a half dwelling would not be overly obtrusive at this location.
- The reconstruction and extensions to the appellants property post 1998 has significantly altered any historic residential amenity this property may have had.
- The site is unaffiliated with any agricultural enterprise and has no other use other than an infill site for rurally generated housing.
- A slight re-orientation of the footprint of the proposed dwelling in order for it to face the proposed entrance would serve to reduce any perceived impact upon the rear of the appellants property.
- There is no requirement for consultation with adjacent properties for such a development.
- The site is served by a local tertiary road which is rarely subjected to traffic from outside the locality.
- The traffic volumes in the vicinity of the site are low.

- The Planning Authority considered that the sightlines were adequate.
- The mitigation measures proposed by the applicant means that there is no basis for a devaluation of the appellants property to occur should permission be granted.
- The proposed development would not result in any undue loss of residential amenity for properties in its vicinity.
- It is requested that the decision of the Planning Authority be upheld.

### **6.3. Planning Authority's Response**

6.3.1. The Planning Authority's response can be summarised as follows:

- The Planning Authority is satisfied that the applicant complies with the housing needs policy set out in the Development Plan.
- It is not considered that the dwelling is of an excessive scale or mass. It is also considered that it complies with the Meath Rural Design Guide.
- The dwelling would be located 6.1m from the adjoining boundary to the east. Owing to the low ridge height of the dwelling, the path of the sun and the separation distance it is not considered that the proposed dwelling would impact on adjoining residential amenity or property values in any undue way.
- The proposed dwelling would not result in overlooking of the adjoining property.
- Sightlines of 40m to the junction are considered acceptable as no vehicle can turn onto the subject roadway at speed.
- The Board is requested to uphold its decision.

### **6.4. Appellants Further Responses**

6.4.1. The appellants further response can be summarised as follows:

- The applicant has submitted new information to the Board which has the potential to affect their residential amenity, have a detrimental impact on their property and their health. This information did not form part of their further information response submitted to the Planning Authority.

- The applicant knowingly lied on the planning application form in relation to ownership and no explanation has been provided for this but rather their response to the Board reinforces this fact.
- The Planning Authority made a decision based on false information provided in relation to the landownership of the site.
- The applicant has given an address on the accompanying drawings as Cluain Beag, Nobber. No reason as to why the address was changed in the further information drawings received by Planning Authority from the applicant.
- The shortest driving distance of the supposed residence of the applicant in Lismullin is c7.5km.
- If the applicant wishes to reside close to her mother, there are many houses and sites available much closer than this one.
- The applicant's submission makes no comment in relation to the trajectory of the sun in terms of its east and west arc but only refers to it in the southern sky.
- The proposed development would result in a loss of solar gain in the afternoon and evening to the appellants property.
- The proposed development will have a major impact on the appellants residential amenity and in so doing contravenes the Development Plan.
- There is no information provided in relation to the impact of the bored well on the appellants well and other wells in the vicinity. This is a critical omission in the details submitted.
- The sustainability of the proposed well is questionable given the fact that there are a number of wells in the area that have gone dry in recent years.
- The extension built to the appellants home occurred in 1988 and was onto what was an existing c100year old dwelling.
- By the applicant acknowledging that a very slight change in orientation would resolve some our issues indicates that they are aware that this proposal would have an undue adverse impact on their property.
- The applicant's agents have provided no evidence that they are experts in evaluating property depreciation.

## 7.0 Assessment

### 7.1. Introduction

7.1.1. Having regard to the nature of the proposed development as set out in Section 2 of this report above; the information on file and having conducted an inspection of the site and its immediate environs, I consider that the key matters in this appeal can be confined to those raised by the appellant and which can be summarised under the following broad headings:

- Landownership/Procedural
- Compliance with Rural Housing Policy
- Residential Amenity Impact.
- Visual Impact
- Public Health
- Road Safety
- Devaluation of Property

7.1.2. The matter of 'Appropriate Assessment' also requires examination.

### 7.2. Landownership/Procedural

7.2.1. The appellants raise a concern that the Planning Authority made a decision on an application where an applicant has misrepresented their legal interest in the site. In this regard, reference is made to the legislative requirements and the information to be contained with a planning application.

7.2.2. I am cognisant that the Planning & Development Regulations, 2001-2019, under Article 22(1) sets out that "*a planning application under Section 34 of the Act shall be in the form set out at Form 2 of Schedule 3, or a form substantially to the like effect*". In relation to the said Schedule under Section 10 it states that: "*if you are not the legal owner, please state the name and address of the owner and supply a letter from the owner of consent to make the application as listed in the accompanying documentation*". In supplemental information provided in relation to Form 2 of Schedule 3 it reiterates this requirement and it further indicates that with regards to "*all Planning Application Forms*" that "*if the appropriate documentation is not*

*included, your application will be deemed to be invalid*'. Moreover, it indicates that *"this documentation includes where the applicant is not the legal owner of the land in question the written consent of the owner to make the application"*.

7.2.3. In addition to the above Article 22(2) sets out that a planning application referred to in Article 22 sub-article (1) shall be accompanied by a list of documentation that meets its stated criteria. This includes Article 22(2)(g) which states *"where the applicant is not the legal owner of the land or structure concerned the written consent of the owner to make the application"*.

7.2.4. It is clear in the documentation accompanying this planning application as lodged and as determined by the Planning Authority, including the Planning Application Form which I note is consistent with the requirements set out in the Planning Regulations as set out above, that it did not include proof that the applicant was either the landowner or that they had the landowner's consent. It would also appear that the Planning Authority in good faith accepted that the information provided by the applicants, i.e. that they had sufficient legal interest to make this application as legal owners of the site as indicated under Section 10 of the Planning Application, that on foot of this and their signed declaration of Section 23 of the Planning Application Form, that this was the case.

7.2.5. Section 23 of the said Form states the following: *"I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct and accurate and fully compliant with the Planning and Development Act 2000, as amended, and the Regulations made thereunder."*

7.2.6. I therefore concur with the appellants that this is concerning as it is a serious omission and error in the planning application documentation and in terms of the information required under planning legislation to deem the application as valid. Moreover, it is also ground for deeming an application invalid.

7.2.7. In relation to the documentation received by the applicant in response to the grounds of this appeal a letter purporting to provide one of the applicant's permission to apply for planning permission on the site for a dwelling house is provided. There appears to be a spelling discrepancy between the appellants documentation from the land registry and the letter of consent provided by the applicant which simply indicates that a Joseph Keely *"confirms that Shauna Cahill has permission to apply for one*

*dwelling house on my site at Riverstown, Kilmessan, Co. Meath*". It is unclear whether this document is signed by the purported landowner or an auctioneer's agent. It is also not accompanied by any documentation indicating what land this letter of consent refers to or any other substantive information that would relate this consent to the actual site itself.

7.2.8. Based on the documentation on file should the Board be minded to grant permission for the proposed development the matter of validity of this application is in my mind a concern and that whilst validation of a Planning Application is part of the Planning Authority's remit in their determination of a Section 34 applications I consider further more substantive evidence would be required in this instance from the applicants in terms of satisfying that they have the actual written consent of the actual landowner and that verification that the same pertains to the subject site itself.

7.2.9. I also note that the appellant raised concerns about the procedural handling of this application in relation to the above matter but it would appear that the Planning Authority in good faith accepted that the information provided by the applicant was based on the stated truths provided by the applicants with this application. Should the appellant wish to raise the matter of procedural handling of the application and the validation process the Board itself does not have an ombudsman role and these matters should be raised to the Planning Authority who have a complaints procedure to deal with such matters.

### **7.3. Compliance with Rural Housing Policy**

7.3.1. The site is located in open countryside in an area of unzoned land that is identified in Map 10.1 of the Development Plan as being a "*rural area under strong urban influence*". In such areas national and local planning policy provisions take a restrictive approach in relation to determining eligibility of applicants for rural housing need at such localities.

7.3.2. The Sustainable Rural Housing Guidelines for Planning Authorities, 2005, and the key development plan policies in these areas seek "*to ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed, subject to compliance with normal planning criteria*" and having inspected the site and its environs it exhibits strong characteristics of an area under considerable pressure for

development of housing like that proposed with the prevalence of one of dwellings addressing the local road networks with no evident connection to rural activities, the coalescence of such one-off dwellings to create ribbons of one-off dwellings through to the fact that the site is in easy commuting distance to larger settlements including Dublin, Navan, Ashbourne and Drogheda.

7.3.3. Moreover, the site is within easy reach of Junction 7 of the M3 which is a major transport corridor that provides connection between Navan (Note: the centre of Navan is located c9km to the north) and Dublin (Note: Dublin's city centre is located c36km to the south east).

7.3.4. I note that Objective 19 of the National Planning Framework sets out that in providing for the development of rural housing, a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere.

7.3.5. In relation to the documentation on file one of the applicants, Shauna Cahill, has provided a filled out 'Meath County Council Local Need Form'. It indicates that this applicant has resided with her mother in Lismullen, County Meath, for 22-years. By road this is c6.5km from the site and more depending on what route one travels. There appears to be an unexplained discrepancy between her place of residence at the time of making the initial planning application and her stated residence in this form which also formed part of the initial documentation submitted with this application. For example, the submitted drawings that indicates that she is 'the client' Shauna Cahill with an address of No. 1 Cluain Beg, Nobber, Co. Meath. By road this is over c30km from the site itself.

7.3.6. It also indicates that the applicant, Shauna Cahill's occupation, is a Montessori teacher based in Kells; and, that the other applicant, Brendan Quinn, is an Engineer based in Citywest, Dublin. The quickest routes to these stated places of employment are c29.7km and c50.3km respectively.

7.3.7. They further indicate that the links to the area which seems to be centred around Lismullen as does the various supporting documentation provided by Shauna Cahill is immediate family, childhood friends through to members of Parish Community. There is less supporting documentation provided by the other applicant, i.e. Brendan Quinn. None of the documentation indicates any intrinsic social through to economic

links to the Townland of 'Riverstown' or any particular intrinsic need or connection to build a dwelling house at this particular rural locality as opposed to a desire.

- 7.3.8. I am not satisfied based on the information provided on file that the applicants satisfy Policy RD POL 1 in that they have sufficiently demonstrate they are persons who are an intrinsic part of this particular rural location in which they propose to build a one-off dwelling house. I am further of the view that to permit the proposed development would be contrary with Policy RD POL 2 which seeks to direct urban generated housing to areas zoned for new housing development in towns and villages in the area of the development plan.
- 7.3.9. In relation to the National Planning Framework, Policy Objective 19, requires that applicants demonstrate an economic or social need to live in the rural areas. As set out above neither applicant works in agriculture or a rural activity and both work significant distances away from the rural area in which this application relates. In addition, Policy HS POL 3 of the Development Plan, also requires that new housing integrate into the existing social and urban fabric of the County's settlements as detailed in Table 3.2 of the said Plan. There is no documentation submitted on this file that would substantiate that this is the case.
- 7.3.10. While I acknowledge that it would appear, based on the documentation submitted on file, that Shauna Cahill has links to the Lismullen area, neither applicant have demonstrated that they have a substantive need as opposed to a desire to live at this particular site, which appears to be located above c6.5km away from the mothers place of residence and purported residence of one of the applicants for the last 22years. The later submission in my view is not unequivocally supported to the extent that I would consider this to be an accurate representation of the facts based on the documentation submitted with the original application. This documentation casts doubt in my mind about this statement which the applicant's response fails to clarify.
- 7.3.11. Based on the above, to permit the proposed development would be contrary to Policy Objective 19 of the National Planning Framework and it would add to the cumulative proliferation of one-off dwellings on unserviced lands. It would also add to the cumulative burden of such dwellings on the local road network, it would further adversely visually diminish the intrinsic character of this rural location and it would



add to the demands for the provision of further public services and community facilities where none are proposed.

7.3.12. For these reasons, I consider that to permit the proposed development would be contrary to the proper planning and sustainable development as set out under local and national planning provisions. In my opinion this is sufficient grounds to refuse the planning permission for the proposed development sought under this application.

#### **7.4. Residential Amenity Impact**

7.4.1. This application was the subject of a request for further information under which the Planning Authority invited the applicant to revise the first-floor level side elevations of the proposed dormer dwelling to deal with concerns that undue overlooking would arise for the adjoining properties to the east and west of the site.

7.4.2. Having examined the design of the dwelling house as initially submitted relative to existing properties in its immediate vicinity, in particular, the existing detached dwellings to the east and west I consider that this request was reasonable as it was based on the premise of ensuring that the established residential amenities of these properties were protected and safeguarded from undue overlooking that would have arisen from this aspect of the proposed dwellings design, if it permitted, in that form.

7.4.3. In such situations it is reasonable that an appropriate balance is reached between proposed developments and existing neighbouring properties where established amenities would be adversely impacted upon by way of a proposed development.

7.4.4. Thus, the Planning Authority's further information request provided the applicant with an opportunity to deal with this residential amenity concern and in response the first-floor side elevation windows were omitted from the design of the proposed dwelling house. I acknowledge that this significantly reduced the level of potential overlooking that would occur from the proposed development to a more acceptable level for its context.

7.4.5. I am also cognisant that the further information request sought that the applicant address the concerns raised in the appellants third party submission.

7.4.6. Outside of the above change to the side elevations of the proposed dwelling no other substantive changes were proposed.

- 7.4.7. Notwithstanding, the applicant's agent's in their accompanying written response to the Planning Authority's further information request indicates that the proposed garage would be unlikely to be used for vehicles but mainly for storage. Therefore, in terms of noise impact it was their view that traffic from the local road network would generate more noise than that generated from this component of the proposed development. This I consider is a reasonable conclusion to make as it is unlikely that a garage of the size proposed would result in undue noise or light disturbance to properties in its immediate vicinity based on its indicated ancillary to residential functional uses.
- 7.4.8. I note that the appellants submission to the Planning Authority raised concerns in relation to the relationship of the built forms proposed under this application to the rear elevation, the low nature of the boundary treatments, the lateral separation from the ground floor level windows of their property relative to the height and position of the proposed dwelling, which is of a 2-storey nature, would negatively impact on their enjoyment of their property through the resultant loss of amenity particularly in the summer months. These concerns are reiterated in more detail in their appeal submission to the Board (See: Section 6.1.1 of this report above).
- 7.4.9. The applicant as part of their response to this appeal indicate that they are willing to move the dwelling in a southerly direction closer to the road so that this would negate some of the appellants concerns in terms of overshadowing and loss of daylight. I acknowledge that such an amendment alongside the provision of appropriate site boundaries would result in some level of improvement to the level of overshadowing and loss of daylight from the proposed development at this location. Therefore, should the Board be minded to grant permission it may wish to consider condition changes.
- 7.4.10. In addition, I note that the provision of appropriate screening along the side boundaries which is included as part of the applicant's further information response would further protect the privacy of adjoining properties on either side.
- 7.4.11. I also note that the detached garage structure proposed in the rear garden area is single storey in nature with a stated 4.9m height. This structure also includes no window openings looking directly over the rear garden area of the appellants

property. I therefore raise no particular issue *per se* with this built component of the proposed development.

- 7.4.12. I also acknowledge that the appellants property is positioned in close proximity to the eastern boundary of the site and that their site is relatively restricted in comparison with later one-off dwelling insertions into the rural landscape. In addition, the appellants side is overlooked due to it occupying a corner site at a road intersection with low roadside boundaries. Such low boundaries are possibly to accommodate as safe as practical access from it onto the local road network.
- 7.4.13. It is also highly probable in my view that based on the dimensions of the site, the lateral separation distance, the need for the provision of as safe as possible access from their property onto the local road, the high visibility of the space around their dwelling that there is basis for the appellants to have a level of amenity value from the area to the western side of their property despite its restricted width as this would be one of the few areas that benefits from less overlooking from the public domain and neighbouring properties.
- 7.4.14. The appellants privacy is also likely added too by the height and number of the mature trees that occupy the roadside boundary of the subject site.
- 7.4.15. Further the property that adjoins the western boundary of the site benefits from sufficient screening that would result in the appellants not being impacted in any undue way by overlooking from this property.
- 7.4.16. Whilst I note that the proposed dwelling seeks to centrally place the proposed dwelling in roughly the middle of the site between the appellants property to the east and the adjoining property to the west, there is a lesser lateral separation distance between the boundary and their dwelling when compared to that provided for to the west. Particularly relative to the position of the easternmost elevation of the adjoining property to the west. I also note that the westernmost portion of the proposed dwelling contains a single storey projection. This further adds to the actual separation distance between the first-floor levels.
- 7.4.17. Should the Board be minded to grant permission I recommend that it seek that the position of the proposed dwelling house is moved forward as well as closer to the western boundary by a minimum of 1.5m in both directions. I consider that this would result in less residential amenity loss for the occupants of the adjoining

property to the east. I considered this reasonable in the context of the site as well as its immediate setting achieving an appropriate balance is between established residential amenities of the appellant and the proposed development.

## **7.5. Visual Impact**

7.5.1. Having examined the proposed design and layout and visited the site, I am satisfied that the development is generally compliant with Meath's Rural House Design Guide and in turn Policy RD POL 9 of the Development Plan. This policy requires all such planning applications to comply with it. Subject to the repositioning of the dwelling house on site as recommended above and subject to the standard safeguards including agreement over the palette of materials, site sensitive appropriate landscaping and boundary treatments which include safeguarding as far as practical existing mature trees along the roadside boundary I am of the view that the proposed development would not result in any significant adverse impact on the visual amenities of its setting.

## **7.6. Public Health**

7.6.1. I raise a concern that the documentation provided in relation to the site suitability for the wastewater treatment system proposed is deficient as it fails to assess potential targets at risk.

7.6.2. Targets at risk from such infrastructure include adjacent wells and indeed the well that is now proposed by way of the applicant's response to the grounds of appeal. In the absence of clarity on where adjacent wells are, wells that are the only source of potable water for adjacent dwellings, relative to the proposed wastewater treatment system infrastructure I can not satisfy myself with any certainty or assurance that the minimum distances from wells to satisfy the requirements of the groundwater protection response can be achieved at this site.

7.6.3. Indeed, such information should have been reviewed during the desk study and confirmed during the on-site assessment of the site and its immediate setting.

7.6.4. Moreover, there is no assurance on file that there is safe and secure potable water supply to accommodate the proposed development at this location.

7.6.5. Based on the above concern I am not satisfied that the applicants have demonstrated with sufficient certainty that the proposed development which includes

the installation of a wastewater treatment system and percolation area is suitable for such infrastructure in a manner that would not be prejudicial to public health by way of groundwater pollution.

## **7.7. Road Safety**

- 7.7.1. The documentation on file does not demonstrate that adequate sightlines can be achieved in an easterly direction and having visited the site I am not satisfied that they have sufficient legal interest to ensure that the sightlines can be maintained unfettered in a westerly direction due to the extremely limited control the applicants have on the roadside boundary required for providing such sightlines.
- 7.7.2. I am also not convinced that the removal of the entirety of the existing roadside hedge, in particular, the mature trees it contains which add to sylvan character of this stretch of roadside is in the visual interests of this rural area.
- 7.7.3. While I acknowledge that the ambient speed at the location of the site entrance could be low due to this site's proximity to an intersection of two local roads; notwithstanding, I did observe during my inspection that at this location the posted speed limit does not reduce from the posted 80kmph speed limit coming up to this junction to a lower posted speed limit. I also observed a steady volume of traffic with some travelling at speed on the adjoining road in the direction of the intersection alongside a steady increase in speed entering this adjoining road from the junction. I am not convinced that creation of a new access point at this location would not give rise to a traffic hazard for road users despite the low volume of traffic that the proposed development would generate.

## **7.8. Devaluation of Property**

- 7.8.1. The appellants have submitted supporting evidence from a qualified expert in relation to the value of their property and the potential for the proposed development, if permitted, in the design and layout proposed, would result in a 15 to 20% devaluation of their property. I do not consider this an unreasonable conclusion of the expert based on the restricted nature of the appellants property, the limited areas of private open space it has; the relationship of the appellants property to the eastern boundary of the site through to the single storey nature of the appellants property and the location of windows thereon relative to the design, built form and layout proposed development. This devaluation maybe negated by pulling the dwellings

footprint in a west and south direction in order to reach a balance in safeguarding the residential amenities of the appellants property.

## 7.9. **Appropriate Assessment**

- 7.9.1. The proposed development is modest in scale and is significantly remote from any Natura 2000 sites. Surface water will be discharged via a single soakpit and wastewater via a proprietary effluent treatment system to the rear of the site. The Site Characterisation Report indicates soils are capable of dealing with surface and wastewater arising. Having regard to these factors and despite the lack of clarity on wells in the vicinity and groundwater would be impacted upon by the proposed development, a matter which could be potentially resolved by resiting and so forth of the wastewater treatment system and associated infrastructure having regard to such potential targets at risk in its vicinity, 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.

## 7.10. **Environmental Impact Assessment**

- 7.10.1. Having regard to the minor nature and scale of the proposed development and its lateral separation distance from any sensitive locations or features, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 8.0 **Recommendation**

- 8.1. I recommend that planning permission be **refused** for the reasons and considerations set out below.

## 9.0 **Reasons and Considerations**

1. The proposed development is located in an area designated as being under strong urban influence in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage

and Local Government in April, 2005, and the site is located on unzoned lands in rural County Meath on lands that are identified on Map 10.1 of the Meath County Development Plan, 2013 to 2019, as forming part of a rural area “*under strong urban influence*”.

Accordingly, it is considered that the proposed development would contravene the planning authority rural housing policy and the criteria for one-off rural dwellings as set out in section 10.5.1 of the Meath County Development Plan 2013-2019, in particular Policies RD POL 1, RD POL 2 and HS POL 3 and the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government” in April, 2005.

It is further considered that the proposed development would contravene National Policy Objective 19 of the National Planning Framework, 2018, which aims to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area.

Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area.

The proposed development would, therefore, seriously injure the amenities of this rural area, it would result in further proliferation of this type of development which in turn diminishes the intrinsic rural character of the countryside and it would result in additional a demand for the uneconomic provision of public services in an area where such services are neither available nor proposed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, together with the information provided on file, that effluent from the development can be satisfactorily treated disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system, without any risk to ground water or pollution of wells in its vicinity. The proposed development would, therefore, be prejudicial to public health.

3. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a local road at a point where sightlines are restricted in both directions and the maximum posted speed limit applies.

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Patricia-Marie Young  
Planning Inspector  
29<sup>th</sup> day of August, 2019.