



An
Bord
Pleanála

Inspector's Report

ABP-306632-20

Development	Construction of a storey and a half rural house and detached garage.
Location	Drumgramph, Co. Monaghan
Planning Authority	Monaghan County Council
Planning Authority Reg. Ref.	19439
Applicant(s)	William McGuigan
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Erskine Deering
Observer(s)	None
Date of Site Inspection	11 th of June 2020
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The application site is in the rural area in the townland of Drumgramph. It is accessed via the narrow local roads network and is to the west of Doochat and the Regional Road R189 and to the south west of the village of New Bliss, Co. Monaghan.
- 1.2. This site (stated area 0.83ha) is set back some distance (in excess of 350m) from the public road and there are hedgerows along the field boundaries. It slopes significantly from east to west, with the proposed access being on the higher level to the east. It is accessed via a narrow private cul de sac laneway (gates located on the lane). There is a semi-hard core surface with grass growing in the middle of the lane and trees and hedgerows on either side.
- 1.3. The area is rural and agricultural and in upland drumlin landscape. There were cattle seen in the adjoining field on the day of the site visit. In view of the set-back there are no other rural houses in the vicinity and the lane does not provide access to other dwellings. There is gated access to lands at the top of the lane to the east of the site and further east there is a shed and a meteorological mast has been installed on these lands (Reg.Ref. 19/242 refers).

2.0 Proposed Development

- 2.1. This proposal is for the Construction of a New Storey and a Half Rural Dwelling House and Single Storey Detached garage, new effluent treatment system and percolation area and all associated works.
- 2.2. Documentation submitted with the application includes the following:
 - A Letter from Blackgate Property Services Ltd providing a rationale for the proposed development.
 - A Site Suitability Assessment Report by Traynor Environmental Ltd.
 - Proposal for an O'Reilly Oakstown Treatment System.
 - Drawings including a Site Location Plan, Site Layout Plan, Floor Plans, Sections and Elevations.

3.0 Planning Authority Decision

3.1. Decision

Monaghan County Council granted Permission on the 24th of January 2020 for the proposed development subject to 7no. detailed conditions. These generally concern development contributions, infrastructural issues, entrance/access and sightlines, payment of a security bond, wastewater treatment system, archaeology, landscaping, external finishes and that the development be in accordance with the plans and particulars submitted.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report had regard to the locational context of the site, planning history and policy and to the submissions made and to the inter departmental reports. Their Assessment included the following:

- The subject site is located in a 'Category 2: Remaining Rural Area' as per the MCDP 2019-2025 where local needs justification is not required (Section 2.8.2 refers).
- The existing agricultural access/proposed domestic access is onto an existing private laneway onto a local tertiary road with 50m sightlines as submitted.
- No Hedgerow Agreement has been submitted.
- They did not object to the proposed house type in the rural area.
- They consider that some clarification was needed relative to issues concerning the proposed access.
- As per the EHO Report requests that additional information to be submitted relative to the proposed effluent treatment system.
- They refer to development contribution calculations.
- They note the distance of the subject site from the nearest Natura 2000 and consider that a Stage 2 AA (NIS) is not necessary in this case.

Further Information request

This included the following:

- Evidence of the Right of Way over the laneway.
- Revisions to the red line site boundary.
- Letter of consent from the landowner(s).
- Clarification if improvement works are to be carried out to the lane.
- Details of works to provide visibility splays, hedges/fences/drainage etc.
- To submit a Hedgerow Agreement (Appendix 14) if lands at the existing entrance onto the Local Tertiary Road are not within the applicant's control.
- The PA notes that the site suitability survey indicates that the proposed site is not suitable in its current state to satisfactorily accommodate the provision on an on-site waste water treatment system.
- They ask that revised proposals be submitted to demonstrate that the site is suitable for the disposal of effluent in compliance with current EPA COP standards. This includes revised P & T tests.
- Revised Public Notices.

Further Information response

Blackgate Property Services Ltd F.I response on behalf of the Applicant included the following:

- They submit a signed letter of consent confirming right of way over the existing laneway and include land registry maps to confirm the status of current ownerships.
- They enclose drawings showing revisions to the red line boundary.
- They provide details of the existing laneway and note that it does not require any upgrading or resurfacing.
- There are no works required for sight visibility apart from compliance with the signed hedgerow agreement.

- They include a report from Environmental Consultant (Traynor Environmental Ltd), associated drawings and P & T tests to demonstrate that the site is suitable for the disposal of effluent in accordance with EPA COP.
- Revised Site Notices are included.

Planner's response

The Planner had regard to the F.I submitted and their response included the following:

- They note the issues raised in the Third Party observation made. They consider that many of the issues raised are civil matters and that the F.I submission has addressed the issues relative to access and the laneway.
- They note the EHO Report subsequently stated no objections subject to conditions. They consider the issue regarding the suitability of the site for the disposal of effluent has been addressed.
- They do not consider that the proposal individually or cumulatively will impact adversely on Natura 2000 sites or that a Stage 2 AA (NIS) is required.
- The proposed development complies with the rural housing provisions in the MCDP 2019-2025 and the proper planning and sustainable development of the area. They recommend that permission be granted subject to conditions.

3.3. Other Technical Reports

Environmental Health

They note that inspection of the site and assessment of the site suitability survey indicates that the proposed site is not suitable in its current state to satisfactorily accommodate the provision of an on-site wwts. They requested that remedial measures to include further tests be carried out to comply with the EPA document: 'Waste Water Treatment Manual - Treatment Systems for Single Houses'.

In response to the F.I submitted they recommended a number of conditions.

3.4. Prescribed Bodies

Department of Culture, Heritage and the Gaeltacht

They note that the proposed development is within the constraint for Recorded Monument MO017-056 – Rectilinear Ringfort, which is subject to statutory protection in the Record of Monuments and Places, established under Section 12 of the National Monuments (Amendment) Act 1930-2004. They recommended that an Archaeological Impact Assessment be submitted and provide details of this in relation to the proposed development.

3.5. Third Party Observations

A Submission has been received expressing concerns about the proposed development. As this is the subsequent Third Party Appellant, these concerns are considered further in the context of their Grounds of Appeal and the Assessment below.

4.0 Planning History

The Planner's Report notes that there is no reference to Planning History relevant to the subject site.

In proximity

Reg.Ref. 19/242 - Permission has recently been granted to Drumlins Park Ltd, Galetech Energy Services by the Council for a Meteorological Mast with a maximum height of up to 100m and associated site development works (Condition no.2 limits this grant to 5 years). It was proposed to increase the overall height of the existing mast to up to 100m.

It was noted that there was an existing 80m meteorological mast located on this site. This was erected as exempted development (Class 20A, Schedule 2 of the Planning and Development Regulations 2001 (as amended) refers.

5.0 Policy Context

5.1. Monaghan Development Plan 2019-2025

This is the pertinent plan and contains several policies and objectives relevant to the proposed development. These include:

Rural Housing

The site is located in a Category 2 – Remaining Rural Area (Section 2.8.2 refers). This is outside of Category 1 – Rural Areas Under Strong Urban Influence (Section 2.8.1 refers).

Rural Settlement Objective RSO 4: *To maintain population levels in the remaining rural areas by accommodating appropriate rural development and to consolidate the existing town and village structure.*

Rural Settlement Policy RSP3: *To facilitate rural housing the remaining rural areas subject to the relevant planning policies as set out in Development Management Chapter of the Monaghan CDP 2019-2025.*

Section 3.6.2 provides the Rural Housing Policy. Policies HSP 15 – 18 refer and are of note:

Policy HSP 15 seeks: *To require all applications for rural housing to comply with the guidance set out in Development Management Chapter.*

HSP 17 seeks: *To require that new houses in the rural areas ensure the protection of water quality in the arrangements for on-site waste water disposal, ensure provision of a safe means of access in relation to road and public safety and ensure the conservation of sensitive areas such as natural habitats, the environs of protected structures and other aspects of heritage.*

Archaeology

Section 6.18 refers to Archaeological Heritage. Protected Monuments & Places Policy refer i.e. PMP 1 – PMP 7.

PMP 1: *To protect the Record of Monuments and Places listed in Appendix 5 (and any subsequent additions by the National Monuments Service) to ensure that the setting of the recorded monument or site is not materially injured and to co-operate with all recommendations of Statutory bodies in the achievement of this objective.*

PMP 2: *To ensure that any development adjacent to an archaeological monument or site shall not be detrimental to the character of the archaeological sites or its setting and shall be sited in a manner which minimises the impact on the monument and its setting. Development which is likely to detract from the setting of such a monument or site shall be resisted.*

PMP 4: *When considering new development in the vicinity of archaeological monuments/sites the planning authority may require one or more of the following to ensure the preservation and enhancement of the recorded monument;*

a. The provision of an appropriate buffer between the proposed development and the archaeological monument/ site.

b. The submission of a Visual Impact Assessment to assess the potential impact on the setting of the recorded monument.

c. The carrying out of an onsite archaeological investigation prior to a permission being granted.

d. Revisions to the proposed development to reflect any advice and/or recommendations made by the Department of the Arts, Heritage & the Gaeltacht (and any other relevant statutory consultee).

Access and Roads

Section 7.11 notes that local roads are of critical importance to the economic and social activity within the County given the County's low level of urbanisation and dispersed settlement pattern.

Section 15.16.1 provides the Policies for Rural Accesses. Policy RCP 3 seeks:

To require that access to new developments in the countryside are positioned to minimise loss of hedgerow/tree, where possible follow alongside existing boundaries/hedgerows, follow the natural contours of the site and use existing lanes where practical.

Water Protection Policies

Section 15.18 refers to Effluent Treatment – Wastewater Treatment

Policy WWTP 1 applies: *To protect groundwater and surface water from contamination from domestic effluent by ensuring that all sites requiring individual waste water treatment systems are assessed and deemed suitable by suitably qualified persons in accordance with the 'Code of Practice; Wastewater Treatment Systems for Single Houses' published by the Environmental Protection Agency, 2009 or any subsequent code of practice which supersedes it.*

Development Management

Section 15.16 seeks to protect Rural Character and this includes Policies for Buildings in the Countryside. Policy RCP1 includes that permission should only be granted for a building in the countryside where it is demonstrated that the development will not cause a detrimental impact or further erode the rural character of the area. This gives a list including that any new building will be unacceptable where:

- *It is unduly prominent on the landscape*
- *It does not respect the traditional pattern of settlement within the area*
- *The impact of the ancillary works including the creation of visibility splays would damage the rural character of the area.*

Section 15.17 refers to Housing in the Rural Area. Table 15.4 provides the Design Guidelines for Rural Housing. This includes regard to Scale, Form and Proportions.

5.2. Natural Heritage Designations

The site is located within 15km of Kilroosky Lough SAC and Sliabh Beagh SPA.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

Erskine Deering has submitted a Third Party Appeal. His grounds of appeal include regard to the following:

Procedural Matters

- There are inadequacies in the planning application and there are concerns at how the application was dealt with by the Council. No detailed assessment or analysis of the application has taken place.
- The application should not have been declared valid - concerns relative to usage of the private laneway, without consent from local landowners being contrary to Article 22(2)(g) of the Planning and Development Regulations 2001 (as amended).
- The drawings submitted at F.I stage are wholly inadequate to allow the public concerned, and the PA, undertake a thorough examination of the proposal.

Accessibility of Site

- The location of the proposed dwelling is accessed by a poorly maintained agricultural access track which is in the ownership of multiple landowners. In its current state the laneway is not fit for purpose as a residential laneway.
- Following the F.I request the applicant got consent from the other owners but did not approach or engage with the appellant.
- The issue of ownership cannot be dismissed as merely a 'civil matter'. The decision of the PA to grant permission is premature in the absence of a reasonable likelihood of access being attainable by the applicant.

Planning Policy – Design and Layout

- They have regard to Rural Settlement Policies and Objectives and consider these have not been complied with. They query that no justification for the need for the proposed dwelling has been given.
- They also query the design and layout and the element of cut and fill that will be required in view of the locational context of the house.
- They do not consider that it will comply with Table 15.4 of the MCDP which refers to 'Design Guidelines for Rural Housing'.

Access

- They consider that the proposed development is contrary to Policy RCP 3 – *Policy for Rural Access*.
- They also note that the applicant does not have legal consent to use his lands to access the proposed development site.

Protection of Groundwater and Surface Water from Effluent Pollution

- They refer to Policies HSP 17 and WWTP1 and consider that the proposed development does not comply. They are concerned that the F.I submitted relative to issues raised by the PA is inadequate.
- They submit that the application has not adequately demonstrated that the proposed wwts and sand filter is capable of treating and discharging effluent without risk to public health, to the quality of groundwater and/or surface water, or to the environment.

Renewable Energy Policies

- The proposal does not provide provision for compliance with Policy ENP 2 relative to renewable energy.
- It does not comply with Development Management standards contained in Chapter 15 of the MCDP 2019-2025.

Conclusion

- They conclude that the proposal does not comply with planning policies and objectives and is not sustainable or in character with the rural area.

6.2. Applicant Response

Blackgate Property Services Ltd response to the Grounds of Appeal on behalf of the Applicant includes the following:

Procedural issues

- They note the documentation submitted and do not consider that there are procedural issues relative to the professionalism of consideration of the application.

Land ownership

- They note that the applicant's Solicitor (Morgan McManus Solicitors) has provided significant clarity and a definitive written response on the issues of legal ownership pertaining to the existing access laneway.
- The only other lands in the applicant's ownership are the lands of his ancestral family home and farm located at Drumgramph, where the new dwelling house is to be located.

Design and Layout

- The proposed new buildings will provide a quality design and layout and are not considered to be unduly prominent in the landscape or detrimental to the character of the area.
- The design of the new dwelling house integrates well into the countryside and has a rural character appropriate to the site.
- It is not contrary to planning policies or objectives and complies with Siting & Design of Rural Housing as set out in the MCDP.
- Any excavated materials will be utilised upon the site, through creative landscaping and no material will be drawn off the site.
- The proposed boundary/retaining walls will integrate and not detract from the character of the area.

Access

- They have regard to the Appellant's alleged ownership of the relevant section of the laneway and provide that he does not own the adjoining property.
- They note the realignment of the laneway accessing the site as shown on the plans submitted in response to the appeal.

Wastewater Treatment

- Third Party comments on ground water and surface water have already been addressed by the conditions as set out in the Council's permission.
- They also provide that the applicant's Environmental Consultant (Traynor Environmental) has provided a detailed response to the third-party submission

with particular reference to the subsection detailed “protection of Groundwater and Surface Water from Effluent Pollution”. (Appendix 5).

Conclusion

- The proposal complies fully with the Policies and Objectives of the MCDP 2019-2025.
- They consider that the appeal should be dismissed and note that the Third Party objector is not the legally registered owner of the lands associated with the development proposal and the existing laneway.
- They enclose a number of documents in their accompanying Appendices which include the following:
 - Appendix 1: Morgan McManus Solicitors – Response Letter and Attachments, including Land Registry details and Mapping;
 - Appendix 2: Overview Site Layout Plan;
 - Appendix 3: Monaghan County Development Plan (2019-2025) Section 2.7.1 – Rural Settlement Objectives and Policies;
 - Appendix 4: MCDP - Section 2.8.2 – Rural Settlement Objectives and Policies;
 - Appendix 5: Traynor Environmental Ltd. Response Letter and Attachments.

6.3. Planning Authority Response

Monaghan County Council have not responded to the grounds of appeal.

7.0 Assessment

7.1. Policy Considerations

- 7.1.1. Regard is had to Rural Settlement Strategy in the Monaghan County Development Plan 2019-2025. The site is located in a Category 2 – Remaining Rural Area (Section 2.8.2 refers). This is outside of Category 1 – Rural Areas Under Strong Urban Influence. This area comprises all other rural areas outside of the settlements

and rural areas under strong urban influence. In such areas the applicant is not required to submit a 'Rural Housing Application Form (RH1 – Appendix 15) or provide justification relative to local needs (Section 2.8.2). In these areas the challenge is to retain population and support the rural economy while seeking to consolidate the existing village network. It is provided that this stability is supported by a traditionally strong agricultural economic base. Objective RSO 4 and Policy RSP 3 refer and are noted in the Policy Section above.

- 7.1.2. The Third Party is concerned that justification has not been submitted as to the need for the proposed dwelling in this location. Also, that there are concerns about the accessibility/right of way to the site and the design and layout, lack of compliance with settlement policies and relevant to the disposal of effluent. Having regard to the issues of concern relative to access, design and layout, non-compliance with planning policies and objectives and development standards they consider that this proposal is wholly inappropriate and contrary to the principles of proper planning and sustainable development.
- 7.1.3. In response to the grounds of appeal the First Party provides that the applicant has chosen to apply and construct a new dwelling house and garage on these lands (part of the landholding shown blue on the Site Location Map). They provide that these lands have been in the family ownership for many years and that it was always the applicant's intention to return back to his ancestral home lands on his farm lands at Drumgramph, Co. Monaghan. While detailed supporting evidence has not been submitted, as noted above this is an area where justification relative to local needs policy does not apply.
- 7.1.4. Section 3.6 of the MCDP provides that it is important that the rural housing policy focuses on ensuring that every appropriate and sustainable option is available to rural people to continue to live in their own area and to contribute to community life. However, it also seeks to protect the countryside from being dominated by rural housing. This includes note that specific areas of the county have been classified 'Rural Areas Under Strong Urban Influence'. Local Needs policies do not apply as the site is located outside of this area. However, it is important that any proposed development be sustainable and not detract from the environment or be detrimental to the character of the rural landscape and agricultural area.

7.1.5. Regard is had to the documentation submitted and to concerns raised by the Third Party relative to the proposed development. Development Management policies apply relative to siting, archaeology, design and layout, access, waste-water treatment, screening for AA and impact on the character and amenities of the area. These issues are considered further in the context of this Assessment below.

7.2. Archaeological issues

7.2.1. The Department of Culture Heritage and the Gaeltacht note that the proposed development is within the constraint for Recorded Monument MO017-056 – Rectilinear Ringfort, which is subject to statutory protection in the Record of Monuments and Places, established under Section 12 of the National Monuments (Amendment) Act 1930-2004. They provided that given the location of the proposed development it is possible that archaeological remains associated with this Monument could be impacted and damaged. They recommend that an Archaeological Assessment be submitted to assess the potential impact on the archaeological remains in the area where the proposed development is to take place. They advised that this statement should be submitted as Further Information, so as to enable the PA and the Department to formulate an informed archaeological recommendation before a planning decision is taken. They include details of what to be contained within this Assessment and written report to be submitted. They advised that if significant archaeological remains are found, then refusal might be recommended, and/or further excavation required. Also, that it is the Department's view that a final decision should not be made on this application until they have had an opportunity to evaluate the Archaeological Assessment.

7.2.2. It is noted that the Monaghan CDP 2019-2025 includes Section 6.18.1 *Record of Monuments and Places*. A list of known Recorded Monuments is provided in Appendix 5 *Recorded Monuments*, and this includes reference to the proximate monument as referred to by the Department. Protected Monuments & Places Policy refer i.e. PMP 1 – PMP 7. These seek the protection of the setting of these archaeological sites and monuments. Policy PMP 4 (is referred to in the Policy Section above) and is relevant to considering new development in the vicinity of archaeological monuments/sites. It provides (criteria a to d) including relative to the provision of a buffer zone, Visual Impact Assessment, archaeological investigation

and revisions to the proposed development to reflect the advice of the relevant Department etc.

- 7.2.3. It is noted that the Council did not include for an Archaeological Impact Assessment in their F.I request. However, Condition no.4 of their permission includes regard to Archaeology and archaeological monitoring. In this instance the Board may wish to refuse in view of the Department's concerns and the lack of information submitted relative to the impact of the proposed development on the proximate Recorded Monument. As such the proposal could be said to be contrary to Policies PMP 1, 2 and 4. However, if the Board decides to permit, I would recommend, that a condition relative to archaeological monitoring be included.

7.3. Design and Layout and Impact on the Character and Amenities of the Area

- 7.3.1. As shown on the Site Location Plan the proposed dwelling is to be set back c.360m from the public road. There is gated access to the site and it is to be located at the end of the access laneway. The site which slopes significantly downwards from east to west is within defined field boundaries with a fence along the eastern boundary facing the laneway. It is to be taken off the larger field area and while the whole of the field is shown within the red line boundary, a hedgerow is to be established within the site at the rear. The proposed house is shown set back c. 25m from the site frontage. The proposed detached garage is shown further set back and to the north of the dwelling house.
- 7.3.2. The Floor Plans show that it is proposed to provide 4no. bedrooms, two on ground floor level, along with living accommodation and 2 at first floor level. It is proposed to provide roof lights with a gable window either end. The floor area is shown as c. 102sq.m at ground floor level and c. 65sq.m at first floor level i.e c.167sq.m. The proposed ridge height of the one and a half storey dwelling is c.5.9m. It is traditional in design and external finishes are to include smooth plaster finish and blue/black slates or similar finish to the roof. The proposed garage is to be c.4.5m in height and external finishes are to match the existing house.
- 7.3.3. Section 3.6.1 refers to Siting & Design of Rural Housing. This notes that the drumlin landscape of Monaghan creates a unique rural landscape that requires special attention when locating and designing a rural house. It is provided that the design of

the submitted new dwelling house while contemporary would integrate into the landscape of the countryside. In general I would consider that the design of the proposed house type would provided, quality materials are used integrate into the landscape and the scale and character of the buildings would generally comply with Table 15.4 of the MCDP which refers to 'Design Guidelines for Rural Housing'.

7.3.4. The Third Party consider that the fact that retaining walls have been proposed, combined with the notably sloping topography, generally from east to west, evidences that significant groundworks will be required to create the platform for the proposed dwelling. The First Party provide that the retaining wall is a feature worth integrating into the landscape and that any excavated materials will be utilised upon the site, through creative landscaping and no material will be drawn off site. The Site Layout Plan includes regard to landscaping and I would recommend if the Board decides to permit that existing trees and hedgerows along the northern and southern site boundaries be retained and augmented and that hedgerows be established along the eastern(site frontage) and western rear site boundary.

7.3.5. It is considered that the proposed dwelling in view of the set back from the public road and the undulating nature of the area will not appear unduly prominent in this drumlin landscape or appear as suburban type or lead to ribbon development. However, there is an issue as to whether it is advisable to build so far back into the rural landscape (c.360m) away from the public road and public services and as to whether this would set a precedent for other such sporadic rural development.

7.4. Procedural issues/Right of Way

7.4.1. The Third Party is concerned that the planning application should not have been accepted as valid as the boundary (red line) extends from the site of the proposed dwelling along a private laneway which is in the ownership of multiple private landowners. This laneway is not registered as a public right of way. They provide that the applicant did not gain written consent from these landowners and this is contrary to Article 22(2)(g) of the 2001 Planning Regulations. They submit that given the absence of any likelihood of the applicant attaining right of way to access his property from this laneway the proposed development is premature and does not

reach the requisite standard to gain permission. They dispute that the points raised can be dismissed as merely a 'civil matter'.

7.4.2. The First Party response provides that in consideration of the aspects regarding the accessibility of the site, the applicant's solicitor (Morgan McManus Solicitors) have provided significant clarity and a definite written response on the issues of legal ownership pertaining to the existing access laneway. Registered land registry title documents are presented within Appendix 1 & 2 of their response. They provide that their evidence shows that the Appellant is not the registered owner of any of the lands within the townland of Drumgramph or within any of the adjoining townlands. In this respect they question the validity of the appeal. They submit that the applicant has provided written confirmation from all the actual owners and authorities or the relevant associated adjoining registered land owners (including the applicants) right to use the existing laneway for access purposes.

7.4.3. It is of note that these are legal issues and the issue of ownership is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: "*A person shall not be entitled solely by reason of a permission under this section to carry out any development*". Under Chapter 5.13 'Issues relating to title of land' of the 'Development Management - Guidelines for Planning Authorities' (DoECLG June 2007) it states, inter alia, the following: "*The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...*"

7.5. Access/Right of Way

7.5.1. As part of the Council's F.I request the applicant was requested to clarify if improvements/upgrading/resurfacing works are to be carried out to the existing laneway. The F.I submitted provided that this existing stone laneway is a sound stone/gravel laneway and it is only used by a small number of landowners. They provide that it has always been used for vehicular traffic and is currently used for access travelling by car regularly on a daily basis. They submit that the laneway does not require any upgrading or resurfacing, as it has always been and will continue to be kept well maintained by the applicant and other landowners. Also, that

there are no works required to the sight visibility splays, hedges, fence/wall and drainage apart from compliance with the signed hedgerow agreement. They include copies of a signed Hedgerow Agreement to maintain the sight visibility splays provided by two local landowners (other than the Applicant or the Appellant). They also include a copy of the land registry maps to confirm the status of ownership.

- 7.5.2. Section 15.27 – Refers to Road Access Standards – Table 15.5 provides the Minimum visibility standards for new or intensification of an existing Access onto Non-Urban Roads. Policy RAS 1: To apply the visibility standards as set out in Section 15.27 and Appendix 12 - Access Details of the Monaghan County Development Plan 2019-2025. It is noted that the entrance to the lane is located on a bend on the public road. The revised plans show visibility splays of 50m in either direction set back at 2.4m. This would comply with standards for a Local Class 3 road with a design speed of 42km/hr.
- 7.5.3. On site I noted that the public road is narrow (too narrow for 2 cars to pass) and visibility at the entrance to the lane is currently somewhat restricted by hedgerows. In response to the Council's F.I request a Hedgerow Agreement (Appendix 14) has been submitted as the existing entrance to the laneway from the Local Tertiary is on lands not within the Applicant's control. There are a number of gates and the lane is generally used by agriculturally related traffic. Also, of note relative to other users of the lane is that permission was granted for a Meteorological Mast (Reg.Ref. 19/242 refers) and associated traffic uses the same access lane. It is noted that the proposed development would share the private access cul de sac lane to the mast site. There are no existing dwellings accessed via this lane. Therefore, this proposal will intensify the use of the existing narrow laneway.
- 7.5.4. The Site Layout Plan and details submitted in response to the appeal (Appendix 1) provides that in view of the right of way issues it is proposed to: *realign the laneway away from the Land Registry mid-line, effectively creating a new laneway in order to avoid any doubt or ambiguity in relation to his right of way and to ensure that the realigned laneway did not impeach on that half which was claimed as owned by Mr Deering*. This concerns the north western section of the lane to the subject site. As shown on the plans submitted it appears that this will effectively mean that there will be two sections of laneway (the existing and that proposed) that will run side by side. It is proposed that the existing hedge and grassed bank that form the southern

boundary of the existing section of the lane be retained. While there is some lack of clarity relative to this arrangement it appears this will mean that there will be an additional strip of existing agricultural land taken over to provide for the new realigned laneway to access the subject site.

7.6. Suitability of Site for disposal of effluent

- 7.6.1. The site is located in an unserviced rural area. As originally shown it was proposed to provide a well close to the site frontage and the eastern boundary of the site. The proposed waste-water treatment percolation area was shown in the western part of the site, to the rear of the landscaped site boundary but within the red line boundaries. While the weather was very dry at the time of the site visit in June, rushes were seen growing in parts of the site frontage. There is a ditch along the southern site boundary. I would be concerned that drainage/run off may be an issue in view of the significant slope downwards from east to west.
- 7.6.2. A Site Characterisation and Site Suitability Assessment was submitted with the application by Traynor Environmental Ltd. This noted a high watertable and percolation tests showed high 'T' and 'P' values. The Aquifer Category is described as poor (P1) bedrock – which is generally unproductive except in local zones. There are streams located (0.3km to the south) and (0.45km to the north) in the vicinity. It was recommended that a purpose-built percolation area should be constructed and details are given of this. As originally submitted the Council's EHO was concerned that inspection of the site and assessment of site suitability indicated that the proposed site is not suitable in its current state to satisfactorily accommodate the provision on an on-site wwts. As part of the Council's F.I request the applicant was requested to carry out remedial measures and further tests as per the guidelines set out in the EPA COP.
- 7.6.3. Regard is had to the Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.< 10). Table 6.2 of this EPA Code of Practice provides the minimum depth requirements for on-site systems discharging to ground i.e.1.2m and at the base of polishing filter 0.9m.i.e minimum depth of unsaturated subsoil to bedrock and the water table. Table 6.3 provides an interpretation of percolation test results and "in cases where $3 < P < 75$ the site may be suitable for a secondary

treatment system and polishing filter at ground surface or overground if the soil is classified as Clay..." The 'T' and 'P' test values given are within this range.

- 7.6.4. As part of the F.I submission Traynor Environmental Ltd, provided that the applicant would install a 20m² sand filter sitting on a 60m² percolation base after a proposed package treatment system. They note that this will provide the site with tertiary effluent treatment. It is also proposed to install an inceptor drain on the upper side of the proposed filter to divert any surface water away. It is noted that a revised Site Layout Plan has been submitted showing this. Also, a plan showing 'Proposed Sand Filter Section Detail'. This shows the raised percolation height to be 1.4m above the existing ground level and located on the higher part of the site set back from the eastern boundary.
- 7.6.5. The Third Party has regard to the Protection of Ground and Surface Water from Effluent Pollution and to relevant policies HSP 17 and WWTP 1 of the Monaghan CDP 2019-2025. They consider that the applicant has not adequately demonstrated that the pwwts and sand filter is capable of treating and discharging effluent without risk to public health, to the quality of groundwater and/or surface water.
- 7.6.6. It is noted that the Council's condition no. 3 provides for provision and installation of a wwt's in accordance with current standards. The First Party provides that these conditions will be fully adhered to. Also, of note, is that Traynor Environmental has provided a detailed response to the Third Party submission in Appendix 5 of their response submission. This includes a Plan of the Proposed New Treatment Plant and Sand Polishing Filter. Percolation test results relative to this have not been submitted.
- 7.6.7. It is also noted that the revised Plan submitted at F.I stage does not include the well and the proposed raised percolation area is shown located in this area. The Site Characterisation and Assessment Report as originally submitted says that the proposed water supply is to be from the mains but also refers to a bored well, being located on the site. While the First Party response provides that the development can be served by an upgraded water supply some 450m from the site, no details have been submitted on this.
- 7.6.8. Of relevance to Policy HSP 17 is that it has not been shown (in the absence of an Archaeological Impact Assessment) that the proposed works would not impact on

the heritage/archaeological significance of the area. Therefore, it is considered that while it may be possible that an engineered solution can be provided for what is a challenging site that sufficient information has not been submitted. Having regard to these issues, I am concerned that sufficient detail has not been submitted to show that the site is suitable for the disposal of effluent or how an appropriate water supply is to be provided. Therefore, I would be concerned that Policies HSP 17 and WWTP 1 of the MCDP 2019-2025 have not been complied with.

7.7. Screening for Appropriate Assessment

- 7.7.1. As noted in the Planner's Report the subject site is located within 15km of a Natura 2000 site, namely Kilroosky Lough SAC (site code: 001786) and Sliabh Beagh SPA (site code:004167). It is noted that these are some distance from the site and it is provided that there are no significant watercourses located within close proximity to the site and no pathway connectors with the Natura 2000 network.
- 7.7.2. Having regard to the nature and scale of the proposed development and the nature of the receiving environment and the distance to the nearest 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

I recommend that permission for the proposed development be refused for the Reasons and Considerations below.

9.0 Reasons and Considerations

1. The proposed development would constitute random housing development in a rural area lacking certain public services and community facilities and served by a poor road network. The proposed development would, therefore, give rise to demands for the provision of further public services and community facilities and accordingly would be contrary to the proper planning and sustainable development of the area. As such the proposal would be

contrary to Policy HSP 17 of the Monaghan County Development Plan 2019-2025.

2. Having regard to the soil conditions and high water table, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated and or disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health. As such the proposal would be contrary to Policy WWTP 1 of the Monaghan County Development Plan 2019-2025.
3. In view of the location of the site within the constraints of a Recorded National Monument and in the absence of an Archaeological Impact Assessment as recommended by the Department of Culture, Heritage and the Gaeltacht, the Board is not satisfied that sufficient information has been submitted relative to the impact on archaeology and to proximity to this Monument. As such the proposal would be contrary to Policies PMP1, PMP2 and PMP4 of the Monaghan County Development Plan 2019-2025 and to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

02nd of July 2020