



An
Bord
Pleanála

Inspector's Report ABP-306785-20.

Development

Planning permission for a detached dwelling house; installation of a wastewater treatment system and percolation area; together with all associated site works and services.

Location

Milestown, Kilsarin, County Louth.

Planning Authority

Louth County Council.

Planning Authority Reg. Ref.

19/1041.

Applicant(s)

Sean Cairns.

Type of Application

Planning Permission.

Planning Authority Decision

Refused.

Type of Appeal

First Party

Appellant(s)

Sean Cairns.

Observer(s)

None.

Date of Site Inspection

20th day of May, 2020.

Inspector

Patricia M. Young.

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1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.32ha, is located in the Townland of 'Milestown', which lies in close proximity to the southernmost fringes of the settlement of Kilsarin, c1.1km to the south of the R132 (Old Dublin Road); and, c2km to the south east of the centre of Castlebellingham village in rural County Louth.
- 1.2. The site itself forms part of a large agricultural field which at the time of my inspection was in tillage use. Its eastern and southern boundaries were not demarcated. Its roadside boundary, i.e. northern boundary, fronts onto the southern side of a local road called 'Maine Way' (Note: L6217-0), which at this location has an east to west alignment. The appeal site itself contains no access point along this boundary onto L6217-0. Access to the larger field is via an agricultural field opening in close proximity to the east. This boundary is predominated by native hedge species with a number of standalone mature trees that add an attractive sylvan character to this local road.
- 1.3. The western boundary of the site consists mainly of a non-native hedgerow that forms part of what appears to be a shared boundary with what appears to be two adjoining detached dwellings to the west. These dwellings are situated on the eastern most end of a group of 11 detached dwellings with one fronting onto the L-6217-0 and the other which I observed has two floor levels located to the rear. On the opposite side of the road there is also a group of 10 dwellings which includes much modified semi-detached pairs.
- 1.4. The surrounding area despite being open countryside has a strong prevalence of one-off detached dwellings, particularly within the immediate environs of the site.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a detached 2-storey dwelling house with a stated 268m² gross floor space; a single storey domestic detached garage with a stated 66m² gross floor space; with a new connection proposed to a public mains water supply which is located in proximity to the site; effluent to be disposed of via a proprietary waste water system; and, surface water to be disposed of via an on-site soak pit. Access to serve the proposed development would be via a new entrance onto the local road on the northern boundary of the site

in close proximity to its easternmost end with sightlines of 75m shown in both directions which includes indicated setbacks extending 10.35m beyond the westernmost end of the roadside boundary and 38.5m beyond the easternmost end of the roadside boundary. Along the modified roadside boundary, a new native tree boundary is proposed together with a native thorn hedgerow extending from the roadside boundary also to the east and south around the perimeters of the site.

3.0 **Planning Authority Decision**

3.1. **Decision**

3.1.1. The Planning Authority decided to **refuse** planning permission for the reasons relating to:

- 1) The proposed development, if permitted, would materially contravene Policy SS53 of the Louth County Development Plan, 2015-2021.
- 2) The proposed development, if permitted, would materially contravene Policy SS56 of the Louth County Development Plan, 2015-2021.
- 3) The proposed development, if permitted, would materially contravene Policy TC12 of the Louth County Development Plan, 2015-2021, and would endanger public safety by reason of traffic hazard and obstruction of road users.
- 4) Surface Water Drainage Concerns. It was considered that the proposed development, if permitted, would materially contravene Policies WS10 and WS 11 of the Louth County Development Plan, 2015-2021.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The **Planning Officer's Report**, dated the 3rd day of February, 2020, is the basis of the Planning Authority's decision. It includes but is not limited to providing information on the planning history of the site; an overview of the proposed development; it sets out relevant planning policy provisions and to the submissions from Irish Water as well as Internal Reports received. This report considers that the applicant is compliant with Policy SS19 of the Development Plan in terms of Qualifying Criteria 2; notwithstanding,

concerns are raised in relation to policies set out in its reasons for refusal which I have outlined in Section 3.1.1 of this report. This report concludes with a recommendation to refuse permission for the development sought under this application.

3.2.2. **Other Technical Reports**

Infrastructure: The Executive Engineer's report dated the 21st day of January, 2020, concludes with a recommendation for further information on the matter of sightlines; legal agreements to achieve the required sightlines sought; and, to submit details on the matter of how surface water from the proposed site entrance/driveway would be prevented from entering the public road.

Environmental Compliance: No objections.

3.2.3. **Prescribed Bodies**

Irish Water: No objections.

4.0 **Planning History**

4.1. **Site**

P.A. Reg. Ref. No. 08/582: On the 24th day of October, 2008, planning permission was **granted** subject to conditions for a detached dormer dwelling house, detached garage, entrance, wastewater treatment system and all associated site works.

5.0 **Policy and Context**

5.1. **National Policy**

- National Planning Framework – Project Ireland, 2040.
- Sustainable Rural Housing Guidelines for Planning Authorities, (2005).
- Code of Practice Wastewater Treatment Disposal Systems serving Single Houses, (2009).
- Implementation of new EPA Code of Practice on Waste Water Treatment and Disposal Systems Serving Single Houses - Circular PSSP1/10.

- The Planning System and Flood Risk Management – Guidelines for Planning Authorities, Department of the Environment, Heritage and Local Government & OPW, (2009).

5.2. Development Plan

- 5.2.1. The appeal site lies in a rural area, zoned 'Zone 4' in the Louth County Development Plan, 2015 to 2021, which has a stated objective: *"to provide for a greenbelt area around the urban centres of Dundalk, Drogheda and Ardee"*.
- 5.2.2. Section 3.10.4 of the Development Plan indicates that: *"it is an objective of the Council to preserve a clear distinction between the built up areas of settlements and the surrounding countryside"*.
- 5.2.3. Policy RD37 is relevant. It states: *"to permit limited one-off housing*, agricultural developments, extensions to existing authorised uses and farms, appropriate farm diversification projects, tourism related projects (excluding holiday homes, institutional and educational facilities, leisure and recreation related projects and renewable energy schemes"*. (Note: * refers to Section 2.19.1 of the Development Plan which sets out the Qualifying Criteria).
- 5.3. Section 2.19.1 sets out the Local Needs Qualifying Criteria and it indicates that: *"applicants for one-off rural housing will be required to demonstrate compliance with criteria relevant to the specific Development Zone in which the dwelling is to be located."* Policy SS 19 and SS 20 further reiterate this requirement.
- 5.3.1. Table 2.9 of the Development Plan sets out dwellings gross floor area and minimum site size. For Zone 4 the maximum cumulative gross floor area is stated to be 220m² and the minimum site size in Hectares is 0.2ha. Dwellings above the stated maximum gross floor area have to demonstrate compliance with Policy SS 52 which indicates that the Council will require the site area be correspondingly increased by a ratio of 20m² for each 1m² of additional floor area of the dwelling.
- 5.3.2. Section 2.2 of the Development Plan sets out the criteria for rural housing design and siting criteria.
- 5.3.3. Other Relevant Development Plan provisions include:
- Policy SS 53: Seeks to avoid ribbon development.

Policy SS 56: Presumption against ribbon development.

Policy SS65: Wastewater/Surface Water Drainage.

5.4. Natural Heritage Designations

5.4.1. Within a 15km radius of the appeal site there are a number of Natura 2000 sites. The nearest are:

- The Special Area of Conservation: Dundalk Bay SAC (Site Code: 000455), which lies c1.4km to the west of the site, at its nearest point.
- The Special Protection Areas: Dundalk Bay SPA (Site Code: 004026) which also lies c1.4km to the west of the site, at its nearest point.
- The Special Protection Areas: Stabannon Braganstown SPA (Site Code: 004091) which lies c4.5km to the east, at its nearest point.

5.5. EIA Screening

5.5.1. Having regard to the nature, scale and extent of the proposed development, the fact that the site is not in nor is it in close proximity to any Natura 2000 site within a 15km radius, the absence of any connectivity to any sensitive location, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development and the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of this 1st Party appeal can be summarised as follows:

- The appellant contends that they meet the definition of a ‘Qualifying Landowner’ under the Development Plan, there are no other available sites and the exception provided for under Policy SS53 of the Development Plan should therefore be applied.

- The required sightlines can be provided, and consent of the adjoining landowners is provided.
- The hardstanding areas located around the house and forming the driveway to the house are self-draining stone surface and therefore no soakaway is required. In addition, it is contended that the submitted surface water design calculations include rainwater runoff from the roof areas of the dwelling and garage.
- The appellant is entitled to build a dwelling house adjacent to the family home on family owned land.
- The Board is requested to grant permission for the proposed development.

6.2. Planning Authority Response

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

- There are 11 no. dwellings located to the west of the site and the applicant is not the son of a qualifying landowner. Therefore, to permit the proposed development would materially contravene the Policy SS 53 of the Development Plan.
- It is not considered that the applicant in this case fell under the exceptional circumstance criteria allowed for breeches under Policy SS 56 of the Development Plan having regard to their failure to comply with Policy SS 53 of the said plan.
- The applicant did not provide the consents for modifications of the roadside boundaries outside of the appellants interest. Subject to agreements being in place that allows for the provision of the required sightlines the third reason of refusal could be overturned.
- Sufficient information has not been provided to allow the assessment of surface water drainage and compliance with policies WS 10 and WS 11 of the Development Plan; hence, the fourth reason for could be overcome by way of additional details.
- The first two reasons for refusal are substantive and are not overcome by the appellants submission to the Board.

7.0 Assessment

7.1. Introduction

7.1.1. I consider the key planning issues relating to the assessment of this appeal case can be considered under the following broad headings:

- Principle of the Proposed Development
- Visual Amenity Impact
- Road Safety
- Water and Drainage
- Residential Amenity Impact

7.1.2. The matter of 'Appropriate Assessment' also needs to be assessed.

7.2. Principle of the Proposed Development

7.2.1. I firstly note to the Board that the appeal site is located in an area defined as being under strong urban influence as defined in the Sustainable Rural Housing Guidelines for Planning Authority's, 2005; and, this therefore has relevance to the provisions of the National Planning Framework, 2018, in relation to residential development.

7.2.2. The reasons as to why the site is considered to be an area under strong urban influence is most likely due to a number of locational factors including but not limited to its proximity to a number of large urban areas, strong urban structure present and proximity to the M1 corridor, in particular Dundalk to the north and Drogheda to the south. It is also less than an hour drive to the centre of Dublin and Dublin Airport.

7.2.3. In addition, relation to one-off housing in the countryside the Development Plan recognises that this demand for one-off houses arises from both within and beyond the county itself.

7.2.4. In relation to such areas Chapter 2 of the Development Plan indicates that in keeping with national policy provisions the Planning Authority will seek to facilitate the careful management of one-off houses in rural locations within the county and it indicates that such applications shall be required to demonstrate compliance with the Local Needs Qualifying Criteria outlined in Section 2.19.1 of the said plan. Further, Policy SS 19 of the Development Plan also seeks this compliance.

7.2.5. Moreover, Section 2.19.1 of the Development Plan states: *“in order to protect the rural areas of the County from excessive urban generated housing, the Council considers it necessary to retain the local needs provision as recommended in the document Sustainable Rural Housing Guidelines, 2005 DECLG. Local needs provisions apply across the entire rural area of the County. Applicants for one-off rural housing will be required to demonstrate compliance with criteria relevant to the specific Development Zone in which the dwelling is to be located”*. This section of the Development Plan also sets out the Local Needs Qualifying Criteria for the various Development Zones within the County.

7.2.6. Under Development Plan the appeal site is located on rural lands zoned ‘*Development Zone 4*’. The objective for such lands is *“to provide for a greenbelt area around the urban centres of Dundalk, Drogheda and Ardee”*. In this development zone there is a general presumption against the type of development proposed under this application, i.e. one-off dwellings. However, there are 5 criteria set out in the Development under where such developments may be positively considered subject to other safeguards being demonstrated. I therefore propose to assess each one of these criteria in turn as follows:

1) *Applicant(s) is the son/daughter of a qualifying landowner. The applicant must demonstrate a rural housing need and show that they do not already own a house or have not owned a house within the rural area of the county for a minimum of 5 years prior to making an application.*

In this case, Sean Cairns the stated applicant, contends that they are the son of a Rita Cairns, who is contended to be the qualifying landowner of the land which is the subject of this application. It is also contended that this named person has been so for c20years prior to the making of this application.

I note that Section 2.19.5 of the Development Plan provides the following definition for ‘Qualifying Land Owner’: *“a person has owned a landholding of at least 3 hectares for a minimum of 10 years”*.

The documentation provided in relation to the landownership indicates that the applicants mother is a tenant-in-common, i.e. a shared tenancy in which each holder has a distinct, separately transferable interest, which in this case is 1 undivided 1/8 share(s) of the subject property and that this relates to a *“plot of*

ground situate in the Townland of Milestown and Barony of Ardee containing 4.2496ha” as is shown in the land registry map provided. It would also appear that 0.0968ha were transferred outside to another separate 3rd party in c2004; thereby reducing this plot by this amount (Note: 4.1528ha) and in turn reducing the area associated with the undivided shares. Based on this information I do not consider that the applicant’s mother has had sole and/or predominant ownership interest of subject site itself though it would appear that the applicant has the benefit of consent of the other parties to make this application.

Further, whilst it would appear that the applicant has social and family links to this locality; notwithstanding, in terms of demonstrating a genuine ‘need’ as opposed to ‘desire’ to build a dwelling house at this location they have not in my view substantively demonstrated this in socio through to economic grounds based on the information submitted with this application.

I again note that the appeal site is located in an rural area that despite the significant ribbon development to the west of it and on the opposite side of the road in both an east and west direction it lies outside of a designated settlement in open countryside of good quality agricultural land. This is in addition to it being in an area that is as previously discussed identified as being under strong urban influence in the Sustainable Rural Housing Guidelines for Planning Authority’s, 2005.

The National Planning Framework states that the: *“Irish countryside is, and will continue to be, a living and lived in landscape focusing on the requirements of rural economies and rural communities, while at the same time avoiding ribbon and over-spill development from urban areas and protecting environmental qualities”*. It also recognises that there is a continuing need for housing provision for people to live and work in the countryside. It further indicates that careful planning is required to manage the demand in our most accessible countryside around cities and towns. In this regard it advocates focusing on the elements required to support the sustainable growth of rural economies and rural communities stating that: *“it will continue to be necessary to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns”*, with this being subject to site through to design considerations.

In keeping with this National Policy Objective 19 states inter alia that to: “ensure, in providing for the development of rural housing, that 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:

- *In rural areas under urban influence, 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 and siting and design criteria for rural areas and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements”.*

In addition, National Policy Objective 3a sets out an objective to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements.

As there is no definition given in the Development Plan to define what a ‘genuine need’ is, I consider the above guidance at national level fills this vacuum. Against this basis I consider that the documentation provided by the applicant has not demonstrated a genuine economic and/or social need for a dwelling house at this location.

In conclusion, the applicant does not meet the first of the five stated criteria and to permit the proposed development would be in conflict with policy provisions at a local through to national level for residential development in such a location whose visual amenity has been diminished in an adverse way by such *ad hoc* developments.

- 2) *That the applicant(s) have lived for a minimum period of 10 years in the local rural area (including cross-border), they have a rural housing need, they do not already own a house or have not owned a house within the rural area of the county for a minimum of 5 years prior to making an application.*

In relation to this criteria whilst it would appear that the applicant does not own a house or have they owned house within the rural area of the county for a minimum of 5 years prior to making this application there is in my view limited to basis to support this based on the information submit nor is there a bone fide affidavit to support that this is the case.

In addition, for the reasons outlined previously in this assessment I am not satisfied that the applicant has demonstrated a genuine rural housing need in a manner that would be consistent with the required planning policy provisions for this type of development at such a location.

In conclusion, I therefore consider that the applicant does not meet the second of the five stated criteria.

- 3) *That the applicant is actively and significantly involved in agriculture and that the nature of the agricultural activity, by reference to the area of land and/or the intensity of its usage, is sufficient to support full time or significant part time occupation. Where the applicant is employed in a part time basis, the predominant occupation shall be agriculture. In all cases, supporting documentation outlining that the nature of the activity is sufficient to support full-time or significant part time work shall be provided. The proposed dwelling shall be on a site immediately adjacent to or within the boundaries of that agricultural enterprise.*

The applicant has not provided any documentation to substantiate that they satisfy the third of the five stated criteria. As such this criterion does not in my view warrant further consideration.

- 4) *That the applicant is actively and significantly involved in the bloodstock and equine industry, forestry, agri-tourism or horticulture sectors or rural based enterprise, that the nature of the activity is sufficient to support full time or significant part time occupation and that the applicant can demonstrate a specific functional need to live at the site of their work. Where the applicant is employed in a part time basis, the predominant occupation shall be in the bloodstock and equine industry, forestry, agri-tourism or horticulture sectors or rural based enterprise. In such cases supporting documentation outlining that the nature of the activity is sufficient to support full time or significant part time work shall be provided. The proposed dwelling shall be on a site immediately adjacent to or within the boundaries of that enterprise.*

The applicant has not provided any documentation that would substantiate that they satisfy the above stated criteria. As such this criterion does not in my view warrant further consideration.

5) *That the applicant is providing care for an elderly person(s) or a person(s) with a disability who lives in an isolated rural area and who does not have any able bodied person residing with them. One house only will be allowed on this basis and the site must be adjacent to the dwelling in which the older person(s) or person(s) with the disability resides.*

The applicant has not provided any documentation to substantiate that they satisfy this stated criterion. As such this criterion does not in my view warrant further consideration.

7.2.7. Policy SS 19 of the Development Plan requires that applicants for one-off rural housing to demonstrate compliance with the local needs qualifying criteria relevant to the respective Development Zone that the site is located in. For the reasons set out above, the applicant has failed to demonstrate this.

7.2.8. Moreover, having regard to other local and national planning policy provisions referred to above, these essentially seek to regulate rural housing and only permit residential developments like this in limited circumstances. They also seek to consolidate development within serviced urban/suburban land, alongside protect rural land, which in this case is a rural location that is visibly and factually under significant pressure for this type of development. In addition, this area despite the significant number of one-off dwellings lacks any foul drainage infrastructure through to is not within close proximity to amenities, services, and the like. Thereby, dwellings at this type of location are inevitably highly reliant upon cars.

7.2.9. In light of the above considerations I concur with the first and second reason for refusal given by the Planning Authority in their notification to refuse planning permission for the development sought under this application. These are sufficient basis to merit a refusal of planning permission in their own right.

7.3. Visual Amenity Impact – Ribbon Development

7.3.1. In relation to the first and second reason for refusal of the proposed development sought under this application it was essentially considered that the proposed development, if permitted, would be contrary to Policy SS 53 and Policy SS56 of the Development Plan.

7.3.2. I note that Policy SS 53 of the Development Plan states that the Planning Authority shall seek: *“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 300 metres 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”.

- 7.3.3. It is clear that there is no gap of 300m between the appeal site and the ribbon of 11 dwelling houses to the immediate west of the site and as discussed previously in this assessment, the applicant has failed to demonstrate that they meet the housing need of a person that meets the definition set out in the Development Plan for a qualifying landowner in the first instance to qualify for consideration of a dwelling house at this location and against a context where it would extend an already significant stretch of linear residential development aligning with the southern roadside edge of L6217-0.
- 7.3.4. Whilst it may be the case that there are no other available sites in the identified modest in size and with a complicated land title landholding, this does not negate that the other requirements set out under this policy where an exception would be considered.
- 7.3.5. I therefore concur with the Planning Authority’s first reason of refusal as the proposed development would, if permitted, give rise to further undue ribbon development in a rural locality whose visual amenities and intrinsic rural qualities, alongside the appreciation of the same from the public domain, have been adversely diminished and eroded by such developments.
- 7.3.6. I am also cognisant that Policy SS 56 of the Development Plan states that the Planning Authority shall seek: *“to apply a presumption against development that would exacerbate ribbon development by extension or leading to the joining up of existing developed areas along public roads”* and that the National Planning Framework states that the: *“Irish countryside is, and will continue to be, a living and lived in landscape focusing on the requirements of rural economies and rural communities, while at the same time avoiding ribbon and over-spill development from urban areas and protecting environmental qualities”*.
- 7.3.7. Moreover, Appendix 4 of the Sustainable Rural Housing Guidelines defines ribbon development by way of example as 5 or more houses on one side of the road within a road frontage of 250m.
- 7.3.8. This arises in this situation and is exceeded beyond this to the west of the site.

- 7.3.9. As such the proposed development would inevitably, if permitted, perpetuate ribbon development on the southern side of the L6217-0 without any substantive and accepted reason to do so or to contravene Policy SS 56 Development Plan.
- 7.3.10. I further note that Section 2.19.12 of the Development Plan recognises that the visual amenity of many areas throughout the rural parts of the County, and especially in locations adjacent to settlements, have suffered significant adverse visual impacts from ribbon development. For example, it states that: *“such development damages the appearance of rural areas, detracts from the setting of town and villages and can sterilise back-lands, often hampering the planned expansion of settlements. Additionally, it can compromise access to farmlands and generate road safety problems”*. It goes on to define ribbon development as: *“four or more houses in a continuous row along a public road includes those houses constructed prior to 1st October 1964”*. Again, this is the situation in this case and the proposed development would perpetuate ribbon development at this location.
- 7.3.11. Based on the above I consider that the concerns raised by the Planning Authority in relation to ribbon development in their reasons for refusal and to their conclusions, to permit, the proposed development would be contrary to both Policy SS 53 and SS 56 of the Development Plan with no reasonable planning basis for further extension of a pattern of residential development in a rural area which is only permitted in exceptional circumstances which the applicant has failed to demonstrate.
- 7.3.12. In my view it is incumbent to note that the Planning Authority also considered that to permit the proposed development in such circumstance *“would materially contravene”* these stated Development Plan policies. In this regards, the provisions set out under Section 37(2)(a) of the Planning & Development Act, 2000, as amended, provides that the Board may in determining an appeal under this section of the Act decide to grant a permission for a proposed development even if the proposed development contravenes materially the Development Plan relating to the area of the Planning Authority to whose decision the appeal relates. It states: *“where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that”*
- “(i) the proposed development is of strategic or national importance”*

“(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned”....

- 7.3.13. If one or both are applicable, so as to permit the Board to grant permission for the proposed development sought, then the question to be asked and determined is whether a favourable decision should, in the circumstances, be made. If they do not apply, then the Board is precluded from granting permission.
- 7.3.14. In this case I consider that the proposed development is a type of development that is generally deemed to be only permissible in very limited and exceptional circumstances on ‘Zone 4’ land where the site very evidentially would add to an extension to an already significant linear ribbon incursion of dwellings with this incursion adding a significant suburban type character and blocking views of the open countryside it forms part of. It is also a type of development that does not inform the functional character of this rural landscape which is characterised by and large by a patch work of agricultural fields and rural related land uses.
- 7.3.15. I do however consider that the proposed development which essentially seeks planning permission for a private detached dwelling house and its associated works could not in any way be seen as being of strategic and/or of national importance.
- 7.3.16. Moreover, I do not consider that there are conflicting objectives in the Development Plan in relation to the visual amenities in terms of ribbon development in the open countryside through to the circumstances where such residential developments may be allowed. I therefore concur with the first and second reason of refusal given by the Planning Authority in their notification to refuse planning permission for the development sought under this application.

7.4. Road Safety

- 7.4.1. The Planning Authority in their third reason for refusal considered that the proposed development failed to demonstrate that the applicant could provide the necessary visibility splays from the proposed new entrance onto the local road in a manner that accorded with Table 7.4 and Table 7.5 of the Development Plan. By virtue of not doing so they considered that the proposed development, if permitted, would materially contravene Policy TC 12 of the Development Plan and in turn would endanger public safety by reason of a traffic hazard and obstruction of road users.

- 7.4.2. I am cognisant that Section 2.19.15 of the Development Plan clearly indicates that *“safe access to any new housing development must be provided, not only in terms of the visibility from a proposed entrance but also in terms of the impact on existing road traffic, through generation of stopping and turning movements”*. It also sets out that all applications are required to show the required visibility standards appropriate to the class of road as detailed in Tables 7.4 and Table 7.5 of the Development Plan. In addition to this, Policy SS 59 of the Development Plan requires that all 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 set out in Section 7.3.6 of the said plan.
- 7.4.3. In addition, Policy SS 60 of the Development Plan requires that new accesses are located so as to minimise the impact on existing roadside boundaries and Policy TC 12 which as said is referred to in the reasons for refusal states that the Planning Authority shall *“apply the visibility standards and vehicle dwell area requirements as set out in Tables 7.4 and 7.5 in accordance with the National Roads Authority Design Manual for Roads & Bridges (DMRB) for the national road network and to ensure that the standards set out in the Design Manual for Urban Roads & Streets (DMURS) apply to all urban roads & streets”*.
- 7.4.4. I consider that the above local planning policy provisions reasonable as they all essentially seek to ensure safe access onto the public road network through to, they require a certain minimum design requirement for sightlines and the like.
- 7.4.5. Having examined the documentation submitted with the application to the Planning Authority I consider that the applicant failed to demonstrate compliance with the above Development Plan requirements. As such the reasons given for the Planning Authority’s third reason for refusal are in my view reasonable and appropriate in the interest of road safety as well as minimising traffic hazards to other road users.
- 7.4.6. As part of the appeal submission additional clarity has been provided in order to demonstrate that the required sightlines can be provided in both directions from the proposed entrance. This is demonstrated by a revised site plan which also indicates that consent for setbacks have been provided with formal legal agreements to be submitted should permission be granted.

- 7.4.7. Whilst it may appear that sightlines can be achieved as per the revised site plan provided and having regard to consents from the landowners on either side to have their existing boundaries setback, I raise the following concerns based on inspecting the site. It is quite evident having inspected the site that the revised site plan submitted with the appeal is not based on a geo-survey of the existing road, roadside boundaries, ground levels and the like.
- 7.4.8. As such it is not portraying an accurate representation of the site context and its immediate surrounds which are crucial factors for determining whether or not the required sightline in either direction can be achieved in relation to the design of the access onto the public road.
- 7.4.9. In the absence of such details it is not possible in my view to determine that the required sightlines can be achieved for the proposed entrance onto a local road that despite the times in which the site inspection was conducted had a steady stream of traffic on it, particularly journeying in a westerly direction towards the old Dublin Road.
- 7.4.10. Of further concern, the details in terms of the actual physical boundary modifications proposed outside of the site's roadside boundary are lacking, irrespective of whether or not there are consents in place from the affected landowners.
- 7.4.11. Having inspected the site and having regard to the curving nature of the road to the east and west of the proposed site it is crucial that the minimum 75m sightline in either direction can be achieved so as to minimise any potential adverse road safety issue or traffic impact for road users and those who would be using the proposed entrance should permission be granted. In my view this has not been satisfactorily demonstrated by the applicant in the documentation submitted initially with the application itself and subsequent to this in the appeal submission to the Board.
- 7.4.12. The addition of another access point having regard to the proliferation of individual access points serving a multitude of dwellings to the west of the site and on the opposite side of the local road both in an easterly and westerly direction over a very short distance is a further concern. This is in addition to access points relating to agriculture including the access serving the field in which the site forms part of. This is located to the west of the site.
- 7.4.13. In this context the proposed development, if permitted in the form proposed, has the potential to result in conflict between road users at this point of the L6217-0. This

would be due to the additional manoeuvring of vehicles onto this road at a point where there is a proliferation of similar access points and road which links to the R166 to the east which in turn provides connection with the coastal settlements of Annagassan and Ballygassan.

- 7.4.14. Moreover, the documentation submitted with this application in my view fails to provide clarity on what impact, if any, the proposed new access, its associated roadside boundaries in order to achieve the required sightlines would have on existing natural features of interest along this road and it therefore cannot be considered to demonstrate that minimum required standards such as those sought under Policy TC 12 are achieved.
- 7.4.15. Of particular concern are the mature trees that exist in this boundary which are likely to be lost as part of the proposed roadside and access works. This is a cause of concern having regard to the fact that these trees are mature, of good quality and they are natural features that add to the attractiveness of this rural locality as appreciated from the public domain of the L6217-0.
- 7.4.16. On this concern I note that Policy SS 63 of the Development Plan seeks that new accesses are located having regard to both road safety but also having regard to the protection of such natural features.
- 7.4.17. Based on the above considerations should the Board be minded to grant permission for the proposed development sought under this application it may first wish to seek additional information to require a more detailed assurance that sightlines can be achieved from the proposed access and the modifications to the roadside boundaries are such that obstructions are permanently provided for. This design should work around the presence of the mature trees which should be protected and safeguarded.
- 7.4.18. In the absence of the same I am not satisfied that the third reason for refusal given by the Planning Authority in their notification to refuse planning permission has been overcome and in light of the above I concur with the Planning Authority that despite the low volume of traffic the proposed development would generate, if permitted, the proposed development as put forward in this application would endanger public safety by reason of a traffic hazard and obstruction of road users.

- 7.4.19. In relation to the Planning Authority's consideration in their third reason for refusal that the proposed development would materially contravene Policy TC 12 of the Development Plan.
- 7.4.20. I refer to my comments made in the previous section of this assessment on the matter of material contravention. On the matter of road safety and traffic hazard I again conclude that the proposed development could not be considered as being of strategic and/or of national importance. Further, I can find no conflicting objectives in the Development Plan in relation to these matters and it is clear based on the documentation provided with the application and on appeal to the Board that the minimum standards such as those set out under Policy TC 12 as well as others referred to in this section of my assessment have not been demonstrated. Should the Board be minded to refuse permission it would be more reasonable to conclude that the proposed development would be contrary to Policy TC 12 of the Development Plan as it is my view that this matter could be dealt with by way of additional information if the Board considered that the proposed development was otherwise acceptable.

7.5. Water and Drainage Matters

- 7.5.1. A potable water supply is available subject to the installation of a connection running along the roadside boundary of the site. There appears to be no capacity, connection or other concerns apparent or raised on file in relation to this infrastructure. I therefore raise no significant issue in this regard.
- 7.5.2. On the matter of effluent treatment and drainage, the documentation submitted with this application indicate that a wastewater treatment system, soil polishing filter and two soakaways are proposed.
- 7.5.3. The accompanying Site Characterisation Report indicates that the soil type in the area consists of gleys (acidic) over a subsoil of glaciomarine sediments which overlay Silurian Metasediments and Volcanics bedrock. The aquifer category is indicated as 'Poor' and the vulnerability is indicated as 'Low'. In addition, it indicates that the groundwater protection response is 'R1', i.e. the soils are acceptable subject to normal good working practice.
- 7.5.4. The site assessor comments include but are not limited to: 1) potential suitability of the site fair to good depending on site elevation; 2) potential targets: groundwater; and, 3) elevated groundwater. Their on-site comments include that the ground water flow

direction is easterly towards the sea, there is a deep ditch 70m to the east, there are no watercourse/streams within 50m through to no indicators of poor percolation.

- 7.5.5. In relation to the placement of the proposed polishing area it indicates that this is to be located where it can meet the minimum separation requirements from potential targets at risk in accordance with EPA Code of Practice 2009 and ground water protection responses for on-site systems for single houses.
- 7.5.6. The trial holes encountered silt/clay to a depth of 0.4m BLG, overlaying gravelly, sandy clay/silt with frequent pebbles, cobbles and occasional small boulders encountered 2m BLG where the trial hole terminated. In the last c.3m of the trial hole mottling and potential winter groundwater.
- 7.5.7. In relation to the percolation characteristics a T-Value of 42.44 and P-Test of 37.22 was recorded and that the analysis indicates good topsoil well suited for underlying a polishing filter as per the 'EPA Code of Practice on Wastewater Treatment and Disposal Systems Serving Single Houses', 2009.
- 7.5.8. This report concludes that the site is suitable for a packaged wastewater treatment system and soil polishing filter area with discharge to ground water.
- 7.5.9. I consider that the test results recorded indicate that the site is suitable for the same in a manner that accords with the EPA Code of Practice 2009 and that there is no evidence on which to substantiate that this would not be the case or that this component of the proposed development has the potential to be prejudicial to public health.
- 7.5.10. Based on the above, I raise no substantive concerns on the matter of foul drainage subject to standard conditions for these matters should the Board be minded to grant permission for the development sought under this application. However, I note that at the time of my inspection that the trial holes were covered over at the time of inspection and the site area was in its entirety in tillage use. As such my conclusions are based mainly on a desk top examination of the site and the documentation accompanying this application.
- 7.5.11. On the matter of surface water, two soakaways are proposed with these to be located behind the main roadside boundary to the west of the proposed access onto the local road.

- 7.5.12. I note that the Planning Authority's Interdepartmental Engineering Report raised concerns that the surface water from the site should be disposed of within the boundaries of the site and that it shall not discharge onto the public road and/or adjoining properties. This report concludes with a request for further details to be submitted showing how the surface water from the proposed site entrance/driveway will be prevented from exiting onto the public road as well as clarity to where this surface water would be disposed to.
- 7.5.13. Having examined the documentation submitted with the initial application I share these concerns and it would appear that these concerns formed the basis of the Planning Authority's fourth reason for refusal which also indicated in the absence of such information that to permit the proposed development would materially contravene policies WS 10 and WS 11 of the Development Plan.
- 7.5.14. On the matter of material contravention, I again reiterate previous conclusions that on the matter of drainage the proposed development is not of strategic and/or of national importance. Further I can find no conflicting objectives in the Development Plan on this matter with safeguarding of public health through to the protection of the environment. Including but not limited ground and surface water from contamination that may arise from the provision of such proprietary infrastructure being a core consideration with developments that would give rise to concerns and that are unable to robustly demonstrate that such issues would not arise being not favourably considered.
- 7.5.15. In relation to WS 10 of the Development Plan, it seeks to ensure that such all developments incorporate Sustainable Urban Drainage Systems (SuDS) measures and it seeks an integrated approach to drainage with development proposals being required to meet with the design criteria, adjusted to reflect local conditions, and material designs therein.
- 7.5.16. I consider that such an approach is reasonable having regard to the fact that SuDs is a total solution to rainwater management and that is also applicable to rural developments. It is a method of replicating the natural characteristics of rainfall runoff from a site with the overall objective of minimising stormwater runoff, collection and treatment, so to minimise the amount of runoff as close to source as possible,

containment, capturing of pollutants and to ensure a greenfield levels is achieved on site.

7.5.17. In relation to Policy WS 11 of the Development Plan it essentially seeks to achieve this. I therefore do not consider compliance with this policy unreasonable in the above context.

7.5.18. In response to the fourth reason of refusal it is argued that no further soakaways are required as the proposed surface will be permeable as such no revisions are proposed in order to deal with the concerns raised in relation to the lack of surface water details outlined above by the Planning Authority.

7.5.19. I tend to share the Planning Authority's concern on this point that the documentation provided does not provide adequate details to ensure without unequivocal doubt that the manner in which surface water would be managed, collected and treated on site would be consistent with best practices as well as accord with the requirements of Policies WS 10 and 11 of the Development Plan. I do not concur that this lack of clarity is of sufficient merit to deem that the proposed development would materially contravene these policies as this is a matter that could be dealt with by way of improved surface water design methodologies for the site should consideration be given to grant permission. This could be done by way of additional information should the Board be minded to grant permission or an appropriately worded condition with the later requiring a satisfactory response prior to any commencement of any development on site.

7.6. Residential Amenity Impact

7.6.1. I am satisfied that the proposed development would not give rise to any undue residential amenity impact for properties in its vicinity, in particular, the adjoining detached dwelling houses to the west by way of additional overshadowing, overlooking, diminishment of privacy and the like. Notwithstanding, any grant of permission should include appropriate conditions to ensure that during the construction phases nuisances are kept to a minimum and in accordance with best accepted practices for the same.

7.6.2. I would raise however a concern that the private amenity proposed to serve the proposed dwelling would be significantly overlooked from what appears to be a 2-storey residential structure that is located in close proximity to the western boundary

towards its southernmost end and to the rear of the adjoining dwelling house to the west that fronts onto the L6217-0. It was evident at the time of inspection that this structure was in such use, but the planning history is not clear on this matter.

- 7.6.3. Any grant of permission therefore would need to ensure that adequate screening measures are included so as to afford a level of private amenity space for future occupants of the proposed dwelling irrespective of the fact that it would appear that the adjoining properties that bound the western boundary of the site appear to be occupied and/or owned by the applicant's family members.

7.7. Screening for Appropriate Assessment

- 7.7.1. As set out in Section 5.4 of this report above the nearest Natura 2000 sites within a 15km radius are: 1) the Special Area of Conservation: Dundalk Bay SAC (Site Code: 000455), which lies c1.4km to the west of the site, at its nearest point; 2) the Special Protection Areas: Dundalk Bay SPA (Site Code: 004026) which also lies c1.4km to the west of the site, at its nearest point; and, 3) the Special Protection Areas: Stabannon Braganstown SPA (Site Code: 004091) which lies c4.5km to the east, at its nearest point.

- 7.7.2. In relation to the Special Area of Conservation: Dundalk Bay SAC, I note that its generic conservation objective is the maintenance of habitats and species within Natura 2000 sites at favourable conservation. The features of Interest in this SAC are:

- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]
- Perennial vegetation of stony banks [1220]
- Salicornia and other annuals colonizing mud and sand [1310]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]

A potential pathway could be via groundwater; however, in this case the application is accompanied by a site characterisation report which gives some indication of the drainage capacity of the site and its setting. It specifically deals with the matter of foul drainage and as discussed previously there is a lack of robust clarity on the matter of

surface water drainage to the satisfaction of the Planning Authority and in accordance with best practice.

Notwithstanding, I am satisfied having regard to the ample separation from the site to this sensitive site, ground conditions, the lack of any hydrological link between the two through to the proposed building not being contiguous to any water course together standard best practice construction methods and operational activity if planning permission were to be granted that these factors would control any potential source of pollution risk from the site and this SAC.

7.7.3. In relation to the Special Protection Areas: Dundalk Bay SPA, I note that its generic conservation objective is the maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level. The features of interest in this SPA are:

- Great Crested Grebe (*Podiceps cristatus*) [A005]
- Greylag Goose (*Anser anser*) [A043]
- Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]
- Shelduck (*Tadorna tadorna*) [A048]
- Teal (*Anas crecca*) [A052]
- Mallard (*Anas platyrhynchos*) [A053]
- Pintail (*Anas acuta*) [A054]
- Common Scoter (*Melanitta nigra*) [A065]
- Red-breasted Merganser (*Mergus serrator*) [A069]
- Oystercatcher (*Haematopus ostralegus*) [A130]
- Ringed Plover (*Charadrius hiaticula*) [A137]
- Golden Plover (*Pluvialis apricaria*) [A140]
- Grey Plover (*Pluvialis squatarola*) [A141]
- Lapwing (*Vanellus vanellus*) [A142]
- Knot (*Calidris canutus*) [A143]

- Dunlin (*Calidris alpina*) [A149]
- Black-tailed Godwit (*Limosa limosa*) [A156]
- Bar-tailed Godwit (*Limosa lapponica*) [A157]
- Curlew (*Numenius arquata*) [A160]
- Redshank (*Tringa totanus*) [A162]
- Black-headed Gull (*Chroicocephalus ridibundus*) [A179]
- Common Gull (*Larus canus*) [A182]
- Herring Gull (*Larus argentatus*) [A184]
- Wetland and Waterbirds [A999]

7.7.4. There is no direct connection between the appeal site which is used for tillage and with the feeding or otherwise of any of the above species but given the proximity between the two it would not be uncommon that such a wide range of birds may decide to feed where opportunities present themselves outside of the physical boundaries of the SPA itself. Notwithstanding, I do note that it would appear that the features of interest are wetland and water birds. The site itself appears to be one of good drainage characteristics with no waterbody/waterbodies within or adjoining it.

7.7.5. In relation to the Special Protection Areas: Stabannon Braganstown SPA which lies c4.5km to the east, I note that its generic conservation objective is to maintain or restore the favourable conservation condition of the Greylag Goose (*Anser Anser*) (Bird Code A043).

7.7.6. There is no direct connection between the site itself and the Greylag Goose (*Anser Anser*) (Bird Code A043), there is a significant lateral separation distance between the two alongside a changing ground condition context.

7.7.7. Having regard to the modest nature, scale and extent of the proposed development, the significant lateral separation distance between the site and the said Natura 2000 sites; the lack of any evidence that would support connectivity between the them and the site itself, the demonstrated capacity of the soils on site to accommodate surface water runoff and wastewater treatment within its confines in a manner that accords with best practice, I am of the opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect,

either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

8.1. I recommend that planning permission be **refused**.

9.0 Reasons and Considerations

1. Having regard to the proliferation of one-off housing in this rural location, to the number of similar development permitted within the family landholding, the location of the site within an area designated an 'Area under Strong Urban Influence' in Louth County Development Plan, 2015 to 2021, to the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities and to the National Policy Objectives of the National Planning Framework, which seek to manage the growth of areas that are under strong urban influence to avoid over-development and to ensure that the provision of single housing in rural areas under urban influence are provided based upon demonstrable economic or social need to live in a rural area, it is considered that either applicants come within the scope of the housing need criteria as set out in the relevant local through to national planning policy provisions.

The proposed development, in the absence of any identified locally based economic through to social need for a dwelling house at this location, would contribute to the encroachment of random rural development in an area of open countryside where there is a proliferation of such building types and it would militate against the preservation of the rural environment through to the efficient and sustainable provision of public services and infrastructure.

The proposed development would, thus, be contrary to the policies set out in the National Planning Framework and the Development Plan for this type of development, in particular National Policy Objective 19 of the National Planning Framework which seeks to facilitate the provision of housing based on the core consideration of demonstrable economic or social need to live in a rural area. To permit the proposed development would be contrary to the proper planning and sustainable development of the area.

2. It is the policy of the Planning Authority as set out in the Louth County Development Plan, 2015 – 2021, to have a presumption against and seeks to control ribbon development. This is provided for under Policy SS 53 and SS 56, the provisions of which are considered to be reasonable.

The proposed development would be in conflict with these policies having regard to when it would be considered in conjunction with existing development in the vicinity of the site, in particular adjoining and neighbouring the site to the west which are characterised by a long linear row of residential development addressing the southern side of the 'Maine Way' (Note: L6217-0), as well as on the opposite side of this local road, it would consolidate and contribute to the build-up of ribbon development in an open rural area where this type of development has significantly eroded the intrinsic visual qualities and amenities of this rural landscape as appreciated from the public domain alongside reduced available high quality agricultural land from productive use. This would militate against the preservation of the rural environment as well as lead to demands for the provision of further public services and community facilities in a locality where it is not economically viable to provide them as well as their provision would further diminish the open countryside character of this rural land by reinforcing the suburban residential character of these *ad hoc* dwellings.

The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

Patricia-Marie Young
Planning Inspector - 15th day of June, 2020.