



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308347-20

---

<b>Development</b>	House
<b>Location</b>	Glaspistol, Clogherhead, Co Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	20552
<b>Applicant(s)</b>	Brian Gargan.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Brian Gargan.
<b>Observer(s)</b>	Councillor Tom Cunningham. Fergus O' Dowd TD
<b>Date of Site Inspection</b>	19 <sup>th</sup> of April 2021.
<b>Inspector</b>	Stephanie Farrington

## 1.0 Site Location and Description

- 1.1. The appeal site is located in a rural area circa 1.6km to the south west from the centre of Clogherhead Village. The site is located on the eastern side of the Local Road L6281 in the townland of Glaspistol. Access to the site is provided via an existing access lane which serves the adjacent 2 residential properties.
- 1.2. The appeal site is square in shape, has a stated area of 0.38ha forms part of a larger agricultural landholding. The site is currently in agricultural use.

## 2.0 Proposed Development

- 2.1. The proposed development comprises construction of a one and a half storey single storey dwelling house, installation of a proprietary wastewater treatment system/percolation area together with associated site works.
- 2.2. External finish comprise of a rendered plaster finish with sections of natural stone. Roof material is proposed to be slate.
- 2.3. Access to the property is proposed via an existing right of way from the public road. The access lane which serves an existing dwelling will be extended to provide access to the appeal site.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Louth County Council issued a notification of decision to refuse permission for the proposed development in accordance with the following reasons and considerations:  
*“The proposed development by reason of its distance from the public road and its location to the rear of two existing dwellings would constitute inappropriate backland development which would result in an intrusive encroachment of physical development into this open rural landscape. The proposed development would militate against the preservation of the rural environment and would set an undesirable precedent for other such development in the vicinity. Such development would be contrary to the objective and policy SS26 of the Louth County Development*

*Plan 2015-2021 which requires that the siting of a proposed dwelling is such that it does not detract from the rural character of the landscape or the visual amenities of the area. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area”.*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The planner’s report sets out a recommendation to refuse permission for the proposed development. Key points raised within the planner’s report include the following:

- The applicant is a long-standing resident of the local rural area who has a rural housing need.
- Proposal is unacceptable as it constitutes backland development due to its location from the public road and positioning behind 2 existing dwellings.
- The construction of the dwelling together with the extent of works to facilitate an access roadway to the subject site would detract from the rural character of the landscape and the visual amenities of the area.
- Proposal is considered acceptable in terms of scale, form, proportion, and orientation with regard to the criteria set out under Section 2.20-2.20.8 of the County Development Plan.

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

Infrastructure Report dated 2<sup>nd</sup> of September 2020 – no objection to the proposed development subject to condition.

Environment Report dated 18<sup>th</sup> of August 2020 – no objection to the proposed development subject to condition.

## **3.3. Prescribed Bodies**

Irish Water – no objection to proposal.

### 3.4. Third Party Observations

3.4.1. 1 no. submission was received by Louth County Council within the statutory timeframe from Councillor Tom Cunningham, 4 Oriel Cove, Clogherhead, Drogheda, Co. Louth. The following provides a summary of the points raised:

- The applicant is the sole helper on his father's farm;
- The applicant is a valuable member of Clogherhead RNLI and must be resident within a specified radius for emergency call outs;
- The applicant is an active member of the local community;

### 4.0 Planning History

4.1.1. None relevant to the appeal site.

Adjoining site to the west:

4.1.2. PA Ref 14/370 – planning permission granted in March 2015 for a 1 1/2 storey design dwelling, detached domestic garage, installation of wastewater treatment system/soil polishing filter, construction of new shared entrance to proposed dwelling and existing dwelling granted permission under Ref. 06/353 and associated site works.

### 5.0 Policy Context

#### 5.1. Development Plan

##### **Louth County Development Plan 2015-2021**

5.1.1. The site is located within Development Zone 4 where it is an objective *“To protect for a greenbelt area around the urban areas of Dundalk, Drogheda and Ardee”*.

5.1.2. It is an objective of the Council to preserve a clear distinction between the built up areas of settlements and the surrounding countryside. In this regard, greenbelt areas are proposed surrounding the main urban settlements of Dundalk, Drogheda and Ardee.

5.1.3. Policy RD37 “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.

\*Refer to Section 2.19.1 for Qualifying Criteria

5.1.4. Section 2.19.1 – Qualifying Criteria 1 - i.e. *“Applicants are the son or 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”*.

5.1.5. Policy SS25- To require that applications for one-off houses demonstrate compliance with the Development Management Assessment Criteria for One-Off Rural Housing as detailed in Section 2.19.7.

5.1.6. Section 2.19.7 sets out development management criteria for one-off rural housing applications. Relevant criteria include the following:

- The cumulative visual impact and pattern of development of existing houses and permissions granted in the vicinity of the site,
- The cumulative visual impact, pattern of development and number of houses developed and granted permission on the landholding,
- Breaking the skyline and visual impact,

5.1.7. Policy SS26 – To require that the design and siting of the proposed dwelling is such that it does not detract from the rural character or the visual amenities of the area. In this regard, applicants will be required to demonstrate that the proposal is consistent with the document Building Sensitively and Sustainably in County Louth and the guidelines contained in Section 2.20.

5.1.8. Policy SS66- To require that applications for one-off dwellings in rural areas demonstrate compliance with the requirements outlined in 2.20 to 2.20.8 of this Plan.

5.1.9. Section 2.20 Rural Housing Design and Siting Criteria

## 5.2. Sustainable Rural Housing Development Guidelines 2005

- 5.2.1. The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas.'
- 5.2.2. County Louth is located within an area designated as being 'Rural Areas under Strong Urban Influence' within these Guidelines.
- 5.2.3. Section 3.3.3 deals with 'Siting and Design'.

## 5.3. National Planning Framework

- 5.3.1. National Policy Objective 15: Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.
- 5.3.2. Policy Objective 19: '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 housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
  - In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

#### 5.4. Natural Heritage Designations

The site is located within or adjacent a designated Natura 2000 site. The appeal site is located 1.7km to the west of the Clogher Head SAC (Site Code 001459). The Boyne Coast and Estuary SAC (Site Code 001957) is located c2.3km to the south east and the Boyne Estuary SPA (Site Code 004080) is located c.3.9km to the south east.

#### 5.5. EIA Screening

Having regard to the nature of the proposed development comprising a single dwelling house and associated works, 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

6.1.1. A first party appeal was submitted in respect of the decision of Louth County Council to refuse planning permission. The grounds of appeal can be summarised as follows:

##### Site Suitability

- The proposal will not have a detrimental impact on the visual amenities of the area.
- The site represents orderly development given its proximity to existing dwelling.
- Access laneway is a private right of way and will be extended to accommodate the proposal.
- The planning authority have not applied the regarding backland developments in immediate area (PA Reference: 10/334, 15/702, 19/297, 18/376, 17/122).
- No definition of backland development is provided within the Louth County Development Plan 2015-2021.

### Housing Need

- Policy SS29 does not apply as applicant's father does not own any land in Development Zone 5.
- Section 3.9 Residential Development in Rural Areas recognises importance of accommodating local housing need.
- Policy RD 29 seeks to apply presumption for bone fide applicants.

## **6.2. Planning Authority Response**

6.2.1. Louth County Council provided the following response to the grounds of appeal:

### Site Suitability

- The site is not considered suitable as the proposed development represents a further protrusion of development along the laneway into the surrounding countryside.
- The site is not considered to be a natural site choice due to the level of works necessary to accommodate proposal including new access from laneway and new landscaping for the purpose of integration.
- Proposal could set a precedent for further extension of the laneway and possibility of further development.
- The proposal is not reflective of the dispersed rural settlement pattern within this area.

### Inconsistencies in Council's approach

- Response is made to each of the planning precedents cited.
- Development on backland sites is uncharacteristic of traditional rural settlement patterns and contributes to the erosion of the character of the countryside areas and the visual amenities of the area.

### Housing Need

- The applicants rural housing need is not disputed. In accordance with the requirements of Policy RD20 of the County Development Plan factors



concerning site and design must be met in addition to the applicant being able to demonstrate a rural housing need.

The planning authority request the Board to uphold the decision to refuse permission for the development.

### 6.3. Observations

6.3.1. Observations on the appeal were received from Councillor Tom Cunningham and Fergus Dowd TD.

6.3.2. The following provides a summary of the key issues raised within the observation from Councillor Tom Cunningham:

- Applicant is a native of the area and a vital member of the community.
- Applicant is the sole helper on his father's farm and currently resides with his father.
- The applicant is a valuable member of the RNLI and must reside within a short, specified radius.
- The applicant is an active member of the community.
- Requests that consideration is given to the new Draft Louth County Development Plan which allow backland development in rural policy zones 1 and 2 where the applicants site has been owned by the family for at least 15 years and the landholding is at least 1.5 hectares.

6.3.3. The following provides a summary of the key issues raised within the observation from Fergus Dowd TD:

- Support that the applicant has a rural housing need, was born and raised in the community that he wishes to build and there is a social need for him to remain in the area by way of his active membership in the RNLI.
- The lack of available properties in hr Clogherhead area to suit the family needs are evident with house prices exceeding the national average.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Siting and Visual Impact
- Compliance with Rural Housing Policy
- Other Issues
- Appropriate Assessment

### 7.2. Siting and Visual Impact

7.2.1. The Planning Authority's reason for refusal outlines that the proposed development by reason of its distance from the public road and its location to the rear of two existing dwellings would constitute inappropriate backland development which would result in an intrusive encroachment of physical development into the open rural landscape, would militate against the preservation of the rural environment and would set an undesirable precedent for other such development in the area.

7.2.2. In this regard it is stated that the proposal would be contrary to Policy SS26 of the Louth County Development Plan 2015-2021 which requires that the siting of a proposed dwelling is such that it does not detract from the rural character of the landscape or the visual amenities of the area.

7.2.3. The appeal site is located in a rural area circa 1.6km to the south west from the centre of Clogherhead Village. The site is currently undeveloped, in agricultural use and located to the rear of 2 existing residential properties. Boundary treatment includes a post and rail fence along the northern and western site boundaries and the southern and eastern boundaries are undefined. The site is located within Development Zone 4 where it is an objective *"To protect for a greenbelt area around the urban areas of Dundalk, Drogheda and Ardee"*.

7.2.4. A case is made within the first party appeal that the proposal will not have a detrimental impact on the visual amenities of the area and the development would

represent an orderly extension to existing residential development. It is furthermore stated that no definition for backland development is provided within the Louth County Development Plan 2015-2021.

- 7.2.5. The site is located to the side and rear of existing dwellings and set back from the public road by c.150m. While I note that there is no specific reference to 'backland' development relative to one-off housing in the rural area, regard is had to Section 2.20 Rural Housing Design and Siting Criteria and to Policy SS 26 as noted in the Policy Section above. This includes in Section 2.20.2: *Set back from the road, retain the frontage and other boundary hedgerows and treatments*. Having visited the site and considered the application details, I am satisfied that the development proposal constitutes backland development.
- 7.2.6. I note the reference in the appeal to policy relating to backland development within greenbelt areas within the Draft Louth County Development Plan 2021-2026. In this regard I note that the operative Development Plan for the area is the Louth County Development Plan 2015-2021. The contents of the Draft Louth County Development Plan do not apply.
- 7.2.7. The proposal comprises a 1.5 storey dwelling with a roof ridge height of 7.3m. Given the location of the proposed dwelling to the rear of existing properties and its distance from the public road (c.150m), it is my view that the proposal would result in an undesirable form of backland development which would be out of character with the established pattern of development in the surrounding area and would result in an intrusive encroachment of physical development into the open rural landscape. I consider that such development would militate against the preservation of the rural environment and would set an undesirable precedent for other such development in the vicinity.
- 7.2.8. I furthermore share the concerns of the planning authority in relation to the level of intervention required to develop the site and to integrate the dwelling into landscape. Policy SS26 of the Louth Development Plan requires that the design and siting of a proposed dwelling is such that it does not detract from the rural character of the landscape or the visual amenities of the area. The site is not considered to be a natural site choice due to the level of works necessary to accommodate proposal including new access from laneway and new landscaping for the purpose of

integration. This level of intervention is contrary to the guidance on siting of residential dwellings as set out within Section 2.20 of the Louth County Development Plan which seeks to naturally set developments within a landscape.

- 7.2.9. Having regard to the above reasons and considerations I recommend that permission is refused for the proposed development broadly in accordance with the Planning Authority's reason for refusal.

### 7.3. **Compliance with Rural Housing Policy (New Issue)**

- 7.3.1. With regard to compliance with rural housing policy the proposal should accord with the provisions of the National Planning Framework, Sustainable Rural Housing Guidelines 2005 and the provisions of the Louth County Development Plan 2015-2021 as it relates to settlement in a rural area.
- 7.3.2. The site is located in an area that is identified as being under strong urban influence in the Sustainable Rural Housing Guidelines and which is designated as Development Zone 4 in the Louth County Development Plan where it is an objective *"To protect for a greenbelt area around the urban areas of Dundalk, Drogheda and Ardee"*.
- 7.3.3. The Sustainable Rural Housing Guidelines define rural areas under strong urban influence as those within proximity to the immediate environs or close commuting catchment of large cities and towns. Circumstances for which a genuine housing need might apply include persons who are an intrinsic part of the rural community and persons working full time or part time in rural areas. In addition, Policy Objective 19 of the National Planning Framework requires that, in rural areas under urban influence, the core consideration for the provision of a one-off rural house should be based on the demonstrable economic or social need to live in the rural area.
- 7.3.4. Policy RD37 allows for limited development in the Development Zone 4 area including one-off housing, subject to compliance with Local Needs Criteria (Section 2.19.1 refers to the Qualifying Criteria). Section 2.19.1 of the County Development Plan set out the Qualifying Criteria under which applications for one-off rural houses can be considered. The applicant is applying under qualifying criteria 1 – i.e. *"Applicants are the son or 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”.*

7.3.5. In the current case, the applicant is the son of the landowner. Correspondence is submitted in conjunction with the appeal stating that the applicant does not own a house and has not owned a house in the rural area of the county for a minimum of 5 years prior to the making of the application. The following documentation is submitted in support of the application:

- Land Registry Certificate
- Applicants Birth Certificate
- Letter from Parish priest – Parish of Clogherhead and Walshestown
- School Records – Callystown National School, Almondstown, Clogherhead, Co. Louth
- Voter number
- Map detailing qualifying residence at Almondstown and proposed site location – the applicants home address is Almondstown, which is c. 1km from the appeal site.
- Applicant’s father is a part-time farmer and the applicant assists on the farm.
- Utility Bills
- Letter confirming applicant has not owned a house within the rural area of the county for a minimum of 5 years
- Letter from RNLI confirming that applicant is a member of the team at Clogherhead RNLI station. Further elaboration on the applicant’s role within the RNLI is provided within the 1<sup>st</sup> party appeal. This details that members must reside within the immediate local area of the station to be available for search and rescue operations requested by the Irish Coastguard.

7.3.6. The planning authority, in carrying out their assessment of the case, was satisfied that the applicant met the qualifying criteria for Development Zone 4 as set out within the Louth County Development Plan 2015-2021. I agree that the applicant complies with Development Plan requirements in this regard.

- 7.3.7. However, notwithstanding compliance with the qualifying criteria set out within the Louth County Development Plan 2015-2021 I note that Policy Objective 19 of the National Planning Framework requires that the core consideration for the provision of a one-off rural house be based on the demonstrable economic or social need to live in the rural area.
- 7.3.8. From review of the application documentation details I have no evidence to substantiate that the applicant has a demonstrable economic or social need to live in this rural area. While it is clear that the applicant has family links to the area and the applicant's role in the RNLI is noted, I do not consider that this constitutes a demonstrable social or economic need for a rural dwelling. Having regard to the proximity of the site to nearby towns and villages including Clogherhead, the applicant has not demonstrated how his housing need could not be satisfactorily met in these urban settlements.
- 7.3.9. I am not satisfied, therefore, that the applicant's need for a house at this location complies with National Policy Objective 19 of the National Planning Framework which seeks to facilitate the provision of single housing in the countryside, in rural areas under urban influence, based on the core consideration of demonstrable economic or social need to live in a rural area and the viability of nearby urban areas towns and villages. I recommend that permission is refused on this basis.
- 7.3.10. This is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out above, it may not be considered necessary to pursue the matter.

#### 7.4. **Other Issues**

##### Services

- 7.4.1. It is proposed to connect the dwelling to the existing mains water supply. The wastewater would be treated onsite by installing a 6PE O'Reilly Oakstown BAF WWTP and percolation system comprising a 75m<sup>2</sup> Sand Polishing Filter. Surface water run-off would be diverted to a soakaway, located to the south-west of the dwelling. Having assessed the details of the site characterisation tests against the EPA Code of Practice, Wastewater Treatment Systems for Single Houses (2010), I am satisfied that the that the results are in accordance with EPA guidance and that

the system proposed will be adequate. I note that the Planning Authority had no objection to the wastewater treatment system proposed.

- 7.4.2. As the existing pattern of residential development in proximity to the site is dispersed and rural in nature, each site is served by individual wastewater treatment systems. Whilst it is not addressed in the application, I would have some concerns regarding the cumulative impact of individual on-site waste-water treatment systems in the area. However, having regard to the substantive issues identified in relation to the principle of the proposal, I do not consider it necessary to include a reason for refusal.

## 7.5. **Appropriate Assessment**

- 7.5.1. The appeal site is located c.1.7km to the west of the Clogher Head SAC (Site Code 001459). The Boyne Coast and Estuary SAC (Site Code 001957) is located c.2.3km to the south east and the Boyne Estuary SPA (Site Code 004080) is located c.3.9km to the south east.
- 7.5.2. There is no direct pathway between the site and these Natura 2000 sites. Having regard to the nature and scale of the development and its location relative to European sites, I consider it is reasonable to conclude on the basis of the information on file, which I consider to be adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on a European site.

## 8.0 **Recommendation**

- 8.1. I recommend that planning permission is refused in accordance with the following reasons and considerations.

## 9.0 Reasons and Considerations

1. The development, by reason of its distance from the public road, would constitute inappropriate backland development which would result in an intrusive encroachment of physical development into this open rural landscape. To permit the development would militate against the preservation of the rural environment and would set an undesirable precedent for other similar inappropriate development in the vicinity in this rural area and would be contrary to the green belt zoning objectives pertaining to the site and Policy SS26 of the Louth County Development Plan 2015-2021. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site within an area under strong urban influence as identified in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005, and to National Policy Objective 19 of the National Planning Framework, adopted by the Government, in relation to rural areas under urban influence, such as in the current case, which states that it is policy to “facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area...having regard to the viability of smaller towns and rural settlements”, the Board is not satisfied that the applicant has provided sufficient justification for a rural housing need to live in this rural area, or that the applicant’s housing need cannot be satisfied in a smaller town or rural settlement, particularly in light of the site’s proximity to the village of Clogherhead.

The proposed development, in the absence of any definable or demonstrable need for the house, would contribute to the encroachment of random rural development in the area, and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, contravene the Ministerial Guidelines and be contrary to national policy and be contrary to the proper planning and sustainable development of the area.



Note: 'This is a new issue in the appeal and the Board may wish to seek the views of the parties.'

---

Stephanie Farrington  
Senior Planning Inspector

23<sup>rd</sup> of April 2021