



An  
Bord  
Pleanála

## Inspector's Report ABP-308802-20

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<b>Development</b>	Permission is sought for a new entrance onto the R168 together with all associated site works.
<b>Location</b>	Hill of Rath, Tullyallen, County Louth.
<b>Planning Authority</b>	Louth County Council.
<b>Planning Authority Reg. Ref.</b>	P.A. Ref. No. 20755.
<b>Applicant(s)</b>	Eoin Walsh.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party.
<b>Appellant(s)</b>	Eoin Walsh.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	19th day of December, 2020.
<b>Inspector</b>	Patricia-Marie Young.

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	4
3.3. Prescribed Bodies .....	5
3.4. Third Party Observations .....	5
4.0 Planning History.....	6
5.0 Policy & Context .....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations .....	7
6.0 The Appeal .....	8
6.1. Grounds of Appeal .....	8
6.2. Planning Authority Response .....	9
7.0 Assessment.....	9
8.0 Recommendation.....	16
9.0 Reasons and Considerations.....	17

## 1.0 Site Location and Description

- 1.1. The irregular shaped appeal site has a stated 0.3236ha area and it is located in the 'Hill of Rath' Townland which lies on the northernmost outskirts of the village of Tullyallen, in County Louth. The site is located on the northern side of the R168, Regional Road, c0.5km from the village church of Tullyallen (Note: Mellifont Parish Church) and c0.8km to the west of the M1, both as the bird would fly. On the opposite side of the R168 are the residential developments of Moore Court and Ardá Raith Wood.
- 1.2. The site contains a detached dwelling house that is served by a laneway that links to a shared entrance onto the L-6322-0 Class 2 local road. This shared entrance appears to serve another detached dwelling located on the northern side of the entrance as well as some agricultural land that lies to the north and south of the aforementioned laneway. In addition, immediately alongside the southern side of the shared entrance there is another entrance serving a detached dwelling.
- 1.3. The southern boundary of the site aligns with the R168. I observed that this is a heavily trafficked road and at the location of the proposed new entrance the maximum speed limit applies. At its closest point, the southern roadside boundary is situated c106meters to the east of the R168's T-junction with the aforementioned L-6322-0 and c130m to the east of its junction Watery Lane.
- 1.4. The southern boundary also includes a deep drainage ditch and some recent planting behind a mature hedgerow that is setback from the roadside carriage by a deep grass verge.
- 1.5. The land to the north of the R168 and to the east of the L-6322-0 is characterised by strong linear residential development and a proliferation of single entrances onto the local road network.
- 1.6. Photographs taken during my inspection of the site and its setting are attached to file.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a new site entrance to serve an existing dwelling onto the R168, Regional Road together with all associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Planning permission was **refused** for the following stated reasons:

- “1. *The proposed development, by reason of its location along the R168 Drogheda – Collon Protected Regional Route, is contrary to Policy TC 10 of the Louth County Development Plan 2015-2021 which restricts the creation of new accesses onto Protected Regional Routes, would be prejudicial to road safety and the proper planning and sustainable development of the area.*
2. *The applicant cannot provide the required minimum sight visibility of 4.5m setback x 125m in each direction at the entrance of the proposed development with the public road within the boundaries of the site. As such, the development would be prejudicial to road safety, contrary to Policy TC12 of the Louth County Development Plan 2015-2021 and the proper planning and sustainable development of the area.*
3. *The applicant has failed to provide adequate information to demonstrate how surface water will be disposed of within the site and what works are required to the existing open drain to facilitate the proposed entrance. As such, the development is contrary to WS 10 of the Louth County Development Plan 2015-2021 which seeks to ensure the incorporation of Sustainable Urban Drainage Systems (SuDS) measures in all development and the proper planning and sustainable development of the area.”*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planning Officer’s report, dated the 4<sup>th</sup> day of November, 2020, is the basis of the Planning Authority’s decision and it includes the following comments:

- Having regard to the provisions of Policy TC 10 of the Development Plan the general principle of the proposed development is not acceptable.
- The subject dwelling benefits from an existing access onto the public road.

- The state of repair of the entrance and the considerable maintenance cost for it are not exceptional circumstances.
- Reference is made to an existing open drain running along the southern boundary of the site; however, concern is raised that there is no reference to this in the submitted plans and no details are provided on how the entrance is to be constructed over this drain.
- Required sightlines are not demonstrated.
- Recommends refusal.

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

**Infrastructure:** This report includes the following comments:

- An old gate set into the hedge line where proposed access is to be constructed is noted. It is believed that this gate is placed at this location to give the impression of an old gate being present at some stage. There is no evidence to support that there was ever a gate opening onto this regional road at this location.
- There is a large free-flowing open drain to the house side of this gate. This is not indicated in the submitted drawings or how the applicant proposes to traverse it.
- A refusal of planning permission is recommended as it would be contrary to the Development Plan to permit a new entrance onto Regional Route R168 Drogheda-Collon Road.
- The subject dwelling already benefits from a shared entrance onto the L-6322-0 granted under P.A. Ref. No. 04/1768. Under this parent permission an entrance onto the R168 was not supported either.

### 3.3. **Prescribed Bodies**

3.3.1. None.

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

3.4.1. None.

## 4.0 Planning History

### 4.1. Site

- 4.1.1. **P.A. Ref. No. 16337:** Permission was **granted** subject to conditions for a development described as retention of the location of the dwelling house and site boundaries as constructed under original planning permission P.A. Ref. No. 04/1768.

## 5.0 Policy & Context

### 5.1. Development Plan

- 5.1.1. The appeal site lies in a rural area, zoned 'Zone 6' in the Louth County Development Plan, 2015 to 2021, which under Section 3.10.6 has a stated objective: *"to preserve and protect the heritage and cultural landscape of the UNESCO World Heritage Site of Bru na Boinee, the UNESCO (Tentative) World Heritage Site of Monasterboice and the Site of the Battle of the Boyne"*.
- 5.1.2. Policy RD 41 of the Development Plan is relevant. It states: *"to permit only limited development appropriate to these heritage and cultural landscapes including only essential resource and infrastructure based developments and developments necessary to sustain the existing local rural community"*. It sets out a list of such development. This does not include the type of development sought under this application.
- 5.1.3. Section 7.3.5 of the Development Plan is relevant. It states: *"the Council considers it necessary to restrict new accesses and the intensification of existing accesses along national and certain protected regional routes in order to preserve their carrying capacity, their life span and in the interest of traffic safety"*. It also indicates that the details of these roads are set out under Table 7.3 in relation to regional routes.
- 5.1.4. Table 7.3 of the Development Plan is relevant. This table sets out 'Protected Regional Routes' together with restrictions and exemptions on access. It includes Route R168 Drogheda – Collon. In relation to restrictions, it states: *"no new access or intensification of existing access"* and it also sets a list of exemptions.

- 5.1.5. Policy TC 10 of the Development Plan is relevant. It states: *“to prohibit the creation of new accesses or intensification of existing accesses onto National Routes and Protected Regional Routes as set out in Tables 7.2 and 7.3”*.
- 5.1.6. Table 7.4 of the Development Plan is relevant. It sets out the minimum visibility standards for Protected Regional Routes.
- 5.1.7. Policy TC 12 of the Development Plan is relevant. It indicates that the requirements set out under Table 7.4 and 7.5 of the Development Plan will be applied in accordance with the National Roads Authority Design Manual for Roads & Bridges (DMRB) for the national road network to ensure that the standards set out in the Design Manual for Urban Roads & Streets (DMURS) apply to all urban roads and streets.
- 5.1.8. Policy WS 10 of the Development Plan is relevant. It indicates that the Planning Authority will seek to ensure the incorporation of Sustainable Urban Drainage Systems in all developments and that these measures will be mandatory.
- 5.1.9. Section 2.19.17 of the Development Plan is relevant. It recognises that the accumulated effect of the removal of hedgerows to facilitate one-off houses in rural areas can result in a very significant loss of habitats, flora and fauna as well as detract seriously from the aesthetic value of the landscape.
- 5.1.10. Policy SS 63 of the Development Plan is relevant. It states: *“to require that new accesses are located having regard to both road safety and the protection of existing roadside hedgerows, trees and boundaries”*.
- 5.1.11. Policy SS 64 of the Development Plan is relevant. It states: *“to require, where it is necessary to modify or remove the existing roadside boundary in the interest of traffic safety, that the new boundary is located behind the visibility sight line and that a new boundary consistent with the nature and character of the area is planted behind the visibility sight line”*.

## 5.2. Natural Heritage Designations

- 5.2.1. The nearest European sites are the River Boyne & River Blackwater SAC (Site Code: 002299) which is located c0.7km to the south west of the site and the River Boyne & River Blackwater SPA (Site Code: 004232) which is situated c1.7km to the south of the site, both as the bird would fly.

### **5.3. EIA Screening**

- 5.3.1. This proposal consists of a modest in nature, scale, and extent development which essentially consists of the provision of an entrance, drive and all associated works serving an existing dwelling house.
- 5.3.2. There is significant development between the subject site and the nearest European site which also includes development served by public drainage and water infrastructure. As such the propose development sought under this application would not result in a real likelihood of significant effects on the environment even given its proximity to the two European sites referred to under Section 5.2.1 above.
- 5.3.3. I therefore consider that 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. This First Party Appeal can be summarised as follows:
- There has been significant development in the local area including the provision of a number of new entrances onto the R168.
  - There is precedent in the neighbourhood for this type of development and a number of references are referred to including where the Board made determinations on similar developments by way of appeals.
  - The additional traffic generated by the proposed development would not result in the creation of a traffic hazard.
  - The applicant could have addressed the matters of concern relating to sightlines and drainage by way of a further information request. The Planning Authority did not give the applicant the opportunity to do so.
  - The current access to the site is owned by a family member and not under the ownership of the applicant.



- The applicant has had issues with access down this lane in the past and is concerned that this will escalate into significant issues in the future. As such the dwelling could become landlocked if access is denied.

## 6.2. Planning Authority Response

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

- The R168 is a protected regional route under the Development Plan and under the said plan it is policy of the Planning Authority to prohibit the creation of new accesses or intensification of existing accesses onto this route (Note: Policy TC10; Tables 7.2 and 7.3). Whilst Policy TC10 provides exceptions none are applicable.
- As the principle of the development is not acceptable it was not considered appropriate to request further information on the matter of sightlines.
- The second refusal reason includes a 'typo' and that it should read that the required sight distance is 215m in each direction by a 3m setback.
- As the principle of development was not deemed to be acceptable it was not considered appropriate to request further information on the matter of drainage.
- The permitted entrance for the subject dwelling house was agreed under the parent grant of permission and to permit a deviation from this grant of permission would effectively undermine local planning provisions and give rise to an undesirable precedent for other similar developments.

## 7.0 Assessment

7.1. This is a First Party Appeal against the decision of the Planning Authority to refuse planning permission for a development that essentially consists of the provision of a new vehicle entrance onto the R168 Drogheda – Collon, Regional Route. By way of this appeal the appellant seeks that the Board overturn the Planning Authority's decision based on the precedent within this neighbourhood for such developments, the applicant's ability to demonstrate that they can provide the required sight visibility lines required onto this Regional Route together with their willingness to provide drainage in a manner that would meet the Planning Authority's requirements.

- 7.2. The appellant also raises concern as to why the Planning Authority did not give them the opportunity to address concerns relating to sight visibility and drainage by way of further information. Alongside this it is contended that this development is required so as to ensure that issues in relation to access of their property from a lane that is not within their ownership but within another family members ownership does not escalate in future into a situation where they would become landlocked.
- 7.3. I note that this is a different reason to that indicated by them in their planning application which states *inter alia* that: “*the applicant is applying for this as the existing entrance is through a dilapidated laneway to the north west corner of the site. The laneway has considerable annual maintenance costs and has caused damage to vehicles on several occasions*”. There is no evidence to base that the laneway results in considerable annual maintenance costs and in its current state as observed during inspection it appears to be in a poor state with little maintenance evidence. It is also a simple lane in terms of its design, surfacing and physical nature with its surface being of worn-down stone of a poor depth.
- 7.4. Irrespective of the contrasting reasons given for the proposed development sought under this application the principle of this type of development is one that is not deemed to be permissible under the current Development Plan, i.e., the Louth County Development Plan, 2015 to 2021, based on a number of factors. In particular, to permit the proposed development would be contrary to Policy TC 10 of the said Development Plan. As this policy prohibits the creation of new accesses onto Protected Regional Routes that are identified under Table 7.3 of the said Development Plan. The R168 is one of such routes clearly identified under Table 7.3 of the Development Plan.
- 7.5. In addition to this I am cognisant that Section 7.3.5 of the Development Plan states that: “*the Council considers it necessary to restrict new accesses and the intensification of existing accesses along national and certain protected regional routes in order to preserve their carrying capacity, their life span and in the interest of traffic safety*”. It also indicates that the details of these roads are set out under Table 7.3 in relation to regional routes and as said R168 is included therein.
- 7.6. I am also cognisant that Table 7.3 of the Development Plan does include exceptions from the restrictions it contains. I therefore consider it appropriate at this juncture to

consider whether or not the proposed development meets any of the exceptions set out below.

- **Exception No. 1: “Where the new access would eliminate a traffic hazard”.**

I consider that there is no basis to consider that the proposed development sought under this application would eliminate a traffic hazard were it to be permitted.

Arguably despite the low volume of traffic such a development would generate onto what I observed during my site inspection is a heavily trafficked regional road despite the times in which my site inspection was carried out, i.e. during a pandemic where one would assume that traffic should be less than that would normally be observable using this road, it would result in additional access and egress turning movements onto this heavily trafficked road at a point where the new entrance would be c106m to the east of its junction with the L-6322-0.

And also, at a point where the applicant by way of the information provided with this application is unable to demonstrate the required sightlines and in the provision of the entrance that no drainage issues outside of the confines of the site would arise.

This junction could also be described as a staggered junction as it also serves Watery Lane c130m to the west of the site. This lane serves several residential housing schemes include Ardá Raith Wood, Moore Court, Cnoc Na Gréine, Townley Manor through to Saint Malachy’s Terrace to mention a few.

There are also a number of existing entrances serving residential in the vicinity of this entrance as well as a road sign on the associated roadside verge. Further the Roads Authority in this instance, i.e., Louth County Council, by way of their interdepartmental report does not support the provision of an entrance at this location to facilitate an existing dwelling for several reasons and they also point out the subject dwelling benefits from an existing entrance onto a local road.

Based on these factors I consider that the proposed development if permitted would result in additional road safety issues for road users using the R168 over

and above the existing situation and would be a type of development that would be contrary to local planning provisions which I have already discussed. Crucially in relation to Table 7.3 it is not accepted that the proposed development meets the first given exceptional circumstance set out in Table 7.3.

- ***Exception No. 2: Where a new access is required for any major development, including tourism developments, of national, regional, or local importance where the additional traffic generated would not result in the creation of a traffic hazard.***

The entrance sought under this application would serve an individual dwelling house that is also served by an existing access to the public road network. As such it could not be considered to be required for any major development given these factors. It is therefore not accepted that the proposed development meets the second given exceptional circumstance set out in Table 7.3.

- ***Exception No. 3: Where new access is to a fixed natural resource of national, regional, or local importance where no other suitable vehicular access can be provided.***

The entrance sought under this application would not serve a fixed natural resource of national, regional, or local importance given that it serves an individual detached dwelling which already benefits from an existing access onto the public road network. It is therefore not accepted that the proposed development meets the third given exceptional circumstance set out in Table 7.3.

- ***Exception No. 4: Extensions to an authorised use where the additional traffic generated would not result in the creation of a traffic hazard.***

As already discussed above the traffic generated by the subject dwelling to which this entrance would serve already benefits from an approved access under P.A. Ref. No.s 04/1768 and 16/337. No authorised further extension to this dwelling has been permitted and it is considered that any authorised extension to the established use of this site would be appropriately served by the existing access onto the public road network. It is therefore not accepted

that the proposed development meets the fourth given exceptional circumstance set out in Table 7.3.

- ***Dwellings required to satisfy the housing needs of persons who have lived for not less than 10 years in the area where no other site is available off a minor road and where the existing entrance servicing the family home is used. Where the entrance to the existing family home cannot be used, consideration will be given for one new entrance only onto the adjoining protected regional route.***

This proposed development does not relate to an application for a dwelling house and as said relates to an existing dwelling that was permitted with access to be provided via a shared entrance onto a local road. It is not considered that the proposed development meets the fifth exceptional circumstance set out in Table 7.3.

- 7.6.1. In addition to the above I note to the Board that Policy RD 41 of the Development Plan is also relevant to the development sought under this application. It states: *“to permit only limited development appropriate to these heritage and cultural landscapes including only essential resource and infrastructure based developments and developments necessary to sustain the existing local rural community”*. It sets out a list of such development. The proposed development could not be considered to be an essential resource and/or infrastructure based development necessary to sustain the existing rural community at this locality.
- 7.7. Therefore, the proposed development for an entrance onto a Protected Regional Route, is a type of development not deemed to be acceptable in principle at this location and there is no exceptional circumstance that would merit or justify overriding the public good of protecting the heavily trafficked R168 from inappropriate development that cumulatively would add to the diminishment of its function alongside present additional road and safety traffic hazards for its road users. Moreover, *ad hoc* and piecemeal development like this would not be consistent with the limited situations where development may be considered in a heritage and culturally vulnerable landscape setting.

- 7.8. I note that the appellant in their appeal submission to the Board sets out various planning precedents for similar developments which it deems establishes a precedent for the type of development sought under this application.
- 7.9. Whilst I consider it appropriate that all applications are considered on their individual merits and I have noted the reference cases cited in the appellants submission; notwithstanding, the most pertinent planning history to which the Board in my view should have regard too is the parent grant of permission P.A. Ref. No. 04/1768.
- 7.10. It is c15 years ago since the Planning Authority made their decision on P.A. Ref. No. 04/1768 which initially permitted the subject dwelling whose location and site boundaries were then amended under a subsequent grant of retention permission under P.A. Ref. No. 16/337.
- 7.11. It is of note that under P.A. Ref. No. 04/1768 the Planning Authority sought further information which essentially provided the applicant an opportunity to address concerns that the proposed development as sought in the form proposed would materially contravene Policy 8.4 of the then adopted in place Louth County Development Plan, 2003 to 2009.
- 7.12. By way of this further information, it was made clear that the provision of an entrance onto the R168 Protected Regional Route was not deemed to be acceptable.
- 7.13. On foot of this further information request the applicant revised the manner in which the proposed development sought under P.A. Ref. No. 04/1768 would be served in terms of access onto the local road network by revising the design and providing access via a shared entrance onto the L-6322-0. This revised access to the public road network was deemed to be acceptable to the Planning Authority and they no longer considered that to permit the proposed development would materially contravene Policy 8.4 of the Louth Development Plan, 2003 to 2009.
- 7.14. The situation whereby the provision of a new access onto the R168 is restricted to exceptional circumstances which have to be robustly demonstrated has not changed. However, the local through to national planning context whilst still restricting the type of development proposed under this application has substantially evolved and changed in the intervening years.

- 7.15. Alongside this, landscape setting has also substantially changed becoming more densely residentially developed particularly by way of similar *ad hoc* detached dwellings.
- 7.16. With this the area has a fringe settlement character with the rural landscape setting being less evident when journeying out from the centre of Tullyallen village along its adjoining and neighbouring local roads. As these roads have been subject to strong patterns of linear and ribbon type piecemeal residential developments. This type of residential development has also been an increased number of *ad hoc* entrances serving individual properties onto the local road network, in particular the R168 but also the L-6322-0 that serves the subject dwelling by way of a shared entrance.
- 7.17. Arguably this in turn has placed greater volumes of traffic dependent upon the local road network. It has also resulted in increased wear and tear with the latter inevitably impacting on its carrying capacity and lifespan. Particularly by way of more *ad hoc* turning movements being generated along it. It also places unfeasible additional demands for services, lighting, public footpaths and the like where there may not be any economic justification or feasibility to provide them.
- 7.18. More so, these provisions would also be at odds with such areas essential rural character of un-zoned land in the country and result in greater habitat loss even where the boundaries between the settlement and the countryside have been blurred by such development. Furthermore, it is a policy of the current Development Plan to maintain a road hierarchy as well as to maintain the carrying capacity and lifespan of the road network and ensure high standards of safety for road users (Note: Policy TC 7). To permit unnecessary and entrances that are deemed to be a type of restricted development would in my view be contrary to this Development Plan policy.
- 7.19. As such in the intervening years since P.A. Ref. No. 04/1768 the local planning provisions have not changed in relation to the provision of new accesses onto the R168.
- 7.20. I also raise it as a concern that the design of the entrance as submitted did not deal with surface water drainage. The latter I note is contrary to Policy WS 10 of the Development Plan which sets out mandatory surface water drainage requirements on all developments. The appeal submission also did not demonstrate how the entrance could be provided in a manner that would not be contrary to Policy WS 10 and how all

drainage arising from the development would be contained within the subject site. As such I concur with the Planning Authority in this case that to permit the proposed development would be contrary to this Development Plan policy (Note: P.A.'s 3<sup>rd</sup> Reason for Refusal).

7.21. Given that the principle of the development proposed is unacceptable at this location. And given that there is no exceptional circumstance that would warrant the provision of a new entrance onto the R168. Together with the conflicting reasons given by the applicant as to why a new entrance is now required to serve an existing dwelling that already benefits from access onto the L-6322-0. With these reasons essentially not planning considerations and not constituting an exceptional circumstance under which this type of development would be permissible I therefore concur with the Planning Authority's approach that it would have been unreasonable for them to have sought further information from the applicant to deal with the matters of sightlines and surface water drainage. As even if it were demonstrated that these matters could be dealt with in a compliant manner, they would not overcome the fact that the principle of the proposed development is not acceptable.

7.22. Moreover, the appeal submission does not demonstrate that the sight line and drainage issues could be overcome in the documentation submitted. With this being the case and together with the principle of the proposed development being unacceptable I concur with each of the Planning Authority's given reasons for refusal.

### 7.23. **Appropriate Assessment**

7.23.1. Having regard to modest nature and extent of the development sought under this application, the appeal site's location at considerable distance from any European site, I consider that no Appropriate Assessment issues arise and 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 or sites.

## 8.0 **Recommendation**

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



## 9.0 Reasons and Considerations

1. Having regard to the nature of the development sought and the location of the proposed development, it is considered that the creation of an additional entrance onto Protected Regional Route R168 Drogheda – Collon, would contravene Policy TC 10 of the Louth County Development Plan, 2015 to 2021. This Development Plan policy which restricts the creation of new entrances onto such protected routes except in the limited circumstances specified under Table 7.3 of the Development Plan. In this case the Board is not satisfied that there is any exceptional circumstance that would support the proposed provision of an additional entrance onto the R168 for an existing dwelling that is already served by an approved entrance onto a local road. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.
2. 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 the heavily trafficked R168 at a location that lies in close proximity to its junction with the L-6322-0 at a point where the required sightlines in both directions have not been demonstrated and in a landscape setting where under Policy RD 41 of the Louth County Development Plan, 2015 to 2021, permits only limited & necessary development appropriate to what is zoned to be a sensitive to change heritage and cultural landscape. In this regard it is considered that the proposed development would add to the proliferation of entrances within this sensitive landscape setting where limited developments are permitted.

In addition, it is considered to permit an *ad hoc* and unnecessary entrance onto Protected Regional Route R168 Drogheda – Collon would be contrary to Policy TC 7 of the said Development Plan which seeks to maintain the carrying capacity and lifespan of the road network alongside to ensure a high standard of safety for road users.

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

3. On the basis of the information submitted with this application, the Board is not satisfied that the adequate information has been submitted to demonstrate how surface water drainage will be disposed of within the confines of the site and that such works would be compliant with Policy WS 10 of the Louth County Development Plan, 2015 to 2021. Therefore, the Board is not satisfied that the proposed development represents a sustainable approach to servicing the proposed development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Patricia-Marie Young

Inspector

17<sup>th</sup> day of February, 2021.