



An
Bord
Pleanála

Inspector's Report ABP-308872-20

Development	Dwelling house, septic tank and percolation area, access and all associated site works
Location	Mooretown, Dromiskin, Co Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	20757
Applicant(s)	Sarah McCann
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Sarah McCann
Observer(s)	None
Date of Site Inspection	15 th of March 2021
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The application site is located in the rural area in the townland of Mooretown, to the east of but proximate to the village of Dromiskin. It is accessed via the local road network and Dromiskin is to the east of the M1. The site has a stated area of 0.39ha and is situated some 136m from the public road (L1182-89) and is accessed via an existing surfaced private laneway.
- 1.2. The site is to be taken off and is in the eastern part of the larger field area. There is a relatively recent two storey house and garage proximate but not adjoining the site to the north west. This is also accessed via the private laneway, which does not extend beyond this gated access. There are hedgerows along the eastern and northern site boundaries. Otherwise, the site is open to the laneway and to the larger field area. There is an agricultural access to an unsurfaced laneway to the east of the site. There is agricultural land to the north, south and east of the site. There is a water filled ditch to the south of the site on the opposite side of the laneway.
- 1.3. There are a number of one-off houses in the area, the village boundary of the settlement of Dromiskin is within close proximity to the southwest. The area is in general rural and agricultural. The site is well set back from the public road.

2.0 Proposed Development

- 2.1. This proposal is for the construction of a Dwelling House, septic tank and percolation area, access to site off existing residential laneway and all associated site works.
- 2.2. Documentation submitted with the application includes the following:
 - A Site Characterisation and Site Suitability Assessment Report from Traynor Environmental Ltd.
 - Documentation in support of the Applicant's local need.
 - Drawings including Site Location Map, Site Layout Plan, Floor Plans, Sections and Elevations.

3.0 Planning Authority Decision

3.1. Decision

On the 13th of November 2020, Louth County Council decided to refuse permission for the proposed development for the following reason:

- 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. Furthermore, the development would be contrary to policy objective of Development Zone 4 which is to provide for a green belt area around urban centres including Dundalk and contrary to Policy SS 26 of the Louth County Development Plan 2015-2021 which requires that the siting of the 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. Planner's Report

This had regard to the locational context of the site, planning history and policy and to the inter-departmental reports. They noted that there were no submissions or observations received. Their Assessment included the following:

- They consider that the applicant has provided sufficient information to demonstrate compliance with the local needs qualifying criteria under Criteria 1 (Daughter of Qualifying landowner). They are satisfied that the applicant has a housing need.
- They are concerned that the proposed siting will lead to an undesirable form of backland development, that will detract from the rural character of the area

and landscape. Therefore, it would set an undesirable precedent, be contrary to planning policy and would not be acceptable in principle.

- They note some concerns about the design and layout of the proposed dwelling but consider that development on this site is not acceptable in principle.
- They do not consider that the proposed dwelling will have an adverse impact on residential amenity of neighbouring properties.
- The note that site is c.750m to the west of Dundalk SAC/SPA and that there are no pathways between the subject site and these Natura 2000 sites. However they also noted the Environment Section queries.
- They note the Environmental Section's concerns about wastewater disposal - given that the site is not acceptable in principle decided not to pursue this issue.
- The subject site is not located within an area identified as being susceptible to flooding.
- Concerns have not been raised relative to water supply (private well) or surface water drainage.
- While they note concerns regarding the site location off the private road, they are satisfied that the applicant has submitted adequate information in relation to sightline visibility and concur with the recommendation of the Infrastructure Section.
- They recommended that this proposal be refusal and their reason is as noted above.

3.3. Other Technical Reports

Environment Section

They requested details relative to installation of the septic tank in compliance with the EPA Code of Practice 2009. Also, that drains and streams adjacent to the site or within the site be shown marked out on a map. That distance to the percolation area be shown.

Infrastructure Directorate

They have no objection to the proposal subject to a number of recommended conditions, including regarding sightlines and visibility splays, surface water drainage, provision of services, road opening and maintenance during construction.

3.4. Prescribed Bodies

None consulted.

3.5. Third Party Observations

None noted on file. There is a submission noted from a public representative in support of the applicant's local need to reside on the site.

4.0 Planning History

The Planner's Report and the First Party Appeal note the planning history in the area. This includes:

- Reg.Ref.13/489 – Permission refused by the Council to Kieran Agnew for the construction of a two storey dwelling, domestic garage, effluent treatment system, percolation area and all associated site development works. Reasons for refusal included the location within the greenbelt, backland development, erosion of the rural character of the area, undesirable precedent; lack of demonstrated compliance with planning policies including Policy SS 20 (compliance with qualifying criteria); Also, Policy SS49 (Dwelling design in line with the document Building Sensitively and Sustainably in Co. Louth).
- Reg.Ref. 09/877 – Permission granted subject to conditions to Karen Rogers & Darragh Malone for a two storey dwellinghouse & domestic garage, a waste water treatment system and all associate site works. Condition no. 2 included a 7 year occupancy clause. This dwelling has been constructed and is to the north west (not adjoining the subject site).

Referred to in Appeal

- Reg.Ref 16/672 – Permission granted subject to conditions to Paul Dromgoole for a one and a half storey dwelling house, new site entrance and access driveway, waste water treatment system and all associated site works. This is located at Babeswood, Castlebellingham, Co. Louth, so it is not in the vicinity or proximate to the subject site. It is referenced by the appellant in view of the setback from the public road.

5.0 Policy Context

5.1. National Planning Framework – Project Ireland 2040

This refers to the growth and development of rural areas and the role of the rural town as a catalyst for this. It is recognised 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, based on agriculture, forestry, tourism and rural enterprise, while at the same time renewing and regenerating rural towns and avoiding ribbon and over-spill development from urban areas into the countryside and protecting environmental qualities. Objectives 18 and 19 refer.

5.2. The Sustainable Rural Housing Guidelines 2005

These guidelines seek to provide for the housing requirements of people who are part of the rural community in all rural areas, including those under strong urban based pressures. The principles set out in the guidelines also require that new houses in rural areas be sited and designed to integrate well with their physical surroundings and generally be compatible with the protection of water quality, the provision of a safe means of access in relation to road and public safety and the conservation of sensitive areas.

5.3. Louth County Development Plan 2015-2021

Chapter 2 relates to the Core Strategy and Settlement Strategy. Section 2.7 *Rural Settlements/Countryside* provides: *All of County Louth falls within 'rural areas under strong urban influence' as defined by the **National Spatial Strategy (NSS) 2002** by*

reason of its proximity to Dublin and its strong urban structure and for this reason, to facilitate the careful management of rural one-off housing in County Louth, Local Needs Qualifying Criteria have been outlined in detail in Section 2.19.1 of this Plan.

The site is located within Development Zone 4 which seeks to provide for a greenbelt around the urban centres of Dundalk, Drogheda and Ardee.

Policy RD 37 refers – To permit limited one-off housing (refer to Section 2.19.1 for Local Needs Qualifying Criteria), agricultural developments etc...

S2.19 Rural Housing Policy

Section 2.19.1 provides the Local Needs Qualifying Criteria – Policy SS19 refers.

Section 2.19.2 provides a Definition of a Local Rural Area – Policy SS20 refers.

Section 2.19.5 provides a Definition of Qualifying Landowner.

Section 2.19.6 refers to Application of Occupancy Conditions Policy SS23 refers.

Section 2.19.7 provides the Development Management Assessment Criteria for One-off Rural Housing. Policies SS24 to SS29 refer.

Policy SS 26 - To require that the design and siting of the proposed dwelling is such that it does not detract from the rural character of the landscape 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.

Section 2.19.11 refers to Dwelling gross floor areas and minimum site size Policy SS51/52 and Table 2.9 refers.

Section 2.19.12 refers to Ribbon Development Policy SS53 refers.

Section 2.19.15 refers to Access and notes that all applications will be required to show how visibility standards appropriate to the class of road as detailed in Tables 7.4 and 7.5 - Chapter 7 Transport) can be met - Policies SS59 and SS60 refer.

Section 2.19.16 refers to Domestic Garages/Outbuildings – Policy SS61/62 refers.

Section 2.19.17 refers to Roadside boundaries – Policies SS63/64 refer.

Section 2.19.18 refers to Wastewater – Policy SS65 refers.

Section 2.20 refers to Rural Housing Design and Siting Criteria – Policies SS66- 68 refer.

Chapter 7 refers to Transport and Section 7.3.6 to Entrances. Table 7.4 provides the Minimum Visibility Standards. Table 7.5 to Vehicle Access gradients and Fig. 7.1 to Junction Visibility Splays Policy TC12 refers.

Chapter 8 refers to the Environment, Section 8.4 to Water Quality and Section 8.4.2 to the Water Framework Directive. Section 8.5 to the Natural Water Systems and Groundwater. Section 8.7 to On Site Wastewater Treatment and Disposal Systems. Policies ENV19/22 refer.

5.4. Code of Practice Wastewater Treatment Disposal Systems serving Single Houses

This document (2009) by the EPA relevant to single houses (p.e <10) and replaces SR6:1991 and the EPA Manual 2000 for 'Treatment Systems for Single Houses'. The objective is to protect the environment and water quality from pollution and it is concerned with site suitability assessment. It is concerned with making a recommendation for selecting an appropriate on-site domestic wastewater treatment and disposal system if the site is deemed appropriate subject to the site assessment and characterisation report. The implementation of the Code is a key element to ensure that the planning system is positioned to address the issue of protecting water quality in assessing development proposals for new housing in rural areas and meeting its obligations under Council Directive (75/442/EEC).

5.5. EU Water Framework Directive

The purpose of the EU Water Framework Directive (WFD) is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater.

5.6. Natural Heritage Designations

The site is c.750m to the west of Dundalk SAC/SPA.

5.7. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

The Applicant Sarah McCann sets out a rationale for her appeal under four sections:

- Section 1 - Residential Laneway Vs Agricultural Back-land
- Section 2 - Applicant Details and Further Information on Proposed Site
- Section 3 - Inconsistencies in Planner's Report and Application of Policies by Louth County Council since 2010
- Section 4 - Further Information Noted on Planner's Report

For convenience, her grounds of appeal are set out and summarised under these Sections below.

Section 1 Residential Laneway Vs Agricultural Back-land

- She refers to the description of the site and provides that this is not a private access lane, that the access is shared with other residential and to access agricultural lands.
- Houses have existed on this lane and this lane has been an access route to these houses for generations. Details are given of Folio reference nos. contained in the Appendices, many of which relate to past generations of the family, including more recently the Appellant's Father.
- The laneway's ongoing use for access to former houses, agricultural lands and a current residence is therefore demonstrated by at least 6 dwellings

having existed along it in recent times. In addition, as described in Section 3, a new dwelling is in existence on this lane since 2010.

Section 2 - Applicant Details and Further Information on Proposed Site

- Background details are provided relative to the family landholding and her father's ownership of the lands and the subject site.
- She comes from a rural farming family and is actively involved in the community, supporting documentation is included.
- The only other site that has direct access to a road owned by her father (details are given of the folio no). This borders the R132, which as per the Louth CDP 2015-2021 is a protected regional route.
- Reference is had to Exemption 5 (Table 7.3 Protected Regional Routes – Restrictions and Exemptions on Access). This refers to criteria for housing need, where there is no other site available off a minor road.
- In this case as another site is available off a minor road, this is the most suitable site.
- Regard is had to the Council's reason for refusal and details are given of the reasons for the site selection.
- The Appellant notes the laneway into the site and current house has been maintained by her father, the landowner and this deters anti-social activities.
- It is important that the family connection with this land is continued in order to ensure a continuity of care for the immediate vicinity.

Backland Development

- The proposed new home is approx. 60m less than that of the dwelling granted permission in 2010 which uses the same laneway for access.
- The field already has a home built on it and as such cannot be classified as an open rural landscape.
- Reference is had to Reg.Ref. 16/672 where permission was granted for a dwelling at an even greater distance from the road, in an open rural area and a more prominent landscape.

- The proposed dwelling will be hidden from view using natural landscape elements.
- A comprehensive reading and search of the Louth County Development Plan 2015-2021 finds no reference to the word 'backland' relative to rural housing and provides no definition of such.
- The concept of backland development did not apply to Reg.Ref. 09/877 relevant to another more recent house granted further back on the laneway.
- The concept of ribbon development does not apply to the current proposal.
- Regard is had to historic access via this laneway. The only other site that has direct access to road frontage from her father's landholding is from the R132.
- The applicant is the only family member with a current housing need, and she seeks to be near her elderly parents.
- A map is enclosed showing her proposed site and the family home.

Planning Policy

- Reference is had to the National Spatial Strategy as referred to in the Louth CDP 2015-2021 and this emphasises that, in general, and subject to good planning practice, rural generated housing needs should be accommodated where they arise.
- Policy SS26 of the Louth CDP 2015-2021 is referred to relative to the Council's reason for refusal. It is provided that the proposed dwelling will not detract from the character and amenities of the rural area.
- It is only upon arrival at the top of the laneway that the house will become visible. Further landscaping is proposed to provide screening and to ensure that the proposal will remain in keeping with the requirements of Policy SS26.
- Photographs included with the appeal submission show screening provided by landscaping and views of the site from various vantage points.
- The Appellant considers that it has been demonstrated that the view in the Planner's Report that the proposed development would, be contrary to the proper planning and sustainable development of the area is incorrect.

Section 3 – Inconsistencies in Planner's Report and application of policies

- It is noted that reference to the permission granted by the Council Reg.Ref.09/877 was omitted from the Planning History Section of the Planner's Report.
- The rationale applied to Council's refusal in Reg.Ref. 13/489 had not been applied to Reg.Ref. 09/877, even though it fell under the same development plan 2009-2015.
- This points to an inconsistency in the definition of this area as 'backland' by the Council and as demonstrated in Section 1 of this appeal, this area cannot be considered as a 'backland' and has been a site for housing for generations.
- As stated in Section 2 the term 'backland' is mentioned only once in the Louth CDP 2015-2021 and with reference to qualitative requirements of public open space and not in any reference to rural housing.
- The reasons cited in Reg.Ref. 13/489 were not cited in the Appellant's reasons for refusal.

Section 4: Further Information Noted on Planner's Report

- The Further Information as requested by the Environment Section can be provided as required.
- The location of the qualifying address has been provided as part of the appeal in Section 2.
- Additional information requests from Louth County Council on the proposed design and fenestration can be provided as required.
- It is not apparent in the Planner's Report that these F.I issues should be provided to the Board as part of this appeal as they are not noted in the Council's refusal.

Conclusion

- The Appellant considers that the appeal submission has adequately refuted the Council's refusal and requests that the Board grant permission for her to

build in the rural community where her family have lived for over 100 years and where she is an active member of the local community.

6.2. Planning Authority Response

Their response to the grounds of appeal includes the following:

Residential laneway Vs Agricultural Backland

- They have regard to the appeal submission relative to this issue and note that the ownership of the laneway by the applicant's father is not in question. It is noted as being 'private' as it is not a registered public road and does not have a road number, thereby it is identified as a private laneway.

Applicant Details and Further Information on Proposed Site

- The assessment of the suitability of the site has been undertaken within the Planner's Report dated 5th of November 2020. No new information has been submitted and accordingly they do not have any further comment to make pertaining to Section 2 of the appellant's statement.

Inconsistencies in Planner's report and application policies of Louth County Council

- The grant of permission under Reg.Ref.09/877 has been referenced in the Planner's Report and while it is acknowledged that the location of the site was considered 'backland', this application was assessed under a previous development plan.
- Regard is had in the subject application to the policies and guidance in the current Louth CDP 2015-2021, that the subject site is considered to be backland and is not acceptable.

Conclusion

- In summary, they remain of the opinion that the proposed development would materially contravene Policy SS26 and would constitute inappropriate backland development which would result in an intrusive encroachment of physical development in the open rural landscape and would an undesirable precedent for future development in the rural area of Co. Louth.

7.0 Assessment

7.1. Rural Settlement Strategy – Local Needs

- 7.1.1. The site is located in the rural area proximate, but to the north east of the boundaries of the village of Dromiskin and to the south west of the boundaries of the Dundalk and Environs Development Plan 2009-2015 (as extended). The application site is located within Development Control Zone 4 where the objective seeks: *To provide for a greenbelt area around the urban centres of Dundalk, Drogheda and Ardee.* It is an objective of the Council to preserve a clear distinction between the built-up areas of settlements and surrounding countryside. In this regard greenbelt areas are proposed surrounding the main urban settlements of Dundalk, Drogheda and Ardee.
- 7.1.2. Regard is had to National Policy Objective 19 of Project Ireland 2040. This provides: *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 the 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.*
- 7.1.3. Regard is also had to the Sustainable Rural Housing Guidelines 2005 where the strategy indicates that there should be a presumption against urban-generated one-off housing in rural areas adjacent to towns. It is put forward that if the applicant has a proven local need and there should not be a blanket ban on genuine applicants in the area.
- 7.1.4. 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). In the current case it is provided that the applicant is the daughter of the landowner. She has also submitted a letter to say that she 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.
- 7.1.5. Details submitted provide that the applicant is the only family member with a current housing need. Her parents are elderly, and she is the only daughter living in Ireland so she would like to live close to their home so that she can provide for them with the necessary care as they get older. Section 2.1 of the Appeal Statement includes a

map showing the location of the site, relative to the family home and her father's landholding. As outlined in view of personal circumstances, and relative to local need and the site being on the family landholding she does not consider that the proposal will set an undesirable precedent.

- 7.1.6. Regard is had to the documentation submitted and it would appear that the applicant satisfies the qualifying criteria for local need as per Section 2.19.1 of the Louth CDP 2015-2021. The issue of site location, design and layout, access, wastewater treatment, environmental issues and precedent are discussed further below.

7.2. Suitability of Site

- 7.2.1. It is noted that the Council's reason for refusal includes that the proposal would constitute an inappropriate backland development and would result in an intrusive encroachment in the countryside. The reason for this is that the application site is shown well set back from the public road (in excess of 140m) and is to be accessed via an existing private laneway.
- 7.2.2. The First Party provides details of the family history of the historic usage of the access laneway. It is noted that it currently serves a more recently constructed two storey house Reg.Ref. 09/877 refers and as an agricultural entrance. Regard is had to this permission in the Planning History Section above. As noted by the Appellant this house is another c.60m further from the entrance to the public road. It marks the end of the surfaced access lane with a gated entrance. She is concerned that the Planning Authority did not make sufficient note that a house has already been granted and constructed in this area and that as such a precedent has been set.
- 7.2.3. Also of note is the previous refusal (Reg.Ref. 13/489 refers) on the adjoining site to the west i.e the site between the subject site and that of the house constructed under Reg.Ref.09/877. This is noted in the Planning History Section above and the reasons for refusal in that case included backland development, the lack of demonstrated local need and siting and design. The First Party considers that the Council's refusal is somewhat inconsistent having regard to their earlier decision to permit the house on the adjoining site. However as noted in the Planning Authority's response to the Appeal, the subject application is being considered under the policies and guidelines of the current Louth CDP 2015-2021.

- 7.2.4. While 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*. Section 2.19.12 refers to Ribbon Development and is concerned that such development can sterilise back-lands. However, the current development would not constitute ribbon development.
- 7.2.5. The applicant as the landowner's daughter, satisfies the local need's criteria. It is noted that if the Board decides to grant that this will be in view of the applicant's local need, and this being the only site available. However, it could be said that it will further the precedent set for backland development and will as shown on the plans leave the middle site unoccupied. The development of that site would not be desirable. However, that is not the subject of the current application. It is noted that a drawing showing the applicant's fathers total landholding within a blue line boundary has not been submitted.

7.3. **Design and Layout**

- 7.3.1. As given on the application form the area of the site is 0.39ha and the floor area of the proposed dwelling is 282sqm. The Site Layout Plan shows that the proposed dwelling is to be relatively centrally located on the subject site. The Floor Plans and Elevations show that it is to comprise a single storey element to the front (kitchen/dining/living room areas) and two-storey element to the rear (to include 4no. bedrooms and ground floor sitting room). The single storey element is shown with a pitched roof c.5.5m in height, the two-storey element c.8.3m to ridge height.
- 7.3.2. Having regard to the Site Layout Plan, there appear to be some discrepancies relative to the orientation of the site (north/south) and the siting of the dwelling as shown relative to the labelling of the elevations submitted. To clarify, the front elevation appears to face west (towards the existing dwelling further to the north west). The rear of the dwelling east (towards the unsurfaced agricultural lane), the side elevations face north (with the two storey element facing the rear of the site) and south (towards the private access road). As shown on the drawings the overall length of the dwelling to include both the single and two storey elements is to be

c.19.5m (shown front elevation facing west) and similarly facing the road (shown side elevation).

- 7.3.3. The external finishes of the dwelling are to consist of blue/black slates, plaster dash finish with an element of natural stone and cedar cladding. The dwelling is to have a flat roof zinc link to provide for entrance and hallway. Regard is had to the variation in the fenestration and several different types/sizes of windows are proposed, giving rise to some visual confusion.
- 7.3.4. The First Party provides that the proposed dwelling will in no way detract from the rural character of the landscape or the visual amenities of the area. Also, that the proposed dwelling in view of screening, will barely be noticeable in the landscape, as per their photographs submitted. I would recommend that if the Board decides to permit that it be conditioned that a landscaping scheme be submitted and that a hedgerow be established along the access road frontage of the site and the north western site boundary which now appears as part of the greater field area.
- 7.3.5. The Board's reason for refusal also includes reference to being contrary to Policy SS 26 of the Louth CDP 2015-2021, which concerns siting and design and references *Building Sensitively and Sustainably in County Louth* and the guidelines contained in Section 2.20. The latter concerns *Rural Housing Design and Siting Criteria*. I would consider that the scale, design and layout of this proposal, involves too many conflicting elements, would appear visually discordant and would not add to the character of the rural area.

7.4. Access

- 7.4.1. The issue relative to access and distance of the site from the public road has been raised. The Planning Authority's response to the Grounds of Appeal, notes that the ownership of the laneway by the applicant's father is not in question. It is noted as being 'private' as it is not registered as a public road and does not have a road number and thereby is identified as a private laneway.
- 7.4.2. The access to the site will be close to the bend in the laneway. However, in view of the light usage and the private nature of the surfaced laneway it is not considered this will be an issue. The Council's Infrastructure Section did not object to the proposal subject to conditions. This included that adequate visibility splays of 75m on

either side of the site entrance from the public road from a point 3m back in from the edge of the road carriageway over a height of 1.05m – 0.6m above road level. They recommended that if necessary to remove hedgerows to provide for adequate sightlines that this be done prior to the commencement of development.

- 7.4.3. Details have not been submitted to show whether hedgerows will need to be removed along the road frontage in adjoining land ownership. This proposal will result in an increase in the usage of the access to the private laneway to the public road. On site I noted that visibility from the entrance to the lane appears to be adequate but is more restricted in an easterly direction due to the bend further along the road. However, a drawing showing that adequate sightlines in both directions, can be achieved within the applicant's landholding or letters of consent from adjoining landowners, have not been submitted with the subject application.
- 7.4.4. The issue of whether there would be an alternative site, with road frontage to the public road available has been referred to in the grounds of appeal. Section 2.1 provides a Background to grounds of appeal and notes that the only other site that has direct access to a road owned by her father is part of folio 2470. This borders the R132. This is shown on the image submitted. In this case as another site is available off a minor road, the Appellant submits that this is the more suitable site as opposed to applying for a new entrance onto an already protected regional route (as the existing family home could not be used, given that it is on a different road).
- 7.4.5. The R132 Dundalk to Drogheda is a Protected Regional Route (Map 7.1 and Table 7.3 of the Louth CDP 2015-2021 refer). The creation of new access onto such roads is restricted. Exemption no. 5 refers to proposals that satisfy the local needs criteria and where no other site is available off a minor road, and where the existing entrance servicing the family home is used. It also recommends the inclusion of an occupancy condition. In this case it is noted that as shown in Section 2.1 of the Appeal Statement the applicant's family home is not accessed via the R132. It would appear from the documentation submitted, that the subject site is the only site available to the applicant on family lands, that is accessed off a minor road. Despite the set-back, I would consider it preferable to creating a new access off the R132.

7.5. Suitability of the site for Disposal of Effluent

- 7.5.1. As shown on the Site Layout Plan, it is proposed to provide a septic tank and percolation area to the rear of the house. It is also proposed to provide a well close to the site frontage. A Site Characterisation and Site Suitability Report by Traynor Environmental Ltd. has been submitted. This provides that the aquifer category is poor in an area of High Vulnerability. The groundwater protection response is R1. Table B2 of Annex B of the EPA Code of Practice refers. The R1 response provides that a wwts is acceptable subject to normal good practice (i.e. system selection, construction, operation and maintenance in accordance with the CoP). The site is relatively flat. On my site visit, I noted that there is a slight rise from the access road and the rear of the site is higher than the road. Also, that the ground was soft under foot and there was some water more than 1m deep in the trial holes.
- 7.5.2. Table 6.2 of this EPA Code of Practice provides the minimum depth requirements for on-site systems discharging to ground i.e. 1.2m and at the base of polishing filter 0.9m. i.e. minimum depth of unsaturated subsoil to bedrock and the water table. Table 6.3 provides an interpretation of percolation test results and “in cases where $3 < P < 75$ the site may be suitable for a secondary treatment system and polishing filter at ground surface or overground if the soil is classified as Clay...” The ‘T’ and ‘P’ test values given should be within this range.
- 7.5.3. The Site Characterisation Form provides that the soil subsoil is silt/clay with stone/gravel. That in Winter GWL is encountered at 1.7m BGL and bedrock was not encountered in the trial hole. Percolation tests provide that the average ‘T’ test result is 10.11min/25mm. It is provided that, there is good percolation characteristics of the subsoil material. ‘P’ tests were also carried out and provide a result of average ‘P’ of 16.25min/25mm. It is provided that, there is good soil characteristics of the topsoil material. It is recommended that a purpose-built percolation area should be constructed to ensure that there is a minimum of 1.20m of suitable percolating material between the base of the lowest part of the percolation area and winter GWL (1.7m BGL) at all times. Details are given of the distribution pipes. Traynor Environmental Ltd also recommends that the percolation area construction and the installation of the O’Reilly Oakstown Septic tank is overseen by a suitably qualified and accredited person.

- 7.5.4. In addition, Traynor Environmental Ltd provides details of a soakway design. It is provided that all wells are outside the minimum separation distances of Groundwater Protection Responses of the GSI/EPA/DoELG and the EPA CoP 2009.
- 7.5.5. The Council's Environmental Section does not object to the proposal but requested additional information as to the name of the person who will supervise the installation of the wwts and that they will provide a constructed report confirming that the effluent treatment system & percolation area were constructed in compliance with the EPA CoP 2009. They also asked to mark all drains (including dry drains) and streams adjacent to the site or within the site on map and to show the distance to the proposed percolation area. In view of the Council's recommendation to refuse they did not request this information. I would recommend that if the Board decides to permit that these issues be conditioned.

7.6. Screening for Appropriate Assessment

- 7.6.1. The Planner's Report noted that the site is not a European Site with the nearest sites being 750m away to the east. These comprise Dundalk SPA(site code 004026) and SAC(site code 000445). They provide that there are no pathways between the subject site and the aforementioned sites. In addition, that given that the Environment Section has requested Further Information that it is not possible to assess the impact of any development on any European site at this juncture.
- 7.6.2. However, I note that the information requested by the Environment Section as on file, did not refer to impact on European sites, rather relative to the wwts and the percolation area, specific to the subject site. They also asked that all drains be marked. As noted above F.I was not requested. While I did not see any ditches along the site boundaries, there is a water filled ditch to the south of the site on the opposite side of the access road. There is also a stream close to the road frontage c. 140m from the site.
- 7.6.3. Taking into consideration the nature and scope of the proposed development, the wastewater treatment system proposed to serve the dwelling, the details provided on the site characterisation form and the existing residential and farm development in the intervening distance, 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

I recommend that permission be refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. It is considered that, by reason of its design and layout, form, bulk, external finishes and fenestration that the proposed dwelling would detract from the rural character of the landscape and the visual amenities of the area. It would not integrate well into the countryside and would be visually obtrusive on this site in this open rural area which is in general characterised by more traditional rural housing. The proposed house would, therefore, be contrary to Section 2.20 and Policy SS 26 of the Louth County Development Plan 2015-2021 and to the proper planning and sustainable development of the area.
2. The proposed site is located with access via a private laneway from a minor public road which is substandard in terms of width and alignment. The Board is not satisfied that it has been demonstrated in the documentation submitted, that adequate sight lines/visibility splays are available from the entrance to the minor public road, to ensure that the increase in usage of the access resulting from the proposed development would not endanger public safety by reason of traffic hazard.

Angela Brereton,
Planning Inspector

24th of March 2021