



An  
Bord  
Pleanála

## Inspector's Report ABP-308981-20

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<b>Development</b>	Permission for the construction of a dwelling house, wastewater treatment system and percolation area, removal of existing general uses farm shed, and all associated site works.
<b>Location</b>	Anaglog, Ardee, Co. Louth.
<b>Planning Authority</b>	Louth County Council.
<b>Planning Authority Reg. Ref.</b>	20860.
<b>Applicant(s)</b>	Geraldine Balfe
<b>Type of Application</b>	Planning permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party.
<b>Appellant(s)</b>	1. B. Pierson 2. Joe & Ita Rogers.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	25 <sup>th</sup> day of February, 2021.
<b>Inspector</b>	P.M. Young.

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## 1.0 Site Location and Description

- 1.1. The appeal site has a stated 0.21ha area and it is located on the eastern side of the L-5226-0 in the Townland of 'Anaglog', c0.3km to the south of its junction with the heavily trafficked N2 at a point where this national route has a curving horizontal and vertical alignment and at a point where the L-5262-0 local road also enters onto this national route. The site is located c4km to the south of the historic heart of Ardee town within an area despite the significant proliferation of one of dwellings that has an otherwise rural and drumlin landscape character.
- 1.2. The site is unkempt containing a concrete and corrugated metal open shed structure which is set back from the local road. The roadside boundary contains a timber and concrete pillar boundary that in part is missing or collapsing. Behind which there is an evergreen hedge which is porous in places.
- 1.3. Separating the site and the adjoining residential property to the south is a mature leylandii hedgerow. The land slopes in a northerly direction from this boundary to the existing southern boundary associated with the pocket of land that the existing agricultural shed is sited. This existing boundary also consists of evergreen leylandii and there is a shed located towards the easternmost end. The latter structure is located within the curtilage of the adjoining property; however, it would appear that it, the leylandii hedge and part of the southernmost portion of this adjoining residential property forms part of the site.
- 1.4. In addition to this the site also consists of a native hedgerow that runs in a north south direction in close proximity to the shed structure for which demolition is sought as well as part of the adjoining agricultural field to the immediate east.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the following:
  - Removal of an existing shed structure that has a given 'farm shed' general use. This building is indicated as having a maximum height of 3.76m with the roof sloping down to 2.45m; an external depth of 10.785m; an external width of 9.225m; and, with the structure consisting of a palette of concrete, metal supports and corrugated sheeting.

- Construction of a single storey two-bedroom dwelling house. This dwelling has would be set back c21m from the roadside boundary with lateral separation distances of 13.5m to the northern boundary, 14m to the southern boundary and 24m to the rear boundary of the site. The documentation indicates that it would have an overall floor area of 89m<sup>2</sup> and a maximum ridge height of 6.85m. A simple palette of plaster finish and blue/black slate roof is proposed.
- Provision of a wastewater treatment system and percolation area.
- All associated site works.

2.2. This application is accompanied by:

- Document titled: 'Landscape Design & Plan for proposed Dwelling House'.
- Letter from the Principal of Ballapousta National School.
- Birth Certificate.
- Letter from the Parish of Ardee & Collon.
- Copy of the Applicants Polling Card.
- Consent of the landowners to make this application.
- Letter declaring that the applicant has not owned a house within the rural area of County Louth for a minimum of 5 years prior to the making of this application.
- Document titled 'Section B' (Note: Louth County Councils Section 2.19 One Off Rural Housing Policy Form).

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The Planning Authority **granted** planning permission subject to 7 no. conditions.

### 3.2. Planning Authority Reports

3.2.1. **Planning Reports:** The Planning Officer's report is the basis of the Planning Authority's decision. It raises no substantive issues with regards to the development

sought under this application and they conclude with a recommendation to grant permission subject to safeguards.

### 3.2.2. Other Technical Reports

**Infrastructure:** No objection, subject to safeguards.

**Environment:** No objection, subject to safeguards.

### 3.3. Prescribed Bodies

3.3.1. None.

### 3.4. Third Party Observations

3.4.1. The Planning Authority received three separate submissions objecting to the proposed development during their determination of this application. Two of which are appellants in this appeal case. A number of are raised in these submissions which I have noted, and I consider that the substantive issues correlate with those set out in the appellants submissions to the Board.

## 4.0 Planning History

### 4.1. Site:

4.1.1. No recent or relevant applications.

### 4.2. In the Vicinity

4.2.1. Within the wider vicinity I note the following Board decisions:

- **ABP.PL15.129826 (P.A. Ref. No. 02/182):** On appeal to the Board planning permission was **refused** for a development consisting of the erection of a dwelling house and the installation of a septic tank and percolation area at Anaglog, Ardee, County Louth, for the following stated reason and consideration:

*"It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a narrow substandard road at a point where adequate sightlines in both directions cannot be ensured due to the vertical*

*alignment of the road and/or the lack of control by the applicant over lands adjoining the proposed entrance”.*

This application was made by a Sarah Balfe. The site was located in close proximity to the south east of the appeal site and with the main site area situated in the south eastern corner of the agricultural field that this site includes as its eastern portion of the site.

- **ABP PL15.205716 (P.A. Ref. No. 03/1131):** On appeal to the Board planning permission was **refused** for a development consisting of the erection of a dwelling house and the installation of a septic tank and percolation area at Anaglog, Ardee, County Louth, for the following stated reasons and considerations:

*“1. Having regard to the prominent and elevated location of the site, it is considered that the proposed development would constitute a visually obtrusive feature on the rural landscape. The proposed development is therefore considered to be contrary to the Draft Guidelines on Sustainable Rural Housing published by the Department of the Environment, Heritage and Local Government in March, 2004 and the Louth County Council document Building Sensitively and Sustainably in County Louth and Design Guidelines for Single House in the Countryside and would therefore seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.*

2. *It is considered that the proposed development would constitute undesirable backland development in a rural area and would therefore be contrary to the proper planning and sustainable development of this rural area.”*

This appeal appears to relate to the same location as ABP PL15.129826 and was made by the same applicant.

- **ABP-308503-20 (P.A. Ref. No. 20603):** On appeal to the Board planning permission was **refused** for a proposed dwelling house, detached domestic garage, roadside entrance, wastewater treatment system and all percolation area and all associated works at Funshog, Co. Louth, c1.5km to the east of the appeal site. The reason for refusal related to ribbon development; failure to demonstrate compliance with Policies SS 25 and 53 of the Development Plan as well as failure to comply with the Development Management Criteria set out under Section 2.19.7 of the Development Plan.

## 5.0 Policy & Context

### 5.1. Development Plan

### 5.2. National Planning Policy Provisions

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

### 5.3. Local Planning Provisions

#### 5.3.1. Development Plan

5.3.2. The appeal site lies in a rural area, zoned 'Zone 5' in the Louth County Development Plan, 2015 to 2021, which under Section 3.10.5 has a stated objective: *“to protect and provide for the development of agriculture and sustainable rural communities and to facilitate certain resource based and location specific developments of significant regional or national importance. Critical infrastructure projects of local, regional or national importance will also be considered within this zone.”*

5.3.3. Section 3.10.4 of the Development Plan indicates that: *“it is an objective of the Council to preserve a clear distinction between the built up areas of settlements and the surrounding countryside”*.

5.3.4. Policy RD37 is relevant. It states: *“to permit limited one-off housing\*, agricultural developments, extensions to existing authorised uses and farms, appropriate farm diversification projects, tourism related projects (excluding holiday homes, institutional and educational facilities, leisure and recreation related projects and renewable energy schemes”*. (Note: \* refers to Section 2.19.1 of the Development Plan which sets out the Qualifying Criteria).

5.3.5. Section 2.19.1 sets out the Local Needs Qualifying Criteria and it indicates that: *“applicants for one-off rural housing will be required to demonstrate compliance with*

*criteria relevant to the specific Development Zone in which the dwelling is to be located.”* Policy SS 19 and SS 20 further reiterate this requirement.

- 5.3.6. In relation to the category under which the applicant applies, it is indicated that the applicants are applying under the Category 1 and 2. Category 1 reads: *“applicant(s) is the son/daughter of a qualifying landowner. The applicant must demonstrate a rural housing need and show that they do not already own a house or have not owned a house within the rural area of the County for a minimum of 5 years prior to making an application”* and Category 2 reads: *“that they have lived for a minimum period of 10 years in the local rural area (including cross-border), they have a rural housing need, they do not already own a house or have not owned a house within the rural area of the County for a minimum of 5 years prior to making an application”*.
- 5.3.7. Table 2.9 of the Development Plan sets out dwellings gross floor area and minimum site size. For Zone 4 the maximum cumulative gross floor area is stated to be 220m<sup>2</sup> and the minimum site size in hectares is 0.2ha. Dwellings above the stated maximum gross floor area have to demonstrate compliance with Policy SS 52 which indicates that the Council will require the site area be correspondingly increased by a ratio of 20m<sup>2</sup> for each 1m<sup>2</sup> of additional floor area of the dwelling.
- 5.3.8. Section 2.2 of the Development Plan sets out the criteria for rural housing design and siting criteria.
- 5.3.9. Section 2.19.12 indicates that the: *“visual amenity of many areas throughout the rural parts of the County, and especially in locations adjacent to settlements, has suffered greatly by the creation of ribbon development, where ribbon development is defines as “four or more houses in a continuous row along a public road includes those houses constructed prior to 1<sup>st</sup> October 1964”*.
- 5.3.10. It also indicates that: *“such development damages the appearance of rural areas, detracts from the setting of town and villages and can sterilise back-lands, often hampering the planned expansion of settlements. Additionally, it can compromise access to farmlands and generate road safety problems ... historically, consistent opposition to ribbon development has been applied in previous development plans and will continue to be the case”*.
- 5.3.11. Policy SS 53 of the Development Plan is of relevance. It states: *“to prevent the creation of ribbon development by not permitting more than four houses in a row along*



*any public road. A minimum gap of 300 metres shall be maintained between such developments. An exception to this requirement may be considered where the dwelling is required to meet the housing needs of a son/daughter/foster child of a qualifying landowner and where the planning authority is satisfied that there is no other suitable site available on the landholding”.*

5.3.12. Policy SS 54 of the Development Plan is of relevance. It states: *“to preserve a clear break of a minimum of 300-metres between the boundary of existing settlements and any permitted development along adjoining roads”.*

5.3.13. Section 2.19.3 of the Development Plan deals with the matter of ‘Infill Development’. It indicates that many road frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the appearance of the locality which help it maintain its rural character. It refers to the definition for infill development as provided for under the Sustainable Rural Housing Guidelines, 2005, which allows for consideration to be given to the degree to which a proposal might be considered to be infill, i.e. *“the degree to which existing development would be extended or whether distinct areas of ribboning would coalesce as a result of infill development”.* It goes on to state that: *“the infilling of these gaps will therefore not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage”.*

5.3.14. Policy SS 55 of the Development Plan is relevant. It states: *“to permit infill development where a small gap sufficient to accommodate one house only, within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale and siting”.*

5.3.15. Policy SS 56 of the Development Plan is relevant. It states: *“to apply a presumption against development that would exacerbate ribbon development by extension or leading to the joining up of existing developed areas along public roads”.*

5.3.16. Other Relevant Development Plan provisions include:

Policy SS 63: Access/Hedgerows.

Policy SS 64: Access/Hedgerows.

Policy SS 65: Wastewater/Surface Water Drainage.

5.3.17. Development management criteria for one-off rural housing are set out in section 2.19.7 and include impact on natural resources, landscapes as well as site suitability in terms of drainage with the latter matter requiring compliance with EPA guidelines.

#### **5.4. Natural Heritage Designations**

5.4.1. The nearest European site is SPA: Stabannan Braganstown Special Protection Area (Site Code: 004091) which is situated c7.9km to the north east of the site.

#### **5.5. EIA Screening**

5.5.1. The proposed development comprises a 'project' for the purposes of environmental impact assessment and falls within a class set out in Part 2, Schedule 5 of the Planning and Development Regulations 2001 (as amended), Infrastructure Projects, construction of more than 500 dwelling units.

5.5.2. This proposal consists of a modest in nature and scale development of essentially one residential dwelling unit and garage served by a proprietary wastewater treatment system together with its associated site development works. As such the proposed development will give rise to very limited environmental emissions subject to standard safeguards and appropriate required maintenance of the proprietary wastewater treatment system.

5.5.3. The site itself does not form part of nor is it near any European site. Moreover, there is no connectivity between it and the nearest European site, i.e., SPA: Stabannan-Braganstown Special Protection Areas (Site Code: 004091). Having regard to the above, 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. The grounds of the two separate 3<sup>rd</sup> Party appeal can be summarised collectively as follows:

- The family owns a number of parcels of land in this area and they have latitude to site this development at a more removed reasonable distance from their home.
- The proposed development would result in overlooking and would diminish established residential amenity.
- This development, if permitted, would magnify other similar developments on the applicant's family landholding. In addition, the cumulative impact of such developments would change the character of this quiet and peaceful location.
- The proposed development would result in overdevelopment and is another example of unsightly ribbon development in this rural area.
- This development would be visually prominent in its landscape setting.
- The extension of new boundaries would expand back into the rural landscape in a manner that would break up the existing field boundary line.
- The applicant did not engage with property owners in the vicinity prior to making this application.
- There is a long history of the hedging and boundaries of this site not being maintained with hedging and boundaries requiring intervention by adjoining property owners due to how seriously overgrown and unkempt they have become.
- This application provides no details in relation to drainage impacts on the vicinity.
- The applicant proposes access onto a substandard road and to locate their access near a brow on a hill. This has the potential to give rise to road safety and traffic hazard issues. It is considered that a safe access and egress cannot be achieved at this location.
- Concern is raised that the proposed development, if permitted, would give rise to contamination of drinking water.
- There have been issues in this area in the past during periods of heavy rainfall and the proposed development, if permitted, would only intensify the problem in this area during such circumstances.
- The Board has previously refused permission for this type of development on the family landholding.

- Development proposals that invest in the environment and improve the area should be welcomed; this proposal clearly does not do this.
- The Planning Authority's grant of permission needs to be reconsidered.

## 6.2. Applicant Response

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

- Neither appellant has made a compelling case as to why permission for this development should be overturned and they reiterate concerns raised previously by them in their submissions to the Planning Authority.
- This area consists of a small cluster of dwellings centred around a three-way junction.
- The proposed dwelling is a modest dwelling and would sit well within the site's mid-elevation topography.
- The appellants have misrepresented the planning history of the family landholding and each application for planning permission should be judged on its merits.
- The proposed development does not allow for any other speculative development of any other plot within the applicant's family's landholding.
- The proposed development is an appropriate infill development in this gap site.
- The concerns raised in terms of traffic safety and road hazard were not supported by the Planning Authority's Infrastructure Team.
- This application has demonstrated that the required sightlines can be achieved. In addition, the existing entrance located on the north western corner of the site will be closed up with the proposed new roadside hedgerow. It is further not accepted that the Belpatrick road is a narrow and busy substandard road.
- The Planning Authority were satisfied that no contamination of drinking water would arise.
- The concerns raised in terms of flooding are also not supported and such issues tend to be localised in nature. Further, there is no evidence to support that flooding is an issue at the subject site or within its vicinity.

- This development would not give rise to any adverse residential amenity impacts.
- The existing and proposed boundary hedging will provide sufficient screening between the proposed and existing dwellings.
- A private view is not protected under planning legislation or under Development Plan policies. In addition, the appeal site and its surroundings do not form part of a designated protected view or scenic route.
- The proposed development is compliant with planning provisions.
- It is sought that the Board uphold the decision to grant permission.

### **6.3. Planning Authority Response**

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

- No new issues are raised.
- The Board is referred to their Planning Officer's report.
- The proposed development is acceptable having regards to the policies contained within the Development Plan.

## **7.0 Assessment**

### **7.1. Overview**

7.1.1. Having carried out an inspection of the site as well as its setting; examined the application details and all other documentation relating to this appeal case file, including all submissions received together with having regard to relevant planning provisions, I consider that the substantive issues for consideration in this appeal can be assessed under the following broad headings:

- Principle of the Proposed Development – Compliance with Rural Settlement Strategy
- Planning History
- Visual Amenity Impact
- Residential Amenity Impact

- Access
- Drainage
- Other Matters Arising

- 7.1.2. I also consider the matter of 'Appropriate Assessment' requires examination.
- 7.1.3. Before I commence my assessment, I raise an issue that there is a level of ambiguity in relation to the red line area of the site and a number of the drawings provided with this application.
- 7.1.4. Of particular concern in my view is that the redline area as outlined in the Location Map includes the southernmost portion of the curtilage of the applicant's family's home but other documents submitted with this application for example the Site Plan and the Landscaping Plan exclude the same.
- 7.1.5. It is my view that there is a significant discrepancy between the development sought and the actual site area.
- 7.1.6. Moreover, there is no clarity provided within the drawings submitted that the northern portion of the site that forms part of the curtilage of the applicants family home will become part of the curtilage of the proposed dwelling sought under this application and that there is consent from the applicants family for this land to be amalgamated into the actual site area indicated; for any works to it through to that the remaining site area is sufficient to meet the on-site waste water drainage needs of this residential development if this area were to be excluded.
- 7.1.7. Further, the submitted drawings fail to include that this area in its existing state includes an entrance onto the L-5226-0.
- 7.1.8. In relation to the above matters should the Board be minded to grant permission for the development sought under this application I would recommend that they first seek further information clarifying these matters and where necessary a full suite of amended drawings. In addition, the written consent of the family member who the family home is in their ownership is required for any future amalgamation into the site area associated with this proposed development alongside clarification on on-site drainage, surface, and wastewater, that these can be provided on the reduced site area to the required standards.

## 7.2. Principle of the Proposed Development – Compliance with Rural Settlement Strategy

- 7.2.1. I firstly note to the Board that the appeal site is located in an area defined as being under strong urban influence as defined in the Sustainable Rural Housing Guidelines for Planning Authority's, 2005; and, this therefore has relevance to the provisions of the National Planning Framework, 2018, in relation to residential development.
- 7.2.2. The reasons as to why the site is considered to be an area under strong urban influence is most likely due to a number of locational factors including but not limited to its proximity to a number of large urban areas, strong urban structure present and proximity to the M1 corridor, in particular Dundalk to the north and Drogheda to the south. It is also less than an hour drive to the centre of Dublin and Dublin Airport.
- 7.2.3. In addition, relation to one-off housing in the countryside the Development Plan recognises that this demand for one-off houses arises from both within and beyond the county itself.
- 7.2.4. In relation to such areas Chapter 2 of the Development Plan indicates that in keeping with national policy provisions the Planning Authority will seek to facilitate the careful management of one-off houses in rural locations within the county and it indicates that such applications shall be required to demonstrate compliance with the Local Needs Qualifying Criteria outlined in Section 2.19.1 of the said plan.
- 7.2.5. Further, Policy SS 19 of the Development Plan also seeks this compliance.
- 7.2.6. Moreover, Section 2.19.1 of the Development Plan states: "*in order to protect the rural areas of the County from excessive urban generated housing, the Council considers it necessary to retain the local needs provision as recommended in the document Sustainable Rural Housing Guidelines, 2005 DECLG. Local needs provisions apply across the entire rural area of the County. Applicants for one-off rural housing will be required to demonstrate compliance with criteria relevant to the specific Development Zone in which the dwelling is to be located*". This section of the Development Plan also sets out the Local Needs Qualifying Criteria for the various Development Zones within the County.
- 7.2.7. In relation to the appeal site and its immediate setting they are located on lands form part of the open countryside where the Planning Authority under their Development has a stated zoning objective of protecting and providing for the development of

agriculture and sustainable rural communities alongside to facilitate certain resource based as well as location specific developments of significant regional or national importance. In addition, critical infrastructure projects of local, regional, or national importance will also be considered within this zone (Note: Development Zone 5).

- 7.2.8. Whilst there is a general presumption against the type of development proposed under this application locally through to nationally in relevant planning provisions and Ministerial Guidance, as set out above Section 2.19.1 of the Development Plan sets out the qualifying criteria under which applications for one off rural dwelling like that proposed can be considered subject to the required safeguards being satisfied.
- 7.2.9. The applicant in this case is applying for the proposed development under Category 1 and 2.
- 7.2.10. In relation to these categories 'Category 1' as set out in the Development Plan reads: *"applicant(s) is the son/daughter of a qualifying landowner. The applicant must demonstrate a rural housing need and show that they do not already own a house or have not owned a house within the rural area of the County for a minimum of 5 years prior to making an application"*. In addition, Category 2 reads: *"that they have lived for a minimum period of 10 years in the local rural area (including cross-border), they have a rural housing need, they do not already own a house or have not owned a house within the rural area of the County for a minimum of 5 years prior to making an application"*.
- 7.2.11. The Planning Authority following an examination of the documentation provided in support of the applicant meeting Category 1 and 2 for a dwelling house at this location concluded that they had met the qualifying criteria for a one-off dwelling in Development Zone 5 lands.
- 7.2.12. Of concern, the documentation provided in my view fails to demonstrate without doubt that the applicant has a genuine rural housing need economic or social within this rural area; they have not demonstrated without doubt by way of affidavit and supporting documentation on the matter of house ownership within the County for a minimum of 5 years prior to making the application through to 5 years within the rural area of the County area of the County for a minimum of 5 years prior to making an application. Further, the applicant has provided no documentation that supports her residing in this



area for any substantive time outside of the fact that she attended school in this locality and that she has a vote address for this locality.

- 7.2.13. Whilst it would appear that the applicant has social and family links to this locality alongside this application is being made on family landholding; notwithstanding, in terms of demonstrating a genuine 'need' as opposed to 'desire' to build a dwelling house at this location the applicant has not in my view substantively demonstrated this in socio through to economic grounds based on the information submitted with this application.
- 7.2.14. This I consider is a concern having regard to the appeal site being located within an area of countryside where there is a significant proliferation of this type of development and having regard to relevant national policy provisions. In particular the previously discussed identified as being under strong urban influence in the Sustainable Rural Housing Guidelines for Planning Authority's and the National Planning Framework.
- 7.2.15. In relation to the National Planning Framework, it states that the: *"Irish countryside is, and will continue to be, a living and lived in landscape focusing on the requirements of rural economies and rural communities, while at the same time avoiding ribbon and over-spill development from urban areas and protecting environmental qualities"*.
- 7.2.16. It also recognises that there is a continuing need for housing provision for people to live and work in the countryside.
- 7.2.17. It further indicates that careful planning is required to manage the demand in our most accessible countryside around cities and towns. In this regard it advocates focusing on the elements required to support the sustainable growth of rural economies and rural communities stating that: *"it will continue to be necessary to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e., the commuter catchment of cities and large towns"*, with this being subject to site through to design considerations.
- 7.2.18. In keeping with this National Policy Objective 19 of the National Planning Framework states inter alia that to: *"ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e., within the commuter catchment of cities and large towns and centres of employment, and elsewhere:*

- *In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural areas and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements”.*

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

7.2.20. In conclusion on this matter, to permit the proposed development would be in conflict with policy provisions at a local level but more crucially at national level. It would also establish an undesirable precedent for this type of residential development in such a location whose visual amenity has been significantly diminished in an adverse way by such *ad hoc* developments in the past. Due to the significant proliferation of this type of development in this rural area, whose primary function is intertwined with agricultural, rural activities and enterprises, the capacity of this open countryside to absorb similar developments has in my view been exceeded and will require careful consideration in future where an actual genuine need economic and/or social need can be robustly demonstrated.

7.2.21. This is substantive reason in itself for the Board to refuse planning permission for the development sought under this application. However, the Board may consider this a new issue in the context of their consideration of this appeal case.

### **7.3. Planning History**

7.3.1. I am cognisant that this appeal site includes a portion of land that currently forms part of an adjoining larger field. There appears to have been two previous applications for a similar development that were refused by the Board, under PL15.129826 and PL15.205716, on the south eastern corner of this field for reasons relating to access; undesirably backland development in a rural location as well as it was considered that the proposed development would be a visually obtrusive feature on what was

considered by the Board to be a prominent and elevated location within a rural landscape setting.

- 7.3.2. The appeal site does not include any of the land relating to these two previous applications that were refused by the Board and occupies a location that consists mainly of a under-utilised portion of land containing an agricultural shed that aligns with local road L-5226-0 that in its existing state the main part is bound by existing boundaries; however, the red line area encompasses part of the said larger agricultural field to the immediate east as well as a portion of land that forms part of the curtilage of the applicants family home. That is to say the adjoining residential property to the immediate north of the appeal site.
- 7.3.3. In addition to this the topography of the site consists of less elevated ground levels as well as the main area of the site is visually more removed from the N2 as the backland site when compared to PL15.129826 and PL15.205716. Notwithstanding, by extending into the larger field system the proposed development, if permitted, would break the alignment of this field as viewed from lower ground levels, in particular as viewed from the public domain of the 'N2' from which the field it forms part of is highly visible.
- 7.3.4. Since the Board has made its decision on PL15.129826 and PL15.205716 several years have passed and planning provisions in relation to this type of development in rural locations like this have become more robust in part to counteract the proliferation of urban generated housing as well as the unsustainable provision of this type of development on un-serviced land to mention but a few of the issues that unfortunately arise from this type of development.
- 7.3.5. Having regard to the planning history of the site setting I consider it appropriate that the Board consider this application on its merits.

#### **7.4. Visual Amenity Impact**

- 7.4.1. In terms of visual amenity impact, I raise a number of concerns.
- 7.4.2. Firstly, I observed that there is a strong proliferation of one-off rural dwellings aligning with either side of the L-5226-0 and that these have significantly diminished the intrinsic rural character of this landscape setting as appreciated from this road and from the public domain of the N2.

- 7.4.3. The Planning Authority as part of their consideration of this application considered that the site in their view could be considered an 'infill' site and one that would not strengthen the pattern of ribbon development in this area.
- 7.4.4. I consider that there is some merit in this conclusion given the apparent under-utilised nature of the existing shed and the main portion of the site on which it is located.
- 7.4.5. Notwithstanding this, the presence of an agricultural shed is a structure one would expect to observe in its various guises within a rural area like this whose primary function is agriculturally related. Whereas the presence of *ad hoc* one-off rural dwellings to the extent that are present along this road and within this locality is at odds with such a rural location and provide a sharp visual glimpse at the significant pressure lands in this locality are under by urban generated residential developments and with this pressure being further intensified by the proximity to N2 which allows for easy access for commuting to larger urban areas.
- 7.4.6. As such I raise a concern that this landscape setting has limited capacity to absorb further proliferation of one-off dwellings, particularly where genuine rural housing need has not been demonstrated.
- 7.4.7. In relation to the design of the proposed dwelling, whilst I concur that it is modest, I am at a loss to understand the design merit of such a top heavy in volume and height roof design where internally a very limited 2.515m floor-to-ceiling height is proposed for occupants of this single storey dwelling. This internal floor to ceiling height in my view is at odds with the 6.85m ridge height of the dwelling proposed and it would appear that such a roof height is being proposed for the possible later addition of a habitable first-floor level. Whether this is the case or not visually the roof structure is top heavy, overbearing, and incongruous for the typology of dwelling proposed.
- 7.4.8. Moreover, it would also be out of character with other single storey residential properties within its vicinity, in particular properties immediately adjoining it to the north, south and on the opposite side of the road to the south west. These single storey properties have a more diminutive overall height.
- 7.4.9. Should the Board be minded to permit the proposed development despite the concerns raised in this assessment, I recommend that the ridge height of the proposed dwelling is reduced to a more characteristic single storey height that is more reflective

of the traditional cottage type vernacular which the proposed dwelling appears to take inspiration from.

- 7.4.10. In relation to natural features, as previously noted that the proposed development ambiguously represents the actual site area associated with the proposed development and what is clear is that this proposal would seek to extend into an existing larger agricultural field that would necessitate the removal of an existing hedgerow, albeit of a poor quality but containing native hedgerow species with the new hedgerow associated with this according to the submitted landscaping scheme consisting of beech planting.
- 7.4.11. This new hedgerow would be not only highly visible from the public domain of the N2 due to elevated and prominent position this portion of the site on what is a rolling drumlin landscape where there are expansive views from lower and surrounding areas towards it due to it breaking an existing alignment of a large field boundary but also due to the inclusion of a mono species hedge as opposed to providing a mixed native hedgerow planting that would be characteristic of hedgerows in this rural area.
- 7.4.12. Further, the visual incongruity of the proposed new mono species hedgerow for the extended eastern portion of the would be added too by the existing leylandii hedgerow that is present on the existing southern and northern boundaries towards the western portion of the site which it would adjoin and less so by the variegated griselinia hedgerow that is present along the roadside boundary of the site.
- 7.4.13. While I am cognisant that planning permission is not generally favourably considered where excessive lengths of hedgerow removal are proposed to facilitate proposed developments. Arguably the proposed and existing hedgerows that this application seeks to maintain are of limited biodiversity value for this rural landscape setting and also are of little tangible merit in terms of providing a site appropriate visual buffer and screening of the proposed development that would help it to integrate more successfully with its rural landscape setting.
- 7.4.14. Should the Board be minded to grant permission it could address this concern by way of condition alongside the provision of additional trees to be included into a revised landscaping scheme to settle the proposed development more appropriately into its setting.

7.4.15. Based on the above, I consider that the proposed development would give rise to additional proliferation of one-off rural dwellings within this rural landscape setting and would add to the cumulative adverse impact such developments have had in terms of diminishing its intrinsic character, visual qualities, and amenity value.

## **7.5. Residential Amenity Impact**

7.5.1. Given the ample separation distance between the proposed dwelling and existing residential properties in the vicinity of the appeal site together with the single storey typology of dwelling sought despite the drumlin character of this area I consider that the proposed development, if permitted, would not give rise to any serious diminishment of established residential amenities. Particularly in terms of overlooking, overshadowing and the visual overbearance.

## **7.6. Access**

7.6.1. Having inspected the site and its setting I observed that despite the times we are in that there was significant traffic in both directions on the L-5226-0. I also encountered heavy goods vehicles as well as large agricultural vehicles when journeying to and from the L-5226-0 where it was the case that due to the restricted width of the road that it was necessary to wait in one of the existing entrances until these vehicles passed so that I could continue my journey by car.

7.6.2. While I accept that this not an uncommon situation for roads of this nature to be of a restricted width of concern is the documentation provided with this application what is of concern is the sightline drawings presented with this application and as further added to by way of the applicants submission in that they are not based on any detailed examination of the road carriageway nor do they reflect accurately the roadside verges, roadside boundaries through to utility poles and existing entrances. They also provide no clarity on where the utility pole within the existing roadside verge would be moved and whether there is the required agreement in place to do this from the relevant utility provider.

7.6.3. Of further concern they do not set out the changing levels of the road carriageway on which the required sightline is to be provided to meet the required standards for the provision of an entrance at this location.

7.6.4. Moreover, they fail to demonstrate whether this sightline would be impacted by the presence of utility poles to the south and north of the proposed entrance. Whilst I am

cognisant that the Planning Authority did not raise a specific concern on this matter, I am not convinced that the documentation submitted with this application, is sufficient to demonstrate that the proposed dwelling would be served by a safe entrance onto this local road at a point where the maximum posted speed limit applies.

- 7.6.5. I am also not convinced that the proposed development based on the information provided on this matter within this file would not result in any road safety issues for other road users along a stretch of road where there is also a proliferation of road entrances and where there is an observable significant volume of traffic using this road in both directions.

## 7.7. Drainage

- 7.7.1. The appellants raise concerns that the proposed development could potentially give rise to contamination of drinking water. The proposed development includes the installation of a proprietary wastewater treatment system, surface water treatment by way of the installation of a soakaway; and potable water supply is via the installation of a private well. I observed that the ground conditions were firm underfoot and that there was no evidence of water loving plants during my inspection of the site. Within the immediate vicinity I did observe deep drainage ditches and the landscape could be described as a heavily undulating drumlin landscape. There were no drainage ditches within the site area itself; no evident watercourses or water ponding.
- 7.7.2. As part of the documentation submitted with this application is a Site Characterisation report. The preparation of this report included trial hole and percolation tests based on redline area that is smaller than that is given as the site area due to it excluding a portion of the site which falls inside the curtilage of the applicant's family home.
- 7.7.3. Under the general details of the site (Note: Section 2.0) the Site Characterisation report indicates that the aquifer category as poor (PI); the vulnerability to be 'Extreme'; that the site is located within a groundwater protection scheme and that the groundwater protection response is R2.1. It indicates the suitability of the site being indicated as being fair to good depending on the site's elevation with potential targets at risk being local wells and the potential site restrictions to be elevated bedrock. The probable groundwater flow is northerly with the nearest well in this direction being located within the curtilage of the applicant's family home 43.3m from the proposed

percolation area which is located in the eastern portion of the site that currently forms part of a larger agricultural field.

- 7.7.4. The trial holes were excavated to 1.8m where the first 0.4m silt/clay was encountered and there under gravelly silt and clay mixed with pebbles, cobbles, and occasional shale boulders. No groundwater was evident, but bedrock was encountered at 1.8m below ground level in the trial holes. A T-test result of 38.11 is given with the report indicating good subsoil percolation that is well suited for underlying a polishing filter as per EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses, 2009.
- 7.7.5. In addition, the test results set out in the Site Characterisation report indicate that the percolation values are within the standards that would be considered acceptable for the operation of a wastewater treatment system as set out under the said EPA Code of Practice.
- 7.7.6. Moreover, the submitted drawings despite the concern raised in relation to the ambiguity over the site area indicate that the wastewater treatment system proposed meets the required lateral separation distances set out under the said EPA Code of Practice.
- 7.7.7. Based on the information provided with this application I concur with the Planning Authority that subject to best practice, in particular compliance with the EPA Code of Practice, this component of the proposed development would be acceptable and that it would not give rise to any public health issues or contamination of ground water in area in which there is a dependency on well water as the potable water source for dwellings within this area.

## 7.8. Other Matters Arising

- 7.8.1. **Flooding:** The Planning System and Flood Risk Management: Guidelines for Planning Authorities, 2009, state that where flood risk may be an issue for any proposed development, a more detailed flood risk assessment should be carried out appropriate to the scale and nature of the development and the risks arising. The detailed Site Specific Flood Risk Assessment should quantify the risks and the effects of any necessary mitigation, together with the measures needed or proposed to manage residual risks. I have examined the OPW CFRAMS mapping. This indicates that the subject site is not located in land that is vulnerable to flooding. I therefore



consider that there is no evidence upon which to base the appellants concerns that the proposed development, if permitted, could give rise to additional flooding issues in this locality. Moreover, it is normal practice for this type of development, if permitted, to deal with surface water drainage on-site in a manner that accords with required standards.

7.8.2. **Speculative Development:** I am not convinced based on the information provided with this appeal that there is any evidence to support that the proposed development would give rise to further development on the applicant's landholding, in particular the agricultural field on which the easternmost portion of the site is located. As such I do not consider this to be a significant issue in this appeal case.

7.8.3. **Undesirable Precedent:** I am of the view that all planning applications should be considered on their individual merits and I am of the view that the proposed development, if permitted, would not give rise to a precedent for other similar developments in this area.

7.8.4. **Encroachment:** The appellant raises concern with regards to the existing boundary treatments on this site being poorly maintained and that they give rise to encroachment onto adjoining properties. Whilst I did observe that the existing boundary treatments were generally unkempt, I consider that any encroachment, overhanging and oversailing of property is a civil matter to be addressed by the relevant parties involved.

## 8.0 **Appropriate Assessment**

8.1. 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.

## 9.0 **Recommendation**

9.1. I recommend that permission be **refused** for the reasons and considerations set out below. The Board may consider the first reason and consideration for refusal a new issue in the context of this appeal.

## 10.0 Reasons and Considerations

1. Having regard to the location of the site within a rural area strong under urban influence, and to National Policy Objective 19 of the National Planning Framework (February 2018) which, for rural areas under urban influence, seeks 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, it is considered that the applicant has not demonstrated an economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements and, therefore, the proposed development does not comply with National Policy Objective 19.

The proposed development would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would contravene the provisions of the National Planning Framework.

The proposed development would, therefore, 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 a local road at a point where the maximum speed limit applies; where the width is restricted; where there are a proliferation of entrances; where there are a number of obstructions that hamper visibility in both directions and where the documentation submitted does not without doubt that the required sightlines can be achieved in both directions.

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Patricia-Marie Young  
Planning Inspector

25<sup>th</sup> day of March, 2021.