



An  
Bord  
Pleanála

## Inspector's Report ABP-309230-21

### Development

Retention permission is sought for a mobile home on site and planning permission for a new entrance, removal of hedge along the R154 and its replacement with indigenous planting at a setback of 4m back from the roadside edge, works to access a BAF sewage treatment system, a private well on a previously approved site under P.A. Ref. No. KA/100917 and as extended by P.A. Ref. No. KA/160340 together with all ancillary site works.

### Location

Martinstown, Athboy, Co. Meath.

### Planning Authority

Meath County Council.

### Planning Authority Reg. Ref.

KA201571.

### Applicants

Martin & Winnie O'Donnell.

### Type of Application

Retention Permission & Planning Permission.

### Planning Authority Decision

Refused.

**Type of Appeal**

First Party

**Appellants**

Martin & Winnie O'Donnell.

**Observer(s)**

None.

**Date of Site Inspection**

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

**Inspector**

P.M. Young.

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## **1.0 Site Location and Description**

- 1.1. The appeal site has a given site area of 0.386ha and it is located in the townland of 'Martinstown', c2.4km to the north west of the settlement of Athboy, in County Meath, as the bird would fly.
- 1.2. The appeal site has an irregular u-type shape with the main site area containing a mobile home located on its north easternmost corner and in use as an area for grazing. At its nearest point, this portion of the site is setback c110m from the heavily trafficked R154 Regional Road. Access to this regional road is via a substandard in width, alignment, poorly surface laneway that also contains deep ditches along part of its southern and northern side that at the time of inspection contained high fast flowing water. At the point where the lane reaches the R154 the drainage ditches are culverted.
- 1.3. The site area as indicated in the submitted planning application also returns in a southerly direction to encompass a stretch of the R154's roadside verge for c68m.
- 1.4. Despite the rural location and separation distance from the nearest settlement the surrounding area contains a significant proliferation of one-off houses.

## **2.0 Proposed Development**

- 2.1. By way of this application retention permission is sought for a mobile home and planning permission is sought for the installation of a new entrance onto the R154 which would include the removal of an existing hedge along this regional road and the planting of a semi-mature indigenous hedgerow setback 4m from the road frontage behind a 3m grass verge in order to accommodate 90m sightlines. In addition, a wayleave is to be created to access the landowners land in order to connect to a BAF wastewater treatment system and private well. These are indicated as being subject to previous planning applications P.A. Ref. No. KA/100917 and KA/160340. Planning permission is sought for all associated site works and services.
- 2.2. According to the information submitted on file the mobile home for which retention permission is sought has a given 51.2m<sup>2</sup> floor area, a maximum height of 2.9m and length of 11.8m.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The Planning Authority decided to **refuse** retention permission and planning permission for the following stated reasons:

- “1. It is the policy of Meath County Council (RD POL 9) to require all applications for rural houses to comply with the ‘Meath Rural House Design’. It is considered that the proposed development if permitted, would materially contravene this policy, and therefore is not considered to be in accordance with the proper planning and sustainable development of the area.*
- 2. It is considered, having regard to the temporary nature of the accommodation, that the subject development would constitute an inappropriate form of housing outside the scope of a purpose built site with facilities, and that to grant retention would set an unwelcome precedent for other such development on individual isolated sites. The development for which retention is sought would, therefore, would be contrary to the proper planning and sustainable development of the area.*
- 3. The proposed development is considered to be piecemeal non integrated backland development and, if permitted, would set an undesirable precedent for similar proposals in the area. The proposed development as presented has the potential to impact negatively upon the established residential amenity of the area. the proposed development is therefore not considered to be in accordance with the proper planning and sustainable development of the area.*
- 4. The vehicular access to the site is from the R154, which, as set out in the Meath County Development Plan 2013 – 2019, is identified as a strategic corridor. It is the policy of the planning authority, as set out under policies RD POL 39 and RD POL 40 to avoid unnecessary and excessive individual access/egress points, which would prejudice the carrying capacity and ultimately the function of the road and to restrict new accesses for one-off dwellings where the 80km per hour speed limit currently applies in order to safeguard the specific functions and to avoid premature obsolescence of identified regional and important county link roads through the creation of excessive levels of individual*

*entrances and to secure the investment in non-national roads. The development proposed contravenes these policies, and if permitted would set an undesirable precedent for similar proposals in the area. The proposed development is therefore considered to be contrary to the proper planning and sustainable development of the area.*

5. *The application documents do not demonstrate that the required visibility sightlines in both directions from the proposed entrance can be achieved in accordance with Transport Infrastructure Ireland (TII) document DN-GEO-03060 for this class of road (160 metres). Consequently, it is considered that the proposed development would endanger public safety by reason of traffic hazard. Thus, the development would be contrary to the proper planning and sustainable development of the area.”*

### 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 includes the following comments:

- This application is on foot of a Warning Letter (Note: UD20143).
- The subject mobile home is a permanent place of residence and it is not considered an acceptable form of housing.
- The existing development on site is considered to represent backland, piecemeal development that, if permitted, would create an undesirable precedent.
- No compliance with rural settlement strategy has been demonstrated.
- No wastewater treatment details provided. This in itself is a reason for refusal.
- The required sightlines for access off the R154 have not been demonstrated. In addition, compliance with local needs exception for access onto the R154 not demonstrated. This in itself is a reason for refusal.

This report concludes with a recommendation for refusal.

### 3.3. Other Technical Reports

#### 3.3.1. None.

### 3.4. Prescribed Bodies

3.4.1. None.

### 3.5. Third Party Observations

3.5.1. A submission was received from an adjoining landowner who indicates that they have not consented for the removal of any part of their hedgerow. Further concern is raised by them that the proposed development, if permitted, would obstruct their right-of-way. This submission also asserts that the wayleave indicated in yellow in the drawings provided by the applicant is jointly owned by them.

## 4.0 Planning History

### 4.1. Site

- **P.A. Ref. No. KA/160340:** An extension of time was **granted** for P.A. Ref. No. KA/100917. This expired on the 27<sup>th</sup> day of March, 2021.
- **P.A. Ref. No. KA/100917:** Planning permission was **granted** for a single storey dwelling house, wastewater treatment system, entrance together with all ancillary works. This grant of permission is dated the 28<sup>th</sup> day of March, 2011.
- **P.A. Ref. No. KA/100259:** Planning permission was **refused** for a single storey dwelling house, wastewater treatment system, entrance, well and all ancillary works. The given reasons for refusal related to failure to demonstrate rural housing need and prejudicial to public health. This refusal of permission is dated the 7<sup>th</sup> day of May, 2010.

## 5.0 Policy & Context

### 5.1. Local Planning Provisions - Development Plan

5.1.1. The Meath County Development Plan, 2013-2019, is the applicable statutory plan for the area. The site itself is located in a rural area outside of a designated settlement, with the nearest settlement being Athboy. It and its surrounding rural hinterland is not subject to any land use zoning objective and this area is designated a rural area under urban influence.

- 5.1.2. Chapter 10 of the Development Plan deals with the matter of rural development.
- 5.1.3. Section 10.3 of the Development Plan sets out the policies for rural area types and it includes policies for Rural Areas under Strong Urban Influence.
- 5.1.4. Section 10.4 of the Development Plan sets out the criteria for which applicants can demonstrate a local housing need. It indicates that persons local to an area are considered to include:

- Persons who have spent substantial periods of their lives, living in rural areas as members of the established rural community for a period in excess of five years and who do not possess a dwelling or who have not possessed a dwelling in the past in which they have resided or who possess a dwelling in which they do not currently reside.
- Persons who were originally from rural areas and who are in substandard or unacceptable housing scenario's and who have continuing close family ties with rural communities such as being a mother, father, brother, sister, son, daughter, son in law, or daughter in law of a long-established member of the rural community being a person resident rurally for at least ten years.
- Returning emigrants who have lived for substantial parts of their lives in rural areas, then moved abroad and who now wish to return to reside near other family members, to work locally, to care for older members of their family or to retire, and;
- Persons, whose employment is rurally based, such as teachers in rural primary schools or whose work predominantly takes place within the rural area in which they are seeking to build their first home or is suited to rural locations such as farm hands or tradespeople and who have a housing need.

Provision is also made for exceptional health circumstances which may require a person to live close by their family members for support.

- 5.1.5. Section 10.7 of the Development Plan includes design criteria for residential development in rural areas including ancillary structures.
- 5.1.6. The following development provisions are relevant:

RD POL 1:                      Requires applications in locations identified as being under urban influence to satisfy the requirements of persons who are an intrinsic part of the rural community subject to normal planning criteria.



RD POL 2:	Facilitate the housing requirements of the rural community whilst directing urban generated housing to areas zoned for new housing in towns and villages within the development area.
RD POL 9:	To require all applications for rural houses to comply with the 'Meath Rural House Design Guide'.
RUR DEV SP 1:	Seeks that applicants adopt a tailored approach to rural housing within the county as a whole, distinguishing between rural generated housing and urban generated housing in rural areas recognising the characteristics of the individual rural area types.
RUR DEV SP 2:	Seeks to ensure that one off dwellings within rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed, subject to compliance with normal planning criteria. It further indicates that an assessment of individual rural development proposals including one-off houses shall have regard to other policies and objectives contained within this Development Plan.
WS POL 25:	To protect, maintain and improve the natural character of the watercourses and rivers in the county Meath.
NH OBJ 2:	Seeks to ensure an Appropriate Assessment in accordance with relevant provisions.
NH OBJ 3:	Seeks to protect and conserve the conservation value of candidate Special Areas of Conservation, Special Protection Areas, National Heritage Areas and proposed Natural Heritage Areas.
NH POL 13:	Seeks to encourage the retention of hedgerows, other distinctive boundary treatments in rural areas and prevent loss and fragmentation, where possible.

## 5.2. Regional Planning Context

- 5.2.1. The site lies within the area subject to the Regional Economic Spatial Strategy for the Eastern and Midland Region, 2019 to 2031. This spatial strategy aims to strengthen

the fabric of rural Ireland but also seeks the consolidation of settlements and promotes sustainable development in line with local planning provisions.

### **5.3. National Planning Context**

- Project Ireland 2040 - National Planning Frameworks, 2018.
- Sustainable Rural Housing Guidelines, 2005.
- The Planning System and Flood Risk Management, 2009.
- EPA Code of Practice: Wastewater Treatment for Single Houses, 2010.

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

- 5.4.1. The subject appeal site does not form part of, nor does it immediately adjoin any designated European site. It is however situated in close proximity to two such sites i.e., the Special Area of Conservation: River Boyne & River Blackwater SAC (Site Code: 002299) which is located c335.9km to the west at its nearest point and the Special Protection Areas: River Boyne & River Blackwater SPA (Site Code: 004232) located c2.6km to the south at its nearest point.

### **5.5. EIA Screening**

- 5.5.1. The proposed development is of a type that constitutes an EIA project (involving construction works) and despite the modest nature, scale and extent of the development sought under this application, it is unclear whether or not there is connectivity between the site and the nearest European Site which is the River Boyne & River Blackwater SAC.
- 5.5.2. The site itself is situated in a rural location where there is an absence of any public mains drainage to deal with wastewater the proposed development would give rise to and this application is not accompanied by robust certainty that wastewater treatment would be treated within the confines of the site to the required standards.
- 5.5.3. The site is also in the immediate vicinity of watercourses including drainage ditches with high fast flowing water evident and the ground vegetation characterising the immediate area includes water loving plant species.

5.5.4. Consequently, I cannot determine with any certainty based on the information provided that there is no real likelihood of significant effects on the environment. As such I consider that the precautionary approach should be had by the Board in its determination of this appeal case as the need for environmental impact assessment cannot be excluded at preliminary examination screening stage. I therefore conclude and recommend that a screening determination is required in this case.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

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

- The appellants indicate that they benefit from a grant of planning permission for a house at this location, but they are not in a position to proceed with it at present.
- The existing mobile is not one that is useable on the roads and it is contained within a 1-acre fenced off portion of land accessed via a cul-de-sac lane.
- They contend that they have used this mobile home for the past 6 years as a 'home' and previous to this they had another mobile 'home' at this location for 5 years.
- They contend that they have social connections to this area.
- They contend that they occupy the subject mobile home for most months of the year. In particular, during the summer months of June, July, and August. As well as school breaks and every 3<sup>rd</sup> weekend of the month.
- Due to the medical needs of their kids, it is not possible for them to stay in caravan parks, B & Bs, hotels or go camping.
- Bringing their kids to stay at this location results in qualitative impacts on their lives.
- The Board is sought to reverse the decision of the Planning Authority.

### **6.2. Planning Authority Response**

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

- They are satisfied that all matters outlined in the appeal submission have been addressed by them previously during their determination of this application.

- It is requested that their decision be upheld.

## 7.0 Assessment

7.1. Having examined all documentation and submissions on file, together with having carried out an inspection of the site and its setting alongside having had regard to all relevant planning provisions for the development sought under this application I consider that the main issues that arise in this appeal case are:

- Principle of the Development and Compliance with Rural Housing Planning Provisions
- Road Safety/Traffic Hazard

7.1.1. I therefore propose to deal with these separately in my assessment below. In addition to this I consider that the development sought under this application gives rise to drainage and 'Appropriate Assessment' issues that I also propose to deal with.

7.1.2. Before I commence my assessment, I note that development sought under this application relates primarily to the retention of a mobile home that available documentation on file suggests has been present on the appeal site for a number of years and is contended to be a replacement to a previous mobile home that is also alleged to have occupied this site. The cumulative time that the applicants contend that there has been a mobile home structure on this site which they have used for occupation purposes for substantive periods of time is 11 years.

7.1.3. It would also appear that this application has been made on foot of enforcement proceedings enacted by the Planning Authority in relation to this development based on the fact this type of development does not benefit from being exempted development.

7.1.4. The handling of enforcement is a matter that is dealt with by the Planning Authority and any procedural handling concerns in relation to the same should in my opinion be directed to them to address.

7.1.5. In relation to this application as said the primary component of the development sought under this application is the retention of a mobile home. There are a number of other components sought which relate to various improvements and infrastructures one would expect to facilitate such a development on an un-serviced site dependent upon

access onto the public road network via an entrance onto R154, regional route, at a point where the maximum speed limit applies via a cul-de-sac lane.

7.1.6. On the matter of enforcement, I am cognisant that the Development Management Guidelines for Planning Authorities, 2007, make it clear that, in dealing with applications for retention, they must be considered “*as with any other application*”. This is in accordance with planning law and with proper planning practice, in that all applications for retention should be assessed on the same basis as would apply if the development in question were proposed. Therefore, no account can, or should, be taken of the fact that the development has already taken place.

7.1.7. Accordingly, I consider it appropriate that the current application before the Board by way of this 1st Party appeal is assessed on an entirely *de novo* basis and it would be appropriate that a final decision on the appropriateness of this development at this location is made.

## **7.2. Principle of the Development and Compliance with Rural Housing Planning Provisions**

7.2.1. The appeal site is located in an area that lies outside of a designated settlement and in an area defined as being under strong urban influence as defined in the Sustainable Rural Housing Guidelines for Planning Authority’s, 2005 (Note: Map 1: Indicative Outline of NSS Rural Area Types). It is similarly identified under Map 10.1 of the Development Plan.

7.2.2. I further observed a strong prevalence of one-off residential developments in the surrounding hinterland, including but not limited to a one-off dwelling house adjoining either side of the roadside boundary with the R154 with one off dwellings neighbouring to both the east and west as one journeys along this regional road from the cul-de-sac entrance onto the R154 serving the site, other parcels of land, a mobile home that also appears to be in use and a derelict farmstead.

7.2.3. I consider that there are locational factors evident that would support that this rural locality is under strong urban influence. This includes the areas close proximity to a number of strong urban structures including Navan, Athboy, Ashbourne, Drogheda, and Mullingar. It is also within an hour drive of Dublin Airport and the outer urban area of Dublin city.

7.2.4. I note that the National Planning Framework states that the: *“Irish countryside is, and will continue to be, a living and lived in landscape focusing on the requirements of rural economies and rural communities, while at the same time avoiding ribbon and over-spill development from urban areas and protecting environmental qualities”*. It also recognises that there is a continuing need for housing provision for people to live and work in the countryside and it 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 but supporting settlements with appropriate infrastructure, services, amenities, public transport infrastructure and the like can more sustainably absorb residential developments.

7.2.5. It goes on to state 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, and design considerations.

7.2.6. In keeping with this National Policy Objective 19 states inter alia: *“ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e., within the commuter catchment of cities and large towns and centres of employment, and elsewhere:*

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

In addition, National Policy Objective 3a sets out an objective to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements. As such each new home permitted outside of the built-up footprint of existing settlements cumulative diminishes delivering this target as well as results in unsustainable residential sprawl that are inevitably more dependent on private cars.

7.2.7. In relation to the local planning policy provisions, Chapter 10 of the Development Plan, sets out the planning policy approach for rural development with it setting out its key

strategic objectives as including RUR DEV SO 6. This objective seeks: *“to protect and enhance the visual qualities of rural areas through sensitive design”*.

- 7.2.8. It also includes strategic policies such as RUR DEV SP 1 under which the Planning Authority advocates a tailored approach to rural housing in order to distinguish between rural generated and urban generated housing alongside recognising the individual rural area types.
- 7.2.9. In relation to rural area types, the site is located in an area that the Development Plan recognises is under ‘strong urban influence’.
- 7.2.10. The relevant policies for this area include policies RD POL 1 which seeks to ensure that individual house developments satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed, subject to normal planning considerations; RD POL 2 which essentially seeks to direct urban generated housing to towns and villages in the area of the Development Plan; and, RD POL 3 which seeks: *“to protect areas falling within the environs of urban centres in this Area Type from urban generated and unsightly ribbon development”*; alongside: *“maintaining the identity of these urban centres”*.
- 7.2.11. In a manner consistent with national planning policy provisions there is a general presumption against the principle of such developments on un-serviced lands outside of settlements except in limited circumstances alongside indicating that these will be subject to design and other key safeguards being satisfied.
- 7.2.12. The planning history of the site indicates that the applicants have been previously approved planning permission for a dwelling house at this location under P.A. Ref. No. KA100917 with this grant of permission being extended in duration under P.A. Ref. No. KA160340. Previous to this they were refused planning permission for the same under P.A. Ref. No. KA100259. The extension of time permitted under P.A. Ref. No. KA160340 has now expired (Note: 27<sup>th</sup> day of March, 2021). At the time of preparing this report I found no further approval for a time extension or otherwise for the site.
- 7.2.13. Since P.A. Ref. No. KA100917 was permitted on the 21<sup>st</sup> day of February, 2011, in my view considerable time has passed and the planning context of the site as well as its setting has significantly evolved and changed.
- 7.2.14. It is a requirement for all applications for rural housing to demonstrate compliance with rural housing policy as set out in the applicable Development Plans alongside which

being consistent with regional settlement hierarchies and national planning provisions as appropriate.

- 7.2.15. Of particular concern in this case is that the applicants have not demonstrated firstly compliance with rural housing policy in terms of having a genuine rural housing need for a dwelling at this location; and secondly, that the dwelling for which permission is sought is one that is not consistent with the standards required for a dwelling house on this rural un-serviced site.
- 7.2.16. Whilst the applicants argue that this development is sought on medical needs for their children as a place of residence during the school holidays and midterm breaks when away from what appears is their permanent residence in Limerick. The information provided does not demonstrate that there are no exceptional medical circumstances or indeed robustly proven intrinsic social and/or economic link for the applicants to this particular rural area that aligns with the rural housing policy at local, regional, and national level.
- 7.2.17. That is to say that the Development Plan while recognising exceptional health circumstances may require a person to live in a particular environment or close to family support that supporting documentation is required for this and that subject to the absence of any significant environmental, access or traffic reasons for refusal and the proposals adherence to sensitive design and siting criteria the Council will consider granting planning permission subject to appropriate conditions.
- 7.2.18. The Development Plan policies also seek to facilitate housing requirements within areas identified as being under strong urban influence subject to the applicants demonstrating a local housing need. This approach is consistent with national policy on rural housing.
- 7.2.19. The applicants by way of the documentation submitted with this application have not robustly demonstrated by way of evidence any local rural housing need, including an exceptional medical circumstance for a dwelling at this location or that they have intrinsic socio and/or economic connection to this location alongside that the development that they seek does not give rise to any significant environmental, access or traffic reasons for refusal alongside that the proposals adherence to sensitive design and siting criteria. This is discussed in more detail in the following sections of this assessment.



- 7.2.20. What is contended is a desire for the applicants to have the benefit from a non-permanent structure for residential occupation use at this location for an unidentified period of time. Essentially, they seek a second dwelling which despite them describing as their 'home' is a structure that is used for vacation type purposes away from their permanent resident in Limerick where it would also appear that medical and educational needs of the applicant's children are satisfied.
- 7.2.21. In addition, the duration of time, nature, and scope of the applicant's connections with this particular are also not robustly demonstrated and the use of an unauthorised structures does not convey any positive planning merit or accrue any benefit for applicants relating to unauthorised developments. As previously discussed, all applications for retention should be assessed on the same basis as would apply if the development in question were proposed.
- 7.2.22. I note that the Planning Authority's first reason for refusal considered that this development failed to comply with Policy RD POL 9 of the Development Plan. This Development Plan policy requires all applications to comply with the 'Meath Rural House Design' and it considers that if permitted the proposed development would materially contravene this policy.
- 7.2.23. In this regard, the Development Plan sets out that the determination of whether a new building integrates into the landscape requires an assessment of the extent to which the development of the site including all necessary site works will blend unobtrusively with its surroundings.
- 7.2.24. In relation to impacts, the criterion for assessment includes the positioning of the building within the site and its relationship with the surrounding buildings.
- 7.2.25. On this matter while I accept that there would only be localised views of the dwelling for which permission is sought the site is a backland site and in an area where there is a strong proliferation of one-off dwellings and there is no robust landscaping proposed around the perimeter of the site to visually reduce the presence of this structure from neighbouring properties including the other mobile home structure located in close proximity to that for which retention is sought for under this application and appeared to be occupied at the time of inspection. On investigation I could not find any permission in place for the erection of this mobile home or indeed its

residential use or otherwise. Of further concern there is no assurance that it benefits from independent wastewater through to potable water supply.

- 7.2.26. Of further concern is the typology of dwelling proposed for retention, i.e., a mobile home structure which is a non-permanent dwelling that fails to harmonise with vernacular through to contemporary in nature, design, massing through to palette of materials residential structures that characterise rural area or indeed any other rural area as a built form used for permanent habitation.
- 7.2.27. Having regard to the internal configuration of the structure it does not conform with qualitative space standards one would expect for a residential dwelling, particularly for a family unit of the size of the applicants. I therefore concur with the Planning Authority that the structure is not one that is suitable for permanent residential occupation.
- 7.2.28. Moreover, it is proposed that the dwelling would be served by wastewater treatment, potable water and amenity space on a site area that serves horses. There is no clarity provided on the provision of any of these and if they were to be provided that they would meet the required standards. There is also no clarity as to how wastewater has been treated by the applicants on the site to date or where they have sourced a potable source of water. The documentation also fails to provide any assurance that the applicant would provide the required levels of private amenity space for a dwelling and that this would be used exclusively by occupants and not as an area where horses graze and are kept.
- 7.2.29. At the time of inspection, the site was extremely heavy underfoot with water logging in places, water loving plant species evident and the watercourses in the immediate vicinity of the site high with fast flowing water.
- 7.2.30. I am not satisfied that the applicants in this case have demonstrated that the development sought would meet the requirements and standards expected for a residential structure on un-serviced land. Alongside that the structure would provide qualitative internal and external amenities for its occupants.
- 7.2.31. In addition, the development that is sought under this application is dependent on access to public road network via an existing substandard in width, surface and deficient in sightlines in both directions entrance cul-de-sac onto the R154. I am not satisfied based on the information and submissions on file that the applicants have demonstrated that they have the legal authority to provide improvements too.

Particularly, in terms of improving the sightlines onto the R154. With these sightlines being required to provide a safe access onto this regional road which I observed is heavily trafficked, the cul-de-sac entrance is at this point where the maximum speed limit applies, it has a meandering and undulating vertical as well as horizontal alignment alongside on either side of the existing cul-de-sac entrance onto the R154 there a number of other existing entrances.

7.2.32. Having regard to these concerns I consider that the dwelling sought under this application, if permitted, would contravene policy RD Pol 9 of the Development Plan. This I note forms part of the Planning Authority's first reason for refusal. With their chosen wording including 'materially contravene' this particular Development Plan policy.

7.2.33. In relation to material contravention of the Development Plan Section 37(2)(b) of the Planning and Development Act, 2000, as amended, indicates that the Board may only grant permission where it considers that:

- The proposed development is of strategic or national importance,
- There are conflicting objectives in the Development Plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- Permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives.
- Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.2.34. In relation to the above, I am satisfied in this instance that the development sought under this application is not of strategic or national importance; that there are no conflicting objectives in the Development Plan or that its provisions of relevance to the type of development sought under this application are not clearly stated. Further, on this matter I consider that the rural planning strategy as set out in the Development Plan are consistent with national policy, in particular Project Ireland 2040 and the Sustainable Rural Housing Guidelines.

- 7.2.35. Moreover, I am satisfied that there are no Section 28 policy directives applicable to the development sought under this application that would support it being granted and in terms of pattern of development the proposed development represents backland development that would add to the proliferation of one-off dwellings in this rural locality. A locality that is un-serviced, is remote from services, amenities and the like that would be beneficial for residential developments to be in proximity too.
- 7.2.36. Though the volume of traffic this development would generate would be low it would nonetheless cumulatively add to similar types of developments that are also dependent on this regional road.
- 7.2.37. The applicants in this case have not demonstrated that they can provide the required sightlines onto the R154 or that they meet any of the exceptional circumstances under which such access onto the R154 may be considered as provided for in the Development Plan.
- 7.2.38. Moreover, the intensification of traffic entering and exiting onto the R154 at this point would in my view add to road safety issues that arise for road users from the additional turning movements which at a point of the R154 where the width of the road includes no roadside verges and there is a proliferation of entrances.
- 7.2.39. I further note that Section 10.16.3 of the Development Plan seeks premature obsolescence of this regional road. For the road and traffic issues raised above I consider that this is development would cumulatively add to the premature obsolescence of this regional road.
- 7.2.40. I am therefore of the view that, in examining section 37(2)(b) against the development sought under this application, that this development is not justified under the items (i) to (iv). Should the Board not be satisfied that this is the case, in addition to the requirements of section 34(10), the Board should indicate in its decision the main reasons and considerations for contravening materially the Development Plan.
- 7.2.41. In relation to the second and third refusal reasons given by the Planning Authority in their notification to refuse permission for the development sought under this application having regard to the above considerations I share the Planning Authority's view that this development, if permitted, would constitute an inappropriate form of backland and piecemeal development that would set an undesirable principle for similar types of residential development in this area. In turn this would give rise to

further erosion of rural character of this area in in a manner that would be contrary to the proper planning and sustainable development of the area.

7.2.42. In conclusion, I consider that the principle of the development in this case is not acceptable.

### **7.3. Road Safety and Traffic Hazard**

7.3.1. The fourth and fifth reasons for refusal given by the Planning Authority to refuse permission for the development sought under this application could be considered to fall under the broad category of road safety and traffic hazard.

7.3.2. Further to this I raise a concern in relation to the proposed modifications to a section of roadside boundary bounding the R154 for which the applicants have not substantiated by way of robust evidence that they have the legal authority or appropriate consent to make the proposed sightline improvements including but not limited to the setback by 4m of the roadside hedge and the provision of a 3m grass verge to the south of the access onto this regional road to facilitate access to the development sought under this application.

7.3.3. I am not therefore satisfied based on the information provided on file that the applicant can carry out improvement works to achieve the required sightlines onto the heavily trafficked R154 in a southerly direction at a point where the maximum speed limit applies and along a stretch where there is a proliferation of other entrances onto the R154. Particularly on the eastern side of this stretch of the R154.

7.3.4. Of further concern, the southern side of this entrance contains a culvert and a deep drainage channel with this drainage channel continuing in an easterly direction.

7.3.5. The submitted drawings provide no details on how this piece of infrastructure would be appropriately catered for as part of the modifications proposed to the R154 and that no adverse drainage impacts would arise on the public domain of the R154 or otherwise.

7.3.6. This strip of land also contains a utility pole that the design does not include any re-routing for or indeed that contact was had with the infrastructure provider of this pole with the outcome of this is the consent for its relocation and/or any other associated works that would arise from this.

- 7.3.7. In addition, having inspected the submitted documentation and having inspected the entrance onto the R154 the sightline in a northerly direction is also deficient.
- 7.3.8. I further note that Transport Infrastructure Ireland document titled DN-GEO-03060 requires a sightline of 160 meters for this type of road at a speed limit of 80kmph. This has not been achieved nor is there any exceptional circumstance deemed to be permissible under the Development Plan for which additional access onto the R154 at this point is deemed to be permissible.
- 7.3.9. In relation to the entrance onto R154 the Development Plan under policies RD POL 39 and RD POL 40 seek to avoid unnecessary and excessive individual access/egress points along its route. This is reasonable given that it is consistent with national policy to safeguard the carrying capacity, the safe function of these roads through to protecting them from premature obsolescence.
- 7.3.10. Moreover, I note that the R154, is a regional road that is designated a 'Strategic Corridor' under the Development Plan and at this point it contains no hard shoulders, no lighting, no hazard signage, the existing roadside boundaries have limited lateral separation distance from the edge of the carriageway as well as it contains several telegraph poles with overhead cables and as said it is a road that I observed carries a significant volume of traffic.
- 7.3.11. Section 6.10.2 of the Development Plan indicates that regional roads serve an important economic role and also have valuable social and community functions. *"These roads are often the sole means of access for local economic activity, for example, designated towns such as Trim"* and Section 10.16.2 of the Development Plan states that it: *"is vitally important that new housing in rural areas, that is located ... in such a manner as to avoid endangering public safety by way of a traffic hazard"*.
- 7.3.12. While I accept that this entrance which serves a cul-de-sac lane may have historically existed for a considerable time it is of a substandard width, surfacing through to contains deep unprotected watercourses/drainage ditches along it. It is likely that it served a long abandoned modest farmstead but in recent decades appears to have been used for limited established agricultural access and unauthorised uses along it. Given that the development sought under this application is one that is not deemed to be permissible and given that the documents submitted does not set out compliance for access onto the R154 in a manner that is consistent with the Development Plan I

am not convinced, albeit giving rise to a low volume of traffic this development would give rise to, that no adverse road safety and/or traffic hazard for other road users using the R154 or users of the subject entrance onto the R154 would arise.

7.3.13. In conclusion, the development sought under this application is poorly clarified in relation to the proposed modifications to the south of the entrance onto the R154, it fails to demonstrate that it is consistent with Development Plan standards or that it would achieve the required standards, and it would result in additional turning movements onto this busy regional road, that is also a strategic corridor, that would result in additional road safety and traffic hazards for road users. As such the development sought under this application is contrary to the proper planning and sustainable development of the area. I therefore concur with the fourth and fifth reasons given by the Planning Authority to refuse planning permission.

#### **7.4. Drainage**

7.4.1. The applicant has provided insufficient information to make any informed determination on the wastewater and surface water drainage of the development sought under this application. It is also insufficient to simply indicate that wastewater treatment would be via a component that was granted as part of the now expired P.A. Ref. No. KA160340 and KA100917 respectively. Further significant time has passed since the wastewater treatment system was approved under KA100917 and requirements for such infrastructure as well as the wider planning provisions for which such applications are to be considered against have evolved.

7.4.2. In addition to this, during my inspection of the site and its setting I encountered ground conditions that were extremely waterlogged with ponding event and evidence of water loving plants. I also observed that all watercourses and drainage ditches in the vicinity of the site contained high volumes of fast flowing water.

7.4.3. I am not therefore convinced that this development, if permitted, would meet the required standards for wastewater and surface water drainage. In case of the later there are no substantive surface water drainage measures proposed for the access and entrance provisions or indeed elsewhere in terms of the site as a whole. There is no assurance that this development, if permitted would not give rise to adverse pollution and/or contamination of ground and surface waters through to be prejudicial to public health or sensitive environments.

7.4.4. Further, given the conditions of the site and the information provided with this application there is also inadequate assurance provided by the application that a safe and reliable potable water supply can be provided by way of the proposed on-site bored well. This concern is further magnified by the proliferation of wastewater treatment systems in the vicinity.

7.4.5. The Board may consider this a new issue in their determination of this appeal case.

#### **7.5. Appropriate Assessment Screening.**

7.5.1. As set out previously in this report, the appeal site whilst not forming part or immediately adjoining any European site is located within c335m to the west of the River Boyne & River Blackwater SAC (Site Code: 002299).

7.5.2. This SAC interconnects to the River Boyne & River Blackwater SPA (Site Code: 004232) c2.6km to the south of the site. The site as outlined in the documentation provided is situated within very close proximity to drainage ditches and watercourses with the wayleave containing deep drainage ditches and culvert on the southern side of the cul-de-sacs entrance onto the R154 that accommodate fast flowing water. There appears to be direct hydrological pathway between these and the said SAC.

7.5.3. As said the ground conditions observed on the site was poor and the soils also appeared to be heavy in terms of their characteristics. From what I observed it would appear likely that the site has a very high-water table.

7.5.4. The immediate surrounding area contains a proliferation of one-off detached dwellings that are on un-serviced rural lands. They are therefore dependent on proprietary wastewater treatment systems as opposed to public mains drainage. It is not possible to determine the effectiveness of these in this area as there is no information provided on this matter. I did observe foul smelling odours from some of the drains with some of the water flowing not being particularly clear. However, I did also observe dumping in the drainage ditches of various items of rubbish. With this including along the drainage ditches of the cul-de-sac serving the site. There is also no clarity given on the current treatment and proposed treatment of wastewater arising from the mobile home structure subject of this application.

7.5.5. I note that the qualifying interests of the aforementioned SAC are:

- Alkaline fens



- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, Anion Incanae, *Salicion albae*)\* *Priority Habitat*
- *Lampetra fluviatilis* (River Lamprey)
- *Salmo Salar* (Salmon)
- *Lutra lutra* (Otter)

7.5.6. The objective for this SAC is “*to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected*”.

7.5.7. Whilst it could be argued that any provision of wastewater and surface water drainage would give rise to an improvement over the existing situation, I again note that the fact that this dwelling structure is subject of retention permission and as such they must be considered “as with any other application”.

7.5.8. Of further concern in the course of the planning application and appeal no details have been provided in terms of the characteristics of the XX river including baseline water quality information. Under Article 5 of the European Communities Environmental Objectives (Surface Water) Regulations, 2009, it is a requirement that a public body in the performance of its functions shall not undertake those functions in a manner that knowingly causes or allows deterioration in the chemical or ecological status of a body of surface water. Given the sites location relative to the River Boyne & River Blackwater SAC (Site Code: 002299) at its nearest point I am not satisfied that the river has sufficient assimilative capacity to accept treated effluent generated from this site alongside other existing and permitted development in this locality. As such to permit the development sought under this application as proposed would pose an unacceptable risk of environmental pollution.

7.5.9. Given the inadequate information provided with this application in relation to wastewater and surface water drainage, the poor conditions of the site observed, the proliferation of wastewater treatment systems in the immediate vicinity, the likely high water table present and the likely route for contaminated and/or polluted surface water to easily reach the River Boyne & River Blackwater SAC via the watercourses in the vicinity of the site and through the saturation of ground as well as surface water, I am not satisfied that it can be ruled out that the development sought under this application,

particularly during occupation phase and in adverse weather conditions of heavy rainfall, would not have the potential to give rise to adverse effects on the conservation objectives of the River Boyne & River Blackwater SAC, either individually or in combination with other plans or projects.

7.5.10. I consider given the significant lateral separation distance between the River Boyne & River Blackwater SPA that any contamination and pollution arising from this development would be diluted and assimilated by the time it reached this European Site.

7.5.11. With this being said I note to the Board that policy RD POL 53 of the Development Plan seeks to promote good practice with regards to the siting and design of septic tanks alongside the maintenance of existing septic tanks.

7.5.12. This policy also requires a high level of scrutiny on an application for such infrastructure within 2km of the Boyne Catchment, which this site is. So as to ensure that such proposals within this catchment do not impact upon the local water quality and in turn the qualifying interest of its associated the SAC and SPA. I consider that this has not demonstrated in this application.

7.5.13. Based on the precautionary principle I consider that there is inadequate information to issue a screening determination that this development either individually or in combination with other plans or projects would not be likely to have a significant effect on River Boyne & River Blackwater SAC and a Stage 2 Appropriate Assessment (and submission of a NIS) is therefore required. In such circumstances the Board is precluded from granting permission in the absence of such information. I therefore advise the Board should they be minded to grant permission for the development sought under this application that it first seeks this information. Given the other substantive issues for refusal I consider the request of this information would give rise to an unnecessary and unreasonable time and cost burden for the applicants. The Board may consider this concern to be a new issue.

## 8.0 Recommendation

8.1. I recommend that retention permission be **refused**. The Board may consider that Reasons and Considerations No.s 2 and 4 give rise to new issues in the context of this appeal case.

## 9.0 Reasons and Considerations

1. The site of the development sought under this application is located in a 'Rural Area Under Strong Urban Influence' as set out in Section 2.7 and Map 10.1 of the Meath County Development Plan, 2013 to 2019, and in accordance with Section 3.2 of the 'Sustainable Rural Housing Guidelines for Planning Authorities' (2005), wherein it is policy to distinguish between urban-generated and rural-generated housing need.

For such areas, Policy RD POL 2 of the Meath County Development Plan requires that urban generated housing be directed to areas zoned for new housing development in towns and villages in the area of the Development Plan.

Furthermore, National Policy Objective 19 of the National Planning Framework seeks to ensure that in rural areas under urban influence, that Planning Authorities should 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.

Having regard to the documentation submitted with this application, notwithstanding the justifications put forward by the applicant as to the social need to have a home in this rural locality, it is considered that the applicant's need for a house is urban generated and not generated by a genuine social and/or economic need for a house in this rural locality. In addition, the applicant's housing needs and family supports including medical and educational needs for their children are being met where they reside in Limerick.

In this context, the development sought under this application would contribute to the encroachment of random development in an un-serviced rural area that has been significantly diminished by one-off rural dwellings and is remote from services as well as other amenities that residential developments like this would require. It would also militate against safeguarding and preserving this rural locality for its predominant agricultural functions and what limited capacity there is to meet those with genuine demonstrable social and/or economic housing needs of those with intrinsic links to this rural locality.

The development sought under this application would, therefore, be contrary to the proper planning and sustainable development of the area.

2. On the basis of the information provided with the application, having inspected the site and carried out a preliminary Appropriate Assessment Screening, the Board is not satisfied that the proposed development individually, or in combination with other plans or projects, notwithstanding the modest nature of the proposed development, would not adversely affect the integrity of the Special Conservation Area: The River Boyne & River Blackwater SAC (Site Code: 002299), in view of its Conservation Objectives, by way of adding to water quality issues in an area where there is a proliferation of one-off dwellings vicinity served by individual wastewater treatment systems and where no assurance has been provided that these systems meet current best practice requirements alongside the lack of any qualitative information on the waste water and surface water drainage provisions for the site including mitigation measures to ensure no adverse impacts arise.

This concern is added to the poor ground conditions, the likelihood of a high-water table at this location through to the number of watercourses and drainage channels through which there are direct hydrological pathways to the aforementioned SAC. In these circumstances the Board is precluded from considering a grant of planning permission.

It is therefore considered that the development sought under this application would for these reasons be contrary to Policy RD POL 53 of the Meath County Development Plan, 2013 to 2019, which seeks that proposal for septic tanks within a 2km of a watercourse within the Boyne River Catchment shall not have an adverse impact on local water quality that in turn could affect the qualifying interest of the identified European site.

Therefore, the development sought under this application would be contrary to the proper planning and sustainable development of the area.

3. It is the policy of the planning authority, as set out in the Meath County Development Plan 2013 to 2019, to ensure that the design and layout of all residential developments have regard to the character of the area and achieve attractive and sustainable development through better design. This is in part provided for under Section 10.7 and policy RD POL 9 which seeks such developments to comply with the 'Meath Rural House Design'.

This is similarly advocated under the Sustainable Rural Housing Guidelines for Planning Authorities, 2005, for such developments.

It is considered that the development sought under this application would provide substandard residential amenities both internally and externally for its occupants and that it would also give rise to an incongruous built form insertion into this rural landscape and would have the characteristics of piecemeal backland development. If permitted, this development would be out of character with its rural locality and would set an undesirable precedent for similar developments in the area.

The development sought under this application is therefore not considered to be in accordance with the proper planning and sustainable development of the area.

4. It is considered that the applicant has failed to demonstrate that the site is suitable for the disposal of septic tank effluent. Taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by septic tanks in the area. Together with the sensitivity and proximity of the Special Conservation Area: The River Boyne & River Blackwater SAC (Site Code: 002299) to the site and the lack of assurance that this development, if permitted, would not give rise to any adverse deterioration of it to permit the development sought under this application would be contrary to Article 5 of the European Communities Environmental Objectives (Surface Waters) Regulations 2009, which requires that a public body, in performance of its functions, shall not undertake those functions in a manner that knowingly causes or allows deterioration in the chemical or ecological status of a body of surface water. The Board is not satisfied that the nearby river which forms part of the said SAC has sufficient assimilative capacity to accept treated effluent from the proposed wastewater treatment plant in conjunction with treated effluent from other existing and permitted development.

Therefore, the development sought under this application if permitted would pose an unacceptable risk of environmental pollution and would be contrary to the proper planning and sustainable development of the area.

5. Access to the public road network is via an existing cul-de-sac entrance onto the R154 which has inadequate sightlines to the north and south. There is also a proliferation of entrances in both directions and this section of the R154 has a meandering and undulating horizontal as well as vertical alignment.

The R154 is identified as a strategic corridor under the Meath County Development Plan, 2013 to 2019. Policies RD POL 39 and RD POL 40 indicate that the Planning Authority will avoid unnecessary and excessive access/egress points which would prejudice the carrying capacity and ultimately the function of this road.

It also sets out that new access for one-off dwellings where the 80kmph speed limit applies will be restricted and that the Planning Authority will seek to avoid the premature obsolescence of regional roads like the R154.

It is considered that the development sought under this application would be contrary to the said Development Plan policies, that it would endanger public safety by reason of traffic hazard as a result of the additional traffic turning movements the development would generate at a point where the sightlines are restricted in both directions onto the R154 and the 80kmph speed limit applies.

The development sought under this application is therefore considered to be contrary to the proper planning and sustainable development of the area.

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Patricia-Marie Young  
Planning Inspector

12st day of April, 2021.