



An
Bord
Pleanála

Inspector's Report ABP-309393-21

Development

Permission to construct a single storey dwelling with attic storage, domestic garage and all development works incl. new proprietary wastewater treatment system & polishing filter and access to public roadway.

* Significant Clarification of Further Information received 17/12/20.

Location

Millockstown, Ardee, County Louth.

Planning Authority

Louth County Council.

Planning Authority Reg. Ref.

20382.

Applicant(s)

Avril Power.

Type of Application

Planning Permission.

Planning Authority Decision

Grant with Conditions.

Type of Appeal

Third Party

Appellant(s)

Edward O'Malley.

Observer(s)

None.

Date of Site Inspection

19th day of March, 2021.

Inspector

P.M. Young.

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	7
3.4. Third Party Observations	7
4.0 Planning History.....	7
5.0 Policy & Context	7
5.1. National Planning Policy Provisions	7
5.2. Local Planning Provisions	8
5.3. Natural Heritage Designations	10
6.0 The Appeal	11
6.1. Grounds of Appeal	11
6.2. Applicant Response	12
6.3. Planning Authority Response	14
7.0 Assessment.....	15
8.0 Recommendation.....	30
9.0 Reasons and Considerations.....	30

1.0 Site Location and Description

- 1.1. The irregular shaped appeal site has a given 0.49ha site area and it is located in the Townland of Millockstown, c0.7km to the east of the N2 and c2.7km to the south east of the historic centre of Ardee, as the bird would fly in County Louth.
- 1.2. At the time of inspection, the site was accessed via an existing roughly stoned agricultural entrance that opens onto the L5257 local road. At its nearest point, the main site area's roadside boundary is situated c26m to the south east of the L5257 junction with the L5256. However, I note the redline area of the site includes the roadside boundary that extends to where these two local roads meet.
- 1.3. The site forms part of a larger field that adjoins the main northern boundary of the redline area. For the most part the larger field which includes the redline area of the site is indicated in blue and at the time of inspection was in grass.
- 1.4. The topography of the site is heavily undulating a from the south eastern corner which has a ground level exceeding 101m whereas the redline area of the site at its lowest point is indicated as being close to the 88m contour line where the L5257m roadside boundary meets the L5256 local road.
- 1.5. The site is adjoined by a detached dwelling on its southern side and the surrounding area is characterised by one-off dwellings, farmsteads, and agricultural buildings.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a contemporary in design detached single storey dwelling (Note: 235.52m²) with attic storage (Note: 99.9m²), a detached domestic garage, a wastewater treatment system. The submitted drawings indicate that the proposed dwelling would have an irregular T-shape footprint and it would be positioned roughly midway in the site between c94.5m and the 97m contour line with the detached garage positioned to the rear to the east of the south easternmost corner of the proposed dwelling between the 97m and 98m contour line. The drawings also indicate the provision of a new entrance towards the northernmost end of the roadside boundary, the provision of a well along the northern boundary to the front of the dwelling and the placement of the wastewater treatment system to the

rear of the dwelling in the northmost corner of the stie. This planning application is accompanied by the following documents:

- A letter of engagement from Collon Tanks & Landscaping Ltd. Indicating that they have been engaged to install the proposed wastewater treatment system and polishing filter together with associated documentation.
- Site Characterisation Form.
- Site Suitability Report.

2.2. On the 9th day of December, 2020, the applicant submitted significant **further information** to the Planning Authority. On the 15th day of December, 2020, the applicant was informed that their response was deemed to be an incomplete response given that the distances from all existing percolation areas (including decommissioned percolation areas) within 100m of the site to the proposed well were not marked. It was also considered that new public notices were required.

2.3. On the 17th day of December, 2020, the applicant submitted their **clarification of further information response**. This was accompanied by the following documentation:

- A Ground Water Risk Assessment Report.
- Amended Site Assessment Report.
- A response to the Further Information request prepared by Collon Tanks & Landscaping Ltd.
- Revised Site Plan.
- New Public Notices.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority **granted** permission subject to 7 no. conditions. Of note are the requirements of the following conditions:

Condition No. 2: Occupancy Clause.

- Condition No. 5: Requires the existing agricultural entrance to be removed and closed within one month of the commencement of development.
- Condition No. 6: Infrastructure requirements.
- Condition No. 7: Wastewater requirements.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial Planning Officer's report, dated the 21st day of July, 2020, concluded with a request for further information on the following items.

- Item No. 1: Clarification on a number of ground water matters.
- Item No. 2(a): Requires the closure of an existing agricultural entrance to the south east of the proposed dwelling entrance.
- Item No. 2(b): Clarification of extent of ownership boundary.
- Item No. 3: Requires new public notices as it indicates that the further information will result in a significant alteration from the original proposal.

The final Planning Officer's report dated the 11th day of January, 2021, was essentially satisfied that the applicant had addressed all their concerns and that outstanding concerns could be appropriately addressed by way of conditions. Their report concludes with a recommendation to grant permission subject to 7 no. conditions.

3.2.2. Other Technical Reports

- **Environment Section:** Report dated the 27th day of July, 2020, concludes with a request for additional information on groundwater related concerns.

Their report dated the 22nd day of December, 2020, raises no objection to the proposed development subject to the imposition of a number of recommended conditions in the event of a grant of planning permission.

- **Infrastructure:** Report dated the 3rd day of July, 2020, raises no objection to the proposed development subject to 15 no. conditions in the event of a grant of planning permission.

Their report dated the 5th day of January, 2021, raised no objection to the proposed development subject to 15 no. conditions in the event of a grant of planning permission.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. The Planning Authority received a submission from the appellant during the course of their determination of this application. The substantive concerns raised correlate with those raised in their appeal submission to the Board.

4.0 Planning History

4.1. Site and Setting

4.1.1. None relevant.

4.1.2. I do however note that the Boards records indicate that an appeal case was lodged under ABP Ref. No. 243360 (P.A. Ref. No. 13/480) for a development described as permission for extensions and alterations to a house on foot of the Planning Authority's decision to refuse planning permission for the said development. In this case the Board had regard to the reasons for refusal given by the Planning Authority and the provisions of the applicable development Plan and considered that the proposed development does not come within the scope of exceptions set out under Section 37(2)(b)(i) to (iv) of the Planning & Development Act, 2000, as amended. As such the Board was precluded from considering a grant of permission in this case.

5.0 Policy & Context

5.1. 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 Wastewater Treatment and Disposal Systems Serving Single Houses - Circular PSSP1/10.

5.2. Local Planning Provisions

- 5.2.1. 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."*
- 5.2.2. 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"*.
- 5.2.3. 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).
- 5.2.4. 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.
- 5.2.5. 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”.

- 5.2.6. 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 220m² 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 20m² for each 1m² of additional floor area of the dwelling.
- 5.2.7. Section 2.2 of the Development Plan sets out the criteria for rural housing design and siting criteria.
- 5.2.8. 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 defined as “four or more houses in a continuous row along a public road includes those houses constructed prior to 1st October 1964”.*
- 5.2.9. 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”.*
- 5.2.10. 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”.*
- 5.2.11. 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”.*

5.2.12. 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"*.

5.2.13. 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"*.

5.2.14. 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"*.

5.2.15. Other Relevant Development Plan provisions include:

Policy SS 63 & 64: Access/Hedgerows.

Policy SS 65: Wastewater/Surface Water Drainage.

5.2.16. 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.

5.3. Natural Heritage Designations

5.3.1. The nearest European site is SPA: Stabannan Braganstown Special Protection Area (Site Code: 004091) which is situated c6.4km to the north east of the site.

5.4. EIA Screening

5.4.1. Having regard to the nature of the proposed development comprising a single dwelling house and associated works, there is no real likelihood of significant effects on the

environment arising from the proposed development. The need for environmental impact assessment can therefore be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of this 3rd Party appeal can be summarised as follows:

- The appeal setting is described as forming part of a built heritage rich scenic rural landscape. The proposed development by reason of its location and elevated site position, if permitted, would result in an intrusive encroachment into this setting.
- The proposed development would be highly visible from the public road.
- The proposed site is located so that it establishes another site directly alongside it and it and this adjoining land have been advertised as two sites.
- The proposed development would militate against the preservation of the rural environment.
- The proposed development would set an undesirable precedent.
- The appellant raises concern that the proposed development is within 120m of his main farmyard and at such close proximity could result in complaints by future occupiers of the proposed dwelling about his farming activities.
- This area is under increasing pressure for one-off rural housing and is an area of extensively farmed land which Section 3.10.5 of the Development Plan seeks to protect.
- This development is in conflict with Policies SS53 and SS54 of the Development Plan as there are already four houses in a row within 300m of this proposed development.
- The L5256 is currently used by vehicular traffic as an eastern bypass of Ardee town as it allows traffic to connect from the N2 to the N33. The proposed development would add to the number of entrances on the L5257 in proximity to its junction with the L5256.

- Visibility concerns are raised in terms of the entrance and its proximity to the L5257 and L5256 junction.
- There are seven septic tanks and a decommissioned tank within 300m of this site.
- It is not accepted that the site has access to safe potable water supply based on investigation of the drinking well as well as other wells in the vicinity. These show that the ground water at this location is already polluted, mostly likely due to the high number of existing residences with associated septic tanks in this area.
- The applicant does not appear to have an economic or social need to live in this rural area.
- Policy SS18 of the Development Plan seeks to restrict urban generated housing in order to protect the visual amenities and resources of the countryside.

6.2. Applicant Response

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

- The appellants case is without substance or merit and is considered to be motivated by non-planning reasons as such it is considered to be frivolous and vexatious.
- The appeal site is not designated as an area of outstanding natural beauty or area of high scenic quality. The appeal site is located within the Muirhevan Plain Character Areas is classified as being of local importance only.
- The Jumping Church ruin and Kildemock House are located further north of the site approximately 500m and 540m, respectively. In addition, the appellants property is indicated as being located on higher ground levels and it is afforded no specific protection.
- The concept of developing two sites was originally proposed by the applicant's family and was dismissed when it was realised the requirements and provisions of rural one-off housing would negate the construction of a second house. The indicative site layout plan was used as a template in the preparation of the plans submitted with the application. This application seeks permission for one dwelling

and any separate dwelling house would be outside the redline area as well as would be subject to a separate planning application.

- The proposed dwelling is described as being modest in scale, mass and bulk as well as would incorporate a palette of materials that would harmonise with adjoining dwellings.
- The positioning of the dwelling through to the augmentation of the existing boundary treatment would soften the proposal into its landscape setting.
- The applicant is a native of this local area and is acclimatised to rural living.
- The proposed development does not constitute ribbon development as the proposed dwelling would be accessed from the L5257 and there are only three other dwellings on the same side and accessed of the L5257. As house number four it would not constitute ribbon development. This conclusion was also accepted by the Council.
- The appeal submission has not established existing traffic volumes along either the L5257 or the L5256 or demonstrated that this development would be excessive or detrimental to the safety of road users.
- The nature of this development would not be excessive to the point where the carrying capacity and road safety of either local road would be compromised or diminished.
- The proposed development will have no impact on the microbiological quality of the groundwater nor cause any increase in the current inherent nitrate levels within the groundwater. In addition, the proposed development will meet all necessary and relevant requirements.
- The site is 1.6km to the south of the applicant's family home and therefore within the 6km radius set out under Section 2.19.2 of the County Development Plan which defines the local rural area.
- The applicants current address is Dundalk which is located 15.82km to the north-east and as such is outside the local rural area which is indicated in their folio details. This has no material bearing or detrimental effect upon qualification for a rural one-off house.

- Additional documents in support of the applicants rural housing need are submitted and is contended to adequately demonstrate a strong historic and continuing social connection to the local rural area, its social structures and organisations that make up the Millockstown/Ardee communities.
- Applicant has lived in Dundalk since the purchase of the house in 2016 and her family lives have remained very much centred around the Millockstown/Ardee area.
- The purchase of the dwelling in Dundalk was based on future marketability rather than convenience as it was a long-term goal of the applicant to save sufficient monies to finance the construction or purchase of a dwelling close to the family home.
- The applicants current dwelling is inadequate for a potentially growing family and living close to the applicants' parents would allow her to future care and support them as well as provide childcare support in the form of after-school childcare duties during their formative years.
- It is not accepted that the appellant has demonstrated that the applicant does not have a genuine rural generated housing need.
- The proposed development is compliant with the proper planning and sustainable development of the area.

6.3. Planning Authority Response

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

- The siting and design of the proposed dwelling consists of a modern single storey dwelling which is deemed to accord with the Rural Housing Design and Siting Criteria set out in Section 2.20 of the Development Plan. It is not considered that it would detract from the rural character of the landscape or the visual amenities of the area.
- Given the nature of the development and the separation distance between Kildermock House, a Protected Structure (RPS Ref. No. LHS017-089) and Kildermock Church (National Monument LH017-028001) it is not anticipated that the proposed development would have any unreasonable impact on their character or setting.

- The applicant has demonstrated compliance with local needs qualifying criteria and therefore the principle of development is acceptable at this rural location.
- There is nothing contained within the proposed development to suggest it will have any impact on the agricultural activity carried out by the appellant on their landholding.
- The proposed development does not result in ribbon development and is therefore not contrary to Policies SS53 and SS54 of the Development Plan.
- The Infrastructure Section raised no objection to the proposed development subject to conditions in an event of a grant of permission and it is considered that the development is compliant with Policy TC 12 of the Development Plan.
- Issues surrounding groundwater by the proposed development have been considered and they are satisfied that the proposed development would not be injurious to public health.
- Based on the documentation submitted the applicant has provided sufficient evidence to satisfy Criteria 2 of Development Zone 5.
- The Board is requested to uphold its decision.

7.0 Assessment

7.1. Preliminary Comment

- 7.1.1. The applicant in their response to the grounds of this 3rd Party appeal puts forward an argument that in their view this appeal has been made on essentially vexatious grounds and that it is motivated by non-planning reasons. A background as to why they consider this to be the case is given. Alongside their contention that the proposed development is fully in keeping with the principles of the proper planning and sustainable development which ultimately, they argue gave rise to the proposed development being granted planning permission subject to safeguards by the Planning Authority who they further argue fully considered all planning related issues that are raised in the appeal submission.
- 7.1.2. In relation to this concern and having read the appellants grounds of appeal I consider that there are a number of substantive planning concerns raised in the appeal

submission. These include visual amenity impact; the capacity of this rural setting to absorb one-off dwellings; rural settlement strategy compliance; road safety and traffic hazard concerns; built heritage impact; issues arising from the proliferation of septic tanks in this locality through to concerns in relation to safe potable water supply for existing and future occupants of the proposed dwelling.

- 7.1.3. I am therefore of the opinion that the appellants submission has raised valid planning issues and I would not consider it reasonable that the Board dismiss this 3rd Party appeal made by Mr. Edward O'Malley on the grounds that it is vexatious as I can find nothing within this appeal submission that would support that this is the case.
- 7.1.4. I also consider that the appellant has the right to seek that the Board make a *de novo* assessment of the proposed development based on the substantive planning related issues that they have outlined and this is the appropriate forum for doing so.
- 7.1.5. Further in relation to the background to the ownership issues raised by the applicant in their response which relates to the field in which the site forms part of, its historical ownership through to apparent issues relating to unresolved issues title that are purported to be present I consider that the Board has no statutory power to adjudicate upon such matters as these are civil in their nature and ultimately for resolution by the courts should that be deemed to be appropriate by the parties involved.
- 7.1.6. It would also appear that the applicant in this case has been the legitimate owner of the redline site area and the adjoining blue line area since 2016 with the land title clearly in her name.
- 7.1.7. Also, I note the concerns raised by the appellant in relation to the Planning Authority's determination of this application in that their submission was not considered by the appropriate internal department prior to the final decision being made.
- 7.1.8. Similarly, the Board does not have an ombudsman role in adjudicating on what are procedural matters that the appellant considers has arisen during the Planning Authority's determination of this appeal case.
- 7.1.9. Notwithstanding having read the Planning Officer's and interdepartmental reports on file I consider that the matter of ground water and the site's suitability for the provision of a proprietary wastewater treatment system were given their required due attention through to implications of the proposed development on public health.

7.2. Introduction to Assessment

7.2.1. Having carried out an inspection of the site and its setting, having examined the documentation on file together with an examination of all relevant planning provisions I consider that the substantive issues that arise in this appeal case are as follows:

- Principle of the Proposed Development/Compliance with Rural Settlement Strategy
- Water and Wastewater
- Visual Amenity Impact
- Built Heritage Impact
- Access
- Impact on the Appellants Agricultural Activities
- Appropriate Assessment
- Other Matters Arising

7.2.2. I propose to deal with these issues in turn in my assessment below.

7.3. Principle of the Proposed Development/Compliance with Rural Settlement Strategy

7.3.1. This 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. The proposed development also has to be considered against regional and national spatial strategy for residential development particularly as to how they should apply to rural areas and rural areas recognised as being under strong urban influence. Of particular importance are the provisions of the National Planning Framework, 2018, in relation to residential development.

7.3.2. The reasons as to why the site is considered to be an area under strong urban influence is 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 N2 corridor, in particular Dundalk to the north east and Drogheda to the south east. It is also less than an hour drive to the centre of Dublin and Dublin Airport as well as is located c4km to the south east of the heart of Ardee and c3.8km

to the modest settlement of Ballapousta, both by the quickest route of the N2, respectively.

- 7.3.3. In addition, in 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.
- 7.3.4. 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.
- 7.3.5. Further, Policy SS 19 of the Development Plan also seeks this compliance.
- 7.3.6. 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.
- 7.3.7. In relation to the appeal site and its immediate setting they are located on lands that 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).
- 7.3.8. 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, 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.

7.3.9. The applicant in this case indicates that they are applying for the proposed one-off dwelling under 'Category 2'. Under Section 2.19.1 of the Development Plan this category requires an applicant to demonstrate the following:

- That they have lived for a minimum period of 10 years in the local rural area.
- That they have a rural generated housing need.
- That they do not already own a house or have owned a house within the rural area of the county for a minimum of 5 years prior to the making of this application.

7.3.10. I generally accept from the information on file that the applicant has lived for at least 10 years and has strong links to this rural locality. I also would accept that the applicant now wishes to return to reside in a rural locality close to her family home which is located 1.6km to the north of the subject appeal site. Therefore, in general I consider that the applicants rural housing needs to be consistent with the requirements for the government's guidelines on Sustainable Rural Housing (Note: Section 3.2.3 – Persons who are an intrinsic part of the rural community).

7.3.11. 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 need is socio through to economic grounds based on the information submitted with this application.

7.3.12. 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 mentioned Sustainable Rural Housing Guidelines for Planning Authorities and the National Planning Framework.

7.3.13. 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"*.

- 7.3.14. It also recognises that there is a continuing need for housing provision for people to live and work in the countryside.
- 7.3.15. 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.
- 7.3.16. In keeping with this National Policy Objective 19 of the National Planning Framework states, inter alia, that Planning Authority’s shall: *“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”*.
- 7.3.17. 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.
- 7.3.18. Against this basis I consider that the documentation provided by the applicant in this case has not demonstrated a genuine and robust 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 despite the applicant having family and general social connections with this area.
- 7.3.19. Of further concern under this that the documentation on file indicates that the applicant does already own a house though it is not located within the rural area but is within the settlement of Dundalk. Whilst it is purported that this does not meet their family needs this particular criterion clearly requires, that the applicant either does not already own a house in the first part and in the second part ‘or’ has owned a house within the rural area of the county for a minimum of 5 years prior to the making of this

application. While the applicant appears to meet the second part, albeit no affidavit or other document has been provided to add veracity to this contention. They do not meet the first part of this particular criteria which requires demonstration from the applicant that they satisfy both scenarios. Therefore, the applicant in this case has not demonstrated compliance with this criterion.

7.3.20. 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. This therefore militates against the preservation of this rural landscape and safeguarding this primarily agricultural in functioning in land which in itself is a precious resource. Due to the significant proliferation of this type of development in this rural area its capacity to absorb similar developments where no robust social and/or economic need is presented has in my view been exceeded.

7.3.21. 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.

7.4. Water and Wastewater

7.4.1. In terms of the further information and further clarification of further information received by the Planning Authority with this application I note that accompanying it is an amended Site Characterisation Report which indicates that the proposed water supply would be via a private well/borehole.

7.4.2. In terms of general details of the site it indicates the Aquifer Category as being 'Poor' with 'Extreme' Vulnerability and a Groundwater Protection Response of 'R2¹'.

7.4.3. T-test results of 10.61 (min/25 mm) were recorded which indicated good percolation rates.

7.4.4. Based on the conclusion of the investigation it considered that the site was not suitable for a septic tank system or a septic tank and filter system constructed on site and polishing filter but was suitable for a packaged wastewater treatment system with polishing filter discharging to ground water with only foul and grey water to enter the

wastewater treatment system with all storm and surface water to be diverted to separate soakaways.

- 7.4.5. The final report from the Planning Authority's Environmental Compliance Section outlines that the applicant has submitted adequate information to demonstrate there will be no threat of environmental pollution from the proposed development. A grant of permission is recommended subject to safeguards which the Planning Authority included in their notification to grant planning permission under Condition No. 7 with this condition essentially requiring the details of the wastewater treatment and disposal system to comply with the Environmental Protection Agency (EPA) Code of Practice: Wastewater Treatment and Disposal serving Single Houses (October, 2009).
- 7.4.6. At the time of inspection, the ground was firm underfoot, there was no significant presence of water loving plants, there were no deep drainage ditches or water courses on the site or adjacent to the site and there was no water in the exposed trial hole that remained exposed to the elements.
- 7.4.7. I would share the appellants concerns in relation to the proliferation of similar developments to that proposed under this application in this un-serviced extensively farmed rural location where there is an acknowledge extreme groundwater vulnerability with the local aquifer category being classified as poor. The further proliferation of proprietary wastewater treatments where their success in treating foul and grey water is largely dependent on their appropriate maintenance and upkeep into the future after installation is a cause of concern even where the documentation indicates that such systems will be designed and installed in full compliance with the EPA Code of Practice which the documentation accompanying this application indicates.
- 7.4.8. The appellant in this case raises significant concern over the level of pollution present in the groundwater and in turn the quality of water supply to those living in this area who are dependent on providing their own potable water supply as there is available public water supply or other. This they have supported by testing of water supply at locations in close proximity to the applicants propose well/borehole. These results are concerning and would raise doubt over the site's ability to provide a safe potable water supply together with the need for any water supply to serve the proposed dwelling to

take mitigation measures to deal with the level of pollution present in the ground water source from which this development would be dependent upon.

- 7.4.9. The applicant's grounds of appeal are accompanied by a document titled 'Response to Appeal submitted by Mr Edward O'Malley in relation to Impact of the Proposed Development on Groundwater Quality' and this report accepts that the results provided by the appellant in the tests they carried out in the area contain coliforms.
- 7.4.10. In relation to these findings, it considers that the presence of coliforms is not unusual and notes that the EPA estimate that 30% of private wells in rural areas are contaminated with coliforms with up to two-thirds of private wells being at risk of contamination.
- 7.4.11. It is reiterated that the overall system has been designed by an approved and certified site suitability assessor and that the proposed wastewater treatment system and associated percolation area shall be designed and constructed in full compliance with the EPA Code of Practice. With the proposed system in their view based on best scientific data posing no risk to the groundwater quality in the area.
- 7.4.12. Therefore, they contend that the matter of groundwater quality as put forward by the appellant in their appeal submission gives rise to unrelated issues in the determination of the proposed development.
- 7.4.13. It is also not accepted that this development would further add to the high levels of nitrate in the groundwater of this area and in their view the nitrate levels would remain unchanged by the proposed development if it were to be permitted.
- 7.4.14. Based on the above considerations should the Board be minded to grant permission for the proposed development I recommend that the requirements of Condition No. 7 should be imposed at a minimum so as to ensure that the proposed development does not give rise to pollution or be in any way prejudicial to public health. Notwithstanding, there is an argument that the proliferation of such wastewater treatment systems, with these systems being unable to completely remove nitrate, together with the lack of any surface water treatment to deal with pollution arising from car movements on the proposed gravel driveway serving the dwelling could potentially result in some level of diminishment of ground water quality in the area with this in turn adversely impacting on potable water supply in this highly vulnerable groundwater area. However, the

Board could deal with the surface water treatment and capturing of pollutants from this driveway by way of condition.

7.5. Visual Amenity Impact

- 7.5.1. There is a strong proliferation of one-off dwellings within this rural landscape setting that have undoubtedly diminished its rural character and this development would, if permitted, further add to this due to its placement at an elevated position in its rolling drumlin landscape setting. Over time I acknowledge that this visual diminishment could be lessened by careful and well considered planting alongside the maintenance into the future of the this. But it is quite often the case that the level of landscaping required to lessen such built insertions potential impact on the visual amenities of local through to wider landscape setting would require planting that would effectively reduce the views available from these dwellings and their countryside garden plots.
- 7.5.2. In relation to the concerns raised that the proposed development, if permitted, would give rise to ribbon development or add to ribbon development I am cognisant that Policy SS 53 of the Development Plan seeks to prevent the creation of this type of development by not permitting more than four houses in a row along any public road with a minimum gap of 300m to be maintained between such developments. This policy is further reinforced by Policy SS 54 which also seeks to preserve a clear break of 300m between the boundary of existing settlements and any permitted development along adjoining roads.
- 7.5.3. The proposed development, if permitted, would not be contrary to either of these policies as it would not form part of a row of four houses along a public road nor would it be within a 300m gap between such developments.
- 7.5.4. Moreover, it is not within 300m of an existing settlement or arguably any permitted development along adjoining public roads.
- 7.5.5. The latter point should in my view be considered in the context of the recent planning history of the site and its immediate setting. There is no recent planning history for a similar type of development adjoining the site with the dwelling adjoining on the site being long established with the planning context in the intervening years since it was permitted having significantly evolved to manage one-off dwellings more strictly in rural areas with all of Louth's rural areas being designated as being under strong urban influence.

- 7.5.6. I therefore consider that the proposed development, if permitted, would not be in conflict with Policies SS 53 and SS 54 of the Development Plan but could arguably result in a precedent for a ribbon to arise in time to the east and west of it addressing the L5257.
- 7.5.7. In this instance the applicant proposes a contemporary design approach and configuration of the proposed dwellings built form which is described as single storey in its nature. However, the design includes a significant attic space of 99.9m² though described as attic storage is of a height and has been designed to include significant provision for natural light and ventilation. It is also served by a stairway. In my view effectively this attic space could be considered to be habitable space unless the overall ridge height of this section of the dwelling house is lowered so that the floor to ceiling heights at attic levels could no longer meet the Building Control requirements for habitable rooms.
- 7.5.8. In lowering the height of the dwelling from its given 6.494m maximum ridge height, a height which arguably is excessive for a dwelling that is being described as single storey in nature, where this attic storage is proposed arguably this building could be more effectively visually buffered in time within its landscape by a careful and considered site sensitive landscaping scheme. This would take time even if semi-mature trees were included in such a scheme due to the elevated nature of the site and the visibility of the site from significant distances away. The latter was observable to be the case when inspecting the site and its wider setting.
- 7.5.9. Notwithstanding, this rural landscape setting contains an *ad hoc* variety of residential dwellings in terms of height, built form and visual overtness particularly those built forms added over recent decades. There is I acknowledge more harmony present in the more historic and vernacular in appearance residential building stock. Arguably the proposed dwelling, if permitted, could nod to the materials, and finishes that are present in these later buildings. This could also be carried through in terms of the treatment of the boundary treatments and any landscaping scheme could seek to add to indigenous planting that would contribute in a small way to the vitality of biodiversity in an area whose biodiversity has been impacted by intensive farming activities and parcels of land.

- 7.5.10. In addition, the difference in height of the different portions of this irregular T-shaped footprint building arguably adds interest to the proposed dwelling volumes which in some way echoes the clustering of rural built forms particularly in historical modest farmsteads or clachans.
- 7.5.11. Based on the above considerations in terms of visual amenity impact my main concern in relation to this proposal is that if permitted it would add to the cumulative diminishment of this rural landscape by the proliferation of one-off dwellings particularly on elevated and exposed locations where such dwellings can benefit from extensive views over this highly scenic landscape setting.

7.6. Built Heritage Amenity Impact

- 7.6.1. I concur with the Planning Authority in this case that whilst this area contains a proliferation of significant built heritage sites including Protected Structures and National Monuments there is significant lateral separation distance between the subject site and these structures and monuments that would ensure that no adverse diminishment would result to their visual setting or indeed their appreciation within this rural landscape setting.
- 7.6.2. Further, in relation to the appellants property, as pointed out it is not afforded any specific protection.
- 7.6.3. Notwithstanding, the Development Plan requires that new insertions into the rural landscape do not detract in an adverse manner from their inherent visual amenity. Thus, requiring new buildings to be sensitively sited, designed and integrated into their setting in terms of their built forms, finishes through to the manner in which the spaces around them are landscaped. Including the provision of appropriate site boundaries and entrances onto public roads as appropriate.
- 7.6.4. In general, I consider that the proposed development is compliant with the Development Plan requirements for dwellings in the rural countryside.
- 7.6.5. In particular Section 2.19.7 of the Development Plan which sets out the development management criteria for one off dwellings like that proposed under this application and Policy SS 26 of the Development Plan which requires the design and siting of such development to not detract for the rural character of the landscape or the visual amenities of the area. In addition, this policy also requires such applications to be

consistent with the document titled 'Building Sensitively and Sustainably in County Louth' and the guidelines contained in Section 2.20 of the Development Plan.

- 7.6.6. Based on the above considerations I am of the opinion that the proposed development would give rise to no undue diminishment of the built heritage and their contribution to the intrinsic character of the rural landscape which the subject site forms part of.

7.7. Access

- 7.7.1. The applicant proposes a new entrance onto local road L5257 to serve the proposed dwelling house and the documentation on file indicates that the existing entrance that provides direct access onto the L5257 would be closed up as part of the new entrance and roadside boundary treatments included in this application.
- 7.7.2. The revised drawings show that the required visibility sightlines can be provided in both directions without requiring modifications to roadside boundaries and/or entrances outside of the applicant's legal interest.
- 7.7.3. The new entrance would be at its nearest point 50m to the south east of the L5257 stop line at the junction with the L5256. Of concern having inspected the site the drawings appear to suggest a deeper setback existing between the edge of the L5257 carriage edge and they do not reflect the significant difference existing between the raised sod roadside boundary that contains an indigenous hedgerow and the ground level of the adjoining road carriage edge. In addition, the submitted drawings do not clarify the level of augmentation of the ground levels to achieve required sightlines.
- 7.7.4. In relation to this concern, I note that the Planning Authority's Infrastructure Directorate recommended robust conditions in relation to achieving the required sightlines for a new entrance onto the L5257 and these were included as conditions by the Planning Authority in their notification to grant of planning permission.
- 7.7.5. During my inspection of the site and its setting I observed a low flow of traffic on both the L5257 and the L5256.
- 7.7.6. I also observed that access to the site from the N2 at Blakestown Cross via the L5256 consisted of a journey along a meandering and undulating in horizontal as well as vertical alignment restricted in width local road that mainly served parcels of agricultural land through to a number of residential dwellings.

- 7.7.7. Given the level of congestion that often results in significant traffic delays for those journeying northwards on the N2 to gain access to the N33 the appellants argument that the L5256 can be used as a route to avoid journeying through the centre of Ardee to reach the main link to the N33 on its northern side is not without some merit.
- 7.7.8. Notwithstanding, the volume of traffic the proposed development would generate at construction and operational phases would not significantly add to the volume of traffic the local road network accommodates and it is reasonable to consider that the volume of traffic generated would be low relative to the capacity of the local road network. But would have a cumulative impact given the proliferation of such dwellings with these dwellings largely served by a network of local roads. Moreover, this cumulative impact could add further pressure on junctions onto the N2 like that of Blakestown Cross which I observed is a busy unsignalized junction.
- 7.7.9. There is an argument that the provision of one-off dwellings like this remote from services, amenities, and other resources that such developments normally require access to is not highly sustainable due to such developments being highly dependent upon use of private vehicles to make the majority of their journeys across most journey types. For example, access to work, educational institutions, medical services, retail, and the like to mention but a few. None of these are within easy walking distance of the site and the site is also not within easy walking distance of a public transport stop.
- 7.7.10. If permitted, it would be inevitable in my view that future occupants of this scheme would be heavily reliant on private cars for journeys and as such this would not accord with the Objective 27 of the NPF.
- 7.7.11. I further note that Regional Spatial and Economic Strategy recognises that one of the key challenges facing this region is the need for better alignment of population growth, the location of residential development, employment, and the like in order to create development that is sustainably led as well as that gives rise to healthy placemaking and attractive places to live, work and play. It also sets out that climate action is one of the key principles to achieving this.
- 7.7.12. Taking the above considerations into account I raise concern in relation to the level of augmentation that would be required to the site to accommodate the proposed new entrance in order to achieve the required sightlines in a manner that would accord with Policy TC 12 of the Development Plan which requires such developments to achieve

the required sightlines as set out under Table 7.4 and Table 7.5 of the Development Plan have not in my view been adequately clarified. I also raise concerns in terms of such developments over reliance on private vehicles and as such is a type of residential development that does not align with higher planning provisions that seek to channel residential developments to more appropriate locations where they can be more sustainably absorbed.

- 7.7.13. The latter concern in my view adds to the concerns raised in relation to the applicant's failure to robustly demonstrate a genuine economic and/or social need for a dwelling at this rural location that would outweigh the public good of ensuring that residential development is compliant with local through to national planning settlement strategies.

7.8. Impact on the Appellants Agricultural Activities/Livelihood

- 7.8.1. Whilst I note that the appellant in this appeal case raises concern that there is potential due to the proximity of the site in which the proposed dwelling is sought and their farmyard that this could give rise to future undue impacts arising on their agricultural operation from future occupants raising nuisance concerns. I consider that there is no robust evidence to support this concern and there are other established residential properties in similar proximity to the appellants farmyard with no evidence to support that their proximity has resulted in any undue adverse impact on the appellants agricultural operations at this location.

7.9. Appropriate Assessment

- 7.9.1. The closest Natura 2000 site to the appeal site is the SPA: Stabannan Braganstown Special Protection Area (Site Code: 004091) which is situated c6.4km to the north east of the site.
- 7.9.2. Taking into consideration the modest nature, extent and scope of the proposed development which essentially consists of a one-off dwelling house despite the un-serviced nature of this rural location which means that the site does not benefit from access to public mains drainage or water supply. Nor does there appear to be access to a group water scheme in this area. Together with the prevalence of agricultural activities, farmsteads, and a significant proliferation of one-off dwellings in the immediate vicinity.
- 7.9.3. Despite these factors I am nonetheless of the opinion that based on best scientific information alongside having regard to the documentation on file which includes an

amended Site Characterisation Report that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

7.10. Other Matters Arising

- 7.10.1. **Natural Features:** There is a mature tree present along the roadside boundary with the L5257 which contributes to the character of this area. Any grant of permission should seek for this tree to be retained and safeguarded by way of appropriate conditions.

8.0 Recommendation

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

9.0 Reasons and Considerations

1. Having regard to the location of the site within an 'Area Under Strong Urban Influence' as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005, and in an area where housing is restricted to persons demonstrating local need in accordance with the current Louth County Development Plan 2015-2021, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or Section 2.19.1 of the Development Plan for a house at this location. In addition, having regard 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.

Accordingly, in the absence of any identified locally based need for the house, the proposed development would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

6th day of May, 2021.