



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309676-21

---

<b>Development</b>	Construction of a dwelling.
<b>Location</b>	Greenmount, Castlebellingham, Co Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	20774
<b>Applicant(s)</b>	Nicy Jose
<b>Type of Application</b>	Full Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Mark and Claire Boyle
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	07 <sup>th</sup> of May 2021
<b>Inspector</b>	Karen Hamilton

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	4
3.3. Prescribed Bodies .....	5
3.4. Third Party Observations .....	5
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.1. Project Ireland 2040, National Planning Framework (NPF).....	7
5.3. Louth County Development Plan 2015-2021 .....	8
5.4. Natural Heritage Designations .....	10
5.5. EIA Screening .....	10
6.0 The Appeal .....	11
6.1. Grounds of Appeal .....	11
6.2. Applicant Response .....	12
6.3. Planning Authority Response .....	13
6.4. Observations.....	13
7.0 Assessment.....	14
8.0 Recommendation.....	23
9.0 Reasons and Considerations.....	23

## 1.0 Site Location and Description

- 1.1. The subject site (0.65ha) is an agricultural field located within the townland of Greenmount, County Louth. The site is within a rural area c.1.km to the south Kilsaran, a small settlement immediately south of Castlebellingham. The site is accessed from a local road which is a slip road from the R132, previously the N1 Dublin- Dundalk Road. There are three one-off rural dwellings to the north of the site, with an access road which accommodates additional dwellings. A larger established house is located directly south, set within extensive private grounds. There are an additional two rural dwellings on the opposite side of the slip road.
- 1.2. A two-storey dwelling is located directly to the north of the site. Mature trees and hedging surround the site, although a small section of the adjoining site to the north has limited boundary treatment.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
  - Construction of one-off dwelling (195m<sup>2</sup>), wastewater treatment system and associated site development works.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant permission following the submission of further information on:

- revised landscaping,
- simplification of dwelling design, and
- location of groundwater flow.

The grant of permission was subject to 7 no. conditions of which the following are of note:

C 2: Occupancy Condition

C 4: Landscaping Plan

C 5: Visibility/ Sightlines

C 7: Obscure glazing required for the first-floor window on the north facing gable serving bedroom number 2.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The first report of the planning officer notes the following:

- Rural Housing need: A letter from the applicant's employer confirms work within the local rural area, the qualifying address which were rented and presently rented are within 6km. The applicant satisfied the qualifying criteria.
- Design and location of dwelling: Concern was raised regarding the front projection and window proportions and style. A more vertical emphasis should be provided to the window openings and the projection omitted in line with Criteria 2.20.4 of the development plan.
- Impact on the Residential Amenity: The proposed dwelling is set forward on the site, in line with the other buildings as recommended in the Inspector's report on the previous application on the site. The separation distance is between 6.3m and 11m from the gable of the existing dwelling. It is not considered the proposal will have an adverse impact in terms of overshadowing/loss of natural light or overlooking.
- Ribbon: The Inspector's Report on the previous application noted no ribbon development, which is accepted.
- Site Size/ Dwelling Size rule: The proposed dwelling (c.195m<sup>2</sup>) is under the maximum cumulative GFA for dwellings in Development Zone 5.
- Landscaping: No details of the road frontage planting have been supplied.

Further Information was required on the following:

- Submission of a revised landscape plan to note existing boundary's, show native species hedgerows and include details of roadside boundary planting.
- A revised design to simplify the dwelling form, window portion and design.

- The direction of the ground flow.

On foot of a revised site notice and advertisement of Significant Further information the second planner's report confirmed the details submitted as appropriate and recommended a grant of permission.

### 3.2.2. Other Technical Reports

Environment Section: No objection to proposal subject to conditions (note of report to state the site was not inspected).

Infrastructure Directorate: No objection to proposal subject to conditions (surface water and roads)

### 3.3. Prescribed Bodies

Irish Water: No objection to proposal subject to a connection agreement.

### 3.4. Third Party Observations

One third party submission was submitted from the appellant on both the original application and the significant further information and the issues raised are summarised below:

- The online maps do not show the full extent of the appellant's site.
- The existing mature hedging does not run the full length of the site
- The southern boundary titled agricultural field is dense forestry.
- The direction of the groundwater displayed is incorrect.
- The site has been divided from the previous application and there are concerns in relating to piecemeal development later.
- It is trusted that LCC are satisfied the applicant can meet the rural housing criteria to include rural housing needs.

In relation to the significant further information:

- The amendments to the design have led to the inclusion of a new bedroom window which overlooks our property.

- The location of the groundwater flow is still incorrect.
- There remain concerns with the division of the site in particular a second entrance allowing an additional dwelling.
- It remains that LCC should ensure the applicant can meet the rural housing criteria.

## 4.0 Planning History

### **ABP-300462-17 (Reg Ref 17/620)**

Permission refused for Sinead Gill for permission to construct a dwelling, detached garage, wastewater treatment unit and percolation areas and associated site works for the following reason:

- *The proposed development is located in an area designated as under strong urban influence in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005, wherein it is policy to distinguish between an urban-generated and a rural-generated housing need in rural areas.*
- *The site is located on lands zoned Z5 in the Louth County Development Plan 2015-2021 where the objective is to protect and provide for the development of agriculture and sustainable rural communities and to facilitate certain resourced 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. On the basis of the documentation submitted with the planning application and the appeal, and in particular having regard to the nature and location of the applicant's employment, the Board is not satisfied that the applicant has demonstrated that she possesses a rural-generated housing need for a house at this rural location.*
- *Furthermore, it is considered that the proposed development would undermine the consolidation of Castlebellingham/Kilsaran development area. As a result, the proposed development would give rise to demands for the uneconomic provision of public services and community facilities and would*

*be contrary to the settlement strategy and zoning provisions of the Louth County Development Plan 2015-2021.*

- *The proposed development would, therefore, contravene the Ministerial Guidelines and be contrary to the proper planning and sustainable development of the area.*

## **5.0 Policy Context**

### **5.1. Project Ireland 2040, National Planning Framework (NPF)**

NPO19 seeks to

‘Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

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

### **5.2. Section 28 Guidelines**

#### **Sustainable Rural Housing Guidelines for Planning Authorities (2005)**

- A distinction to be made between ‘Urban Generated’ and ‘Rural Generated’ housing need.
- Section 3.2: A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those within proximity to the immediate environs or close commuting catchment of large cities and towns.
- Section 4.3: Accessing Housing Circumstances
- Appendix 3 sets out that in areas under strong urban influence, urban generated development should be directed to areas zoned for new housing

development in cities, towns and villages in the area of the Development Plan.

## **EPA Code of Practice for Domestic Waste Water Treatment Systems 2009 & 2021**

### **5.3. Louth County Development Plan 2015-2021**

#### Development Zone

The site is located within an area designated as Development Zone 5 where it is an 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.*”

#### One-off Rural Housing Policy

- The overriding aim of the Councils approach to one-off houses in the countryside is guided by the Sustainable Rural Housing Guidelines, 2005, DECLG, wherein rural generated housing relates to those who have spent a substantial period of their lives living in a rural area as members of the established rural community.

**Policy SS18** - To permit rural generated housing in order to support and sustain existing rural communities and to restrict urban generated housing in order to protect the visual amenities and resources of the countryside, subject to the local needs qualifying criteria as set out in Section 2.19.1 below.

#### **Section 2.19.1- Local Needs Qualifying Criteria for Development Zone 5**

1. 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,

**Or**



2. 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,

**Or**

3. That the applicant is actively and significantly involved in agriculture and that the nature of the agricultural activity, by reference to the area of land and/or the intensity of its usage, is sufficient to support full time or significant part time occupation. Where the applicant is employed in a part time basis, the predominant occupation shall be agriculture. In all cases, supporting documentation outlining that the nature of the activity is sufficient to support full-time or significant part time work shall be provided. The proposed dwelling shall be on a site immediately adjacent to or within the boundaries of that agricultural enterprise.

**Or**

4. That the applicant is actively and significantly involved in the bloodstock and equine industry, forestry, agri-tourism or horticulture or rural based enterprise, that the nature of the activity is sufficient to support full time or significant part time occupation and that the applicant can demonstrate a specific functional need to live at the site of their work. Where the applicant is employed in a part time basis, the predominant occupation shall be bloodstock and equine industry, forestry, agri-tourism or horticulture sectors or rural based enterprise. In such cases supporting documentation outlining that the nature of the activity is sufficient to support full time or significant part time work shall be provided. The proposed dwelling shall be on a site immediately adjacent to or within the boundaries of that enterprise.

**Or**

5. That the applicant is providing care for an elderly person or a person with a disability who lives in an isolated rural area and who does not have any able bodied person residing with them. One house only will be allowed on this basis and the site must be adjacent to the dwelling in which the older persons or person with the disability resides.

Or

6. That the applicant is required to live in a rural area for exceptional health reasons. Such applications must be accompanied by a medical consultant's report and recommendation outlining the reasons why it is necessary for the applicant to live in a rural area and also be supported by an appropriate disability organization of which the applicant is a registered member.

### Settlement Strategy

#### C2- Core Strategy and Settlement Strategy

- All of Louth rural area is within an area defined as a “*rural area under strong urban influence*”

**Policy SS 1** To maintain the settlement hierarchy within the County and to encourage residential development within each settlement that is commensurate with its position in the hierarchy and the availability of public services and facilities.

**Policy SS 9** To promote and facilitate limited development within Level 3 Settlements that is commensurate with the nature and extent of the existing settlement, to support their role as local service centres and to implement the policies and objectives relative to each settlement as provided for in Appendix 2, Volume 2 (a).

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

The site is located c.3km to the east of Stabannan-Braganstown SPA (site code 004091) and c. 5km to the east of Dundalk Bay SPA (site code 004026) and Dundalk Bay SAC (site code 000455).

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

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

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal are submitted by the occupants of that dwelling adjacent to the site to the north and the issues raised are summarised below:

#### Previous Refusal (ABP-300462-17 Reg Ref 17/620)

- The applicant's claim for a rural one-off house is the same as the current applicant.
- There has been no change in national, regional or local policy since the previous application.
- The PA did not sufficiently consider the Boards previous decision in the making of this decision.
- The Inspector noted the applicant's employment, location of the site relative to Castlebellingham/Kilsaran and the presence of uncontrolled and excessive one-off rural generated housing in the countryside.

#### Rural Housing Need

- The PA has not fully assessed the proposal within the context of NPO 19 of the NPF and Policy SS 18 of the development plan.
- The current applicants' circumstances of employment are identical to the previous applicant.
- There is no compelling need to live rurally.
- The townland of Greenmount is close to the settlement of Castlebellingham/Kilsaran.
- The applicant has not submitted evidence that they need to live at this location.
- The applicant's place of work supports a regional base rather than a rural based.
- There are no overriding economic/employment circumstances which necessitates the need to live rurally.

- The applicant can not comply with NPO 19 of the NPF or Policy SS 18 and SS 19 of the development plan.

#### Impact on Residential Amenity

- The applicant's are not convinced that a condition requiring bedroom 2 to provide obscure glazing would prevent any overlooking.
- There is only 10.83m between the northern elevation of the proposed dwelling and the appellant's side windows.
- Section 4.10.3 of the development plan requires a separation distance of 22m.
- The proposed dwelling will impact on the appellant's south facing patio area and habitable rooms by way of overbearing or overshadowing.
- These impacts will devalue the appellant's dwelling.

## **6.2. Applicant Response**

An agent has submitted a response to the grounds of appeal on behalf of the applicant as summarised below:

- The appellant's have based their submission on a previous Board decision made in the name of a different person.
- The applicant complies with the local needs criteria.
- The overall design of the dwelling would not have a negative impact on the residential amenity of the adjoining residents by way of overbearing or loss of privacy.
- The Council have considered all these issues.
- There is enough separation distance, proposed landscaping, obscure glazing to prevent any impact.
- The applicant has lived in the area for 14-15 years, does not own a house, has strong links to the area and therefore complies with criteria 2.

- The applicants place of employment may be classified as a rural enterprise and employees must be considered the same as a typical farm and therefore the applicant could comply under criteria 4.
- There will be no devaluation of the appellant's house.
- The EU directive (Flemish Decree) supports the applicant's case for permission as they have "sufficient connection" to the Drumcar area.

A submission from the appellant refers to her employment, need to live near her work, close to her children's school, and use of bicycle to commute to work.

A letter from the Principal of the appellant's children's school notes the children's registration at the school.

A letter from the applicant's place of work notes the applicant's need to work under different circumstances, during different shifts and at short notice.

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

A response was received from the PA to state the following:

- The PA considered the previous planning history and subsequent appeal. The new appellant is compliant with rural housing polices SS 18, SS19, SS24, RD 29 and RD 39 of the development plan.
- The PA considered the orientation of the neighbouring dwelling to the north, its private amenity space, gable windows and is satisfied that the design and separation distance will not have a negative impact on the residential amenity of the existing dwelling.

### **6.4. Observations**

None submitted.

## 7.0 Assessment

1. The main issues of the appeal can be dealt with under the following headings:
  - Planning History
  - Principle of Rural Housing Need
  - Impact on Residential Amenity
  - Other
  - Appropriate Assessment.

### Planning History

- 7.1. A proposal for a one-off dwelling was previously refused on the site (ABP-300462-17, Reg Ref 17/620). This application was submitted on behalf of a different applicant, a teacher in a school in Knockbridge. This applicant argued that her ties to the area were based on social circumstances, i.e. need to live in the rural area. The Board's reason for refusal related to concerns over the absence of the applicant's connection to the site through any land-based association. The Board concluded that the proposal did not comply with the national policy on sustainable rural housing, the zoning objective for Development Control 5 or the need to direct housing to existing settlements in order to support critical infrastructure.
- 7.2. The grounds of appeal consider that the Board's previous reason for refusal on the site was not given due consideration by the PA during the decision-making process. The appellant also argues that the circumstances of this applicant are similar to the previous and should be assessed similarly.
- 7.3. I note the previous planning history on the site. The Board will note the owner remains the same although the applicant is different. The site has been reduced in size. Whilst some of the pertinent issues relating to rural housing and the need to be located at a specific location, also addressed in the previous Inspector's Report, may to some extent apply to other similar sites in Development Control 5, I consider the circumstances of each applicant require individual scrutiny and therefore a full assessment is provided below.

## **Principle of Rural Housing Need**

### Background

- 7.4. The entire County of Louth is defined as an area as being under urban influence. The subject site is located along a slip road which radiates off the main R132, c.1km to the south of a Level 3 settlement of Castlebellingham/ Kilsaran.
- 7.5. The site is located within Development Control Zone 5 which includes an objective to protect and provide for the development of agriculture and sustainable rural communities. Policy SS18 of the development plan permits rural generated housing in order to support and sustain existing rural communities and to restrict urban generated housing in order to protect the visual amenities and resources of the countryside. Section 2.19.1 of the development plan includes a list of 6 qualifying criteria of which the applicant contents they comply with the second criteria, listed below:

*That they have lived for a minimum period of 10 years in the local rural area (including cross-border), they have a rural housing need, they do not already own a house or have not owned a house within the rural area of the County for a minimum of 5 years prior to making an application*

- 7.6. The applicant contents that they have lived for a minimum of 10 years in the local rural area, they have a rural housing need by virtue of their need to live close to their place of employment ( St John of Gods Residential and Day Service, Drumcar) and they have rented for 14-15 years and does not own a dwelling. The PA considered the applicant's submitted documentation was sufficient to satisfactorily demonstrate the applicant had a rural housing need.

### Grounds of Appeal

- 7.7. The grounds of appeal have raised concern in relation to the applicant's rural housing need and necessity to live at this location. They argue that links to the St John of Gods service is not a viable reason for location in the rural area and the proposed development is contrary to NPO 19 and Policy SS 18 of the development plan. They do not consider the applicant can be considered as having a rural generated housing need.

### Rural Housing Need

7.8. In terms of employment, I note the applicant is a Nurse in the care facility. The applicant contends that living at this location is necessary for employment. A letter from her employer supports this statement. Other documentation submitted include confirmation of attendance of the applicant's children at a local school in Drumcar, a townland to the south of the Greenmount, where the subject site is located. The Board will note the location of the site c.1km from a Level 3 settlement. As stated in the Inspector's Report on ABP 300462-17, "*there is a plentiful supply of land in this town in land banks for current residential development and strategic development*". I note the location of the subject site relative to a Level 3 settlement and I consider the applicant could reasonably travel to her place of employment and/or the children school, in approximately a similar time and distance from either the site or the Level 3 settlement. Policy SS9 of the development plan highlights the need to support development in Level 3 settlements including their role as local service centres. To permit one off dwellings in the rural area which can be accommodated in these service centres would undermine Policy SS9 and further erode the rural resources.

### Local needs Criteria

7.9. For the purposes of compliance with the local needs criteria, the applicant has submitted, *inter alia*, a range of utility bills dating from 2010 to 2018. A letter from the owner of the applicant's listed rental address notes that the applicant rented their property from July 2007 to July 2017. The applicant's residence for the past 3-4 years is not clear from the documentation submitted. The local needs map submitted with the documentation illustrates a different residence from Sept 2017 to date. I have serious concerns in relation to the applicant's rationale for not including recent supporting documentation as evidence for the current housing status. In this regard, I have concerns relating to the applicant's compliance with qualifying criteria in Section 2.19.1 of the development plan.

### Flemish Decree

7.10. The applicant's response to the grounds of appeal notes the Flemish Decree by the EU which had impacts on the inclusion of restrictive local need criteria on planning applications. I note the Department issued Circular PL2/217- Sustainable Rural Housing Guidelines for Planning Authorities 2005- Local Needs Criteria in



Development Plans on foot of this ruling. In this regard, the I circular notes that the “*requirements that planning applicants have occupational or employment related ties to the rural area in question is not considered problematic in this context as such criteria are non-discriminatory between locals and non-locals*”. The Board will note there is no contention that the applicant must provide evidence of family ties to the area to qualify for a rural housing need, nor does Development Zone 5 restrict rural housing to those with only family ties. Therefore, in my opinion, the applicant is not subject to any discrimination and I have assessed this proposal based on the applicant’s need to be located at this rural location.

#### National Planning Framework (NPF)

- 7.11. The Board will note reference in the grounds of appeal to non-compliance with NPO 19 which requires that in rural areas under urban influence the provision of single housing in the countryside is based on “*the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements*”. Having regard to my assessment above, in particular the location of the site beside a level 3 settlement, Policy SS9, the spirit of Policy SS 18 which aims to restrict urban generated housing and the absence of definitive supporting documentation for the local need criteria, I am not satisfied that the applicant has demonstrated an economic or social need to live in a rural area, and that accordingly the development would be contrary to National Policy Objective 19 of the National Planning Framework.

#### Conclusion

- 7.12. Having regard to the policies and objectives of the development plan which aim to support existing settlements, the objectives for development in Development Zone 5 which aim to protect and provide for the development of agriculture and sustainable rural communities and the documentation submitted, I am not satisfied that the applicant has demonstrated a need for a rural dwelling on unserviced lands outside a serviced settlement. To permit this development would be contrary to national policy which restricts single housing in areas of urban influence to those which have a demonstrable economic or social need to live in the rural area, would contrary to

Policy SS18 and SS9 which cumulatively require the protection of the countryside by supporting Level 3 settlements.

### **Impact on Residential Amenity**

- 7.13. The appellant's dwelling is located to the north of the site. The proposed dwelling is a storey and half (c.195m<sup>2</sup>). The design was amended following a request for further information. A projecting design feature at the front of the dwelling was removed and placed to the rear, a porch was removed, and a vertical emphasis included on the front windows.
- 7.14. The appellants consider the proposed dwelling will have a negative impact on their residential amenity by way of overbearing and overshadowing and do not consider that condition 7, obscure glazing for a side bedroom window, will prevent any overlooking. Both the applicant's response and the PA response to the grounds of appeal consider all these issues have been assessed and both parties consider the proposed development will not have any impact on the residential amenity of the existing occupants.
- 7.15. I have dealt with each issue separately below.

#### Overlooking

- 7.16. There are two windows in the northern gable. The window on the first floor serves bedroom No 2. Condition No 7 requires obscure glazing in this first-floor window which the appellant's do not consider will reduce any overlooking. I note the location of the northern gable faces directly onto the appellant's private amenity space, kitchen / dining room and first floor bedroom/ hallway. The separation distance of 22m has been referred to in the grounds of appeal.
- 7.17. Section 4.10.3 requires 22m between the windows of habitable rooms above ground floor where they face another dwelling. In instances where windows of non-habitable rooms, e.g. bathrooms and halls, are within 22 m of another facing window, obscure glazing may be acceptable. I note those windows facing each other are both habitable and therefore the 22 m distance should be applied. I note the distance of 11m is considerably less than the recommended 22m. In this regard, I consider the inclusion of condition 7 and the requirement for an obscure glazing does not comply with the requirements of the development plan.

7.18. The proposed dwelling is located on a large site where there is ample scope for a variety of design. Should the Board be minded granting permission, they will note a window to the front of the dwelling also serves bedroom no 2. A condition to remove the first-floor window in bedroom No 7 could be reasonably included and would prevent any overlooking on the existing property to the north.

#### Overshadowing

7.19. As stated above, the proposed dwelling is located to the south of the existing dwelling. No sunlight/ daylight drawings are submitted within the application. I note a separation distance of c.11m between the 2 no dwellings and the height of the proposed dwelling is 7.8m. Having regard to the height of the dwelling and the orientation to the south, I consider there will be a slight amount of overshadowing on the amenity area along the south of the dwelling. The Board will note the extensive front and rear gardens associated with the appellant's dwelling. In this regard I do not consider the proposed development would have a significant negative impact on the residential amenity of the occupants to the north by way of overshadowing.

#### Overbearing

7.20. The appellants consider the dwelling will cause an overbearing impact on the existing amenity area. As stated above there is a separation distance of c. 11m between the existing and proposed. I note the existing dwelling currently has no boundary treatment to the south directly along the patio area. A new native hedgerow is proposed along the northern boundary which will mitigate the impact from the appellant's patio area. As stated above, there should be no significant overshadowing on the existing dwelling.

7.21. Whilst I consider the proposed dwelling will be visible from the appellant's dwelling, I consider it is modest in scale and design. I do not consider the location of the dwelling would cause any significant negative impact on the residential amenity of the existing dwelling by way of overbearing.

#### **Other**

7.22. Should the Board be minded granting permission for the proposed development, the following information may be relevant for their decision making.

#### Piecemeal Development

7.23. The grounds of appeal refer to the reduction in the size of the site since the previous application which was refused by the Board (ABP-300462-17, Reg Ref 17/620). They have concern that there is potential for an additional one-off dwelling at the rear. I note the entire site, both the subject site and the remainder to the south and east, are owned by the same person. Whilst it would appear that there may be potential for future proposal, I am not aware of any proposal. Any future application would be assessed on individual and specific planning merits. In this regard, I do not consider this a reasonable reason to refuse permission on the site.

#### Water and Wastewater Treatment

7.24. The proposed development includes a conventional septic tank and percolation area designed for 6 persons the applicant has not proposed any secondary treatment. The applicant proposes to connect to the mains water supply.

7.25. A site characterisation form was submitted with the application which states that the soil type is silt/clay. The aquifer category is *Locally Important*, and the vulnerability is *high*. The groundwater protection response is 'R1', i.e. the soils are acceptable subject to normal good working practice.

7.26. The trial hole assessment submitted by the applicant encountered no bedrock/ water table at a depth of 2.4m and trial holes had been covered and not available for inspection. The submitted site characterisation records a T-test value of 8.35 min/25mm. Table 6.3 of the EPA Code of Practice 2009 considers this value acceptable.

7.27. The Board will note the trial holes were closed on my site inspection and the report of the Environment Section notes the site was not inspected. This aside, I note no issues were raised in the previous Inspectors Report on (ABP-300462-17, Reg Ref 17/620) where the trial holes were available for inspection.

7.28. I note an updated EPA Code of Practice 2021. Planning Applications in the system can still be assessed against the 2009 guidelines. I note Table 5.2 of these updated guidelines require a percolation value of between 18 to 43 for silt/clay soils, which

has not been met. This issue has not been raised in either the grounds of appeal or by the PA. I consider in the absence of any third-party participation it unreasonable to include as a new issue.

## 7.29. Appropriate Assessment

The site is located c.3km to the east of Stabannan-Braganstown SPA (site code 004091) and c. 5km to the east of Dundalk Bay SPA (site code 004026) and Dundalk Bay SAC (site code 000455), the conservation objective of each of these area listed below:

European Site	Qualifying Interest	Conservation Objectives
Stabannan-Braganstown SPA (004091)	Greylag Goose ( <i>Anser anser</i> ) [A043]	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA
Dundalk Bay SPA (004026)	Great Crested Grebe ( <i>Podiceps cristatus</i> ) [A005] Greylag Goose ( <i>Anser anser</i> ) [A043] Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046] Shelduck ( <i>Tadorna tadorna</i> ) [A048] Teal ( <i>Anas crecca</i> ) [A052] Mallard ( <i>Anas platyrhynchos</i> ) [A053] Pintail ( <i>Anas acuta</i> ) [A054] Common Scoter ( <i>Melanitta nigra</i> ) [A065] Red-breasted Merganser ( <i>Mergus serrator</i> ) [A069] Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130] Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] Golden Plover ( <i>Pluvialis apricaria</i> ) [A140] Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] Lapwing ( <i>Vanellus vanellus</i> ) [A142] Knot ( <i>Calidris canutus</i> ) [A143] Dunlin ( <i>Calidris alpina</i> ) [A149]	To maintain the favourable conservation condition of Great Crested Grebe, Greylag Goose, Light-bellied Brent Goose, Shelduck, Teal, Mallard, Pintail, Common Scoter, Red-breasted Merganser, Oystercatcher, Ringed Plover, Golden Plover, Grey Plover, Lapwing, Knot, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Black-headed Gull, Common Gull, Herring Gull, Wetlands & Water birds, in Dundalk Bay SPA, which is

	<p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Common Gull (<i>Larus canus</i>) [A182]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Wetland and Waterbirds [A999]</p>	<p>defined by the following list of attributes and targets:</p>
<p>Dundalk Bay SAC (000455)</p>	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p>	<p>To maintain the favourable conservation condition of estuaries, mudflats and sandflats, perennial vegetation, Atlantic salt meadows, Mediterranean salt meadows, in Dundalk Bay SAC, which is defined by the following list of attributes and targets:</p> <p>To restore the favourable conservation condition of Salicornia and other annuals colonizing mud and sand in Dundalk Bay SAC, which is defined by the following list of attributes and targets:</p>

The River Dee is located c. 0.5km to the south east of the site, which flows into Dundalk Bay at Annagassan. A potential pathway could be via groundwater. Having regard to the site conditions and the proposed wastewater treatment system, I do not consider there is a risk to ground contamination.

In relation to the SPA's, I note the site is separated from Stabannan-Braganstown SPA by the motorway and there is no direct connection to the site. The site is used as agricultural and no habitats are identified which are necessary to support those species of interest in the Dundalk Bay SPA.

Having regard to the nature and scale of the proposed development, the information on the file and the nature of the receiving environment, no appropriate assessment issues arise. It is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on any European Site.

## 8.0 Recommendation

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

## 9.0 Reasons and Considerations

The proposed development is located in an area designated as under strong urban influence in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005, wherein it is policy to distinguish between an urban-generated and a rural-generated housing need in rural areas. National Policy Objective 19 of the National Planning Framework seeks to facilitate the provision of single housing in the countryside, in rural areas under urban influence, based on the core consideration of demonstrable economic or social need to live in a rural area and the viability of nearby urban areas towns and villages.

The site is located on lands zoned Z5 in the Louth County Development Plan 2015-2021 where the objective is to protect and provide for the development of agriculture and sustainable rural communities and to facilitate certain resourced based and location specific developments of significant regional or national importance. On the basis of the documentation submitted with the planning application and the appeal, the Board is not satisfied that the applicant has demonstrated that she possesses a rural-generated housing need for a house at this rural location and to permit the proposed development would be contrary to Policy SS 18 of Louth County

Development Plan 2015-2021, which seeks to restrict urban generated rural housing, in order to protect the visual amenities and resources of the countryside.

Furthermore, it is considered that the proposed development would undermine the consolidation of Castlebellingham/Kilsaran development area. As a result, the proposed development would give rise to demands for the uneconomic provision of public services and community facilities and would be contrary to the settlement strategy and zoning provisions of the Louth County Development Plan 2015-2021, in particular Policy SS9.

The proposed development would, therefore, contravene the National Policy, Ministerial Guidelines and the Louth County Development Plan 2015-2021 and be contrary to the proper planning and sustainable development of the area.

---

Karen Hamilton  
Senior Planning Inspector

10<sup>th</sup> of May 2021