



An
Bord
Pleanála

Inspector's Report ABP-310462-21

Development	Construction of a detached dwelling, detached garage, upgrade of entrance Significant further information/revised plans submitted on this application
Location	Lismullen, Garlow Cross , Navan, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	AA201732
Applicant(s)	Emily Davis.
Type of Application	Permission.
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	James Murphy.
Observer(s)	N/A.
Date of Site Inspection	1 st of October 2021.
Inspector	Stephanie Farrington

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.35ha is located in the townland of Lismullen, at the intersection of the L-1000-0 and L-5002-0. The site is currently undeveloped and slopes in a north/south direction. Site boundaries comprise mature hedging. Access to the site is currently provided via the L-5002 which forms the southern boundary of the site. The L-1000 forms the northern boundary of the site.
- 1.2. The site is adjoined by existing residential development to the north, south and east. To the west the site is adjoined by a small public park/seating area.

2.0 Proposed Development

- 2.1. The proposed development comprises construction of a two storey detached dwelling (GFA 193 sq.m.), garage, upgrade to existing entrance, septic tank, percolation area and all ancillary works.

3.0 Planning Authority Decision

3.1. Decision

Meath County Council issued a notification of decision to grant permission for the proposed development subject to 16 no. conditions. The following conditions are of note:

- Condition 5: Occupancy clause.
- Condition 8: External finishes shall be in accordance with plans and particulars submitted.
- Condition 9: The proposed garage shall not be used for human habitation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planner's Report (19/01/2021)

The initial planner's report recommends a request for further information in relation to design, landscaping and response to third party submissions. The following provides a summary of the issues raised:

- Reference is made to Section 10.4 of the MCDP which relates to rural housing need. On the basis of the information submitted it is considered that the applicant is applying on grounds of having spent a substantial period of their life living in the rural area as members of the established rural community. The applicant has lived at Lismullen, Navan in her family home for the past 20 years. Based on the information submitted it is considered that the applicant has demonstrated a local need in accordance with Development Plan requirements.
- The proposed development, if permitted would be the 7th dwelling along a 250m road stretch. The site is considered to be an infill site surrounded by existing residential development.
- Concerns are raised in relation to the impact of the proposed first floor patio on the residential amenity of adjoining properties.
- Proposed access arrangements reflect those permitted under PA Ref AA/191397.
- Water supply is proposed via a new public mains connection. No objection to this proposal was raised by Irish Water under PA Ref AA/191397.
- The issue of Wastewater Treatment arose during the assessment of the previous application on site PA Ref AA/191397. The proposed WWTP and percolation area are located in the same general location as that previously permitted subject to conditions.
- There is no direct hydrological link from the subject site to the River Boyne and River Blackwater SPA and SAC. The Planning Authority concludes that the proposed development would not be likely to have a significant effect on

European Site(s). It is considered that a Stage 2 AA is not required in this instance.

Planner's Report (13/05/2021)

The planner's report dated 13/05/2021 recommends a grant of permission subject to condition. The following provides a summary of the main points raised:

- The submitted landscaping plan addresses the requirements of Item 2 of the FI request.
- The applicant's response to the submissions on the application is acceptable.
- The proposed development is considered to be in accordance with the policies and objectives of the MCDP and subject to compliance with conditions would not negatively impact on the visual and residential amenities of the area.

3.2.2. Other Technical Reports

Conservation Officer: Correspondence dated 7th of January 2021 confirms no objection.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

2 no. observation were received within the initial consultation period. The following provides a summary of the points raised.

- Design of the proposal is obtrusive
- Impact on Residential Amenity and Devaluation of Property
- Overlooking/ Loss of Privacy
- Boundary Treatment
- Block view of Hill of Tara

3 no. third party observations were received by Meath County Council following receipt of the FI response. The points raised include the following.

- Objection to proposed 1.5 storey dwelling
- Concerns relating to proximity to party boundary
- Objection to proposed first floor patio area
- Impact on views to Hill of Tara

4.0 Planning History

Appeal Site:

- PA Ref AA191397 – outline planning permission granted by Meath County Council in August 2020 for a storey and a half type dwelling, septic tank and percolation area.
- PA Ref AA191329: application for outline permission for a storey and a half dwelling, septic tank and percolation area submitted in October 2019 deemed invalid.

5.0 Policy Context

5.1. Development Plan - Meath County Development Plan 2021-2027

- 5.1.1. The application was assessed by Meath County Council in accordance with the policies and objectives of the Meath County Development Plan 2013-2019. The Meath County Development Plan 2021-2027 was adopted by Meath County Council on the 22nd of September 2021 and came into effect on the 3rd of November 2021. I have assessed the proposal under the provisions of the operative Development Plan, namely the Meath County Development Plan 2021-2027.
- 5.1.2. Chapter 9 of the Development Plan sets out the rural settlement strategy. This outlines that the planning authority recognises the long tradition of people living in rural areas and promotes sustainable rural settlement as a key component of delivering more balanced regional development. Rural development should be consolidated within existing villages and settlements that can build sustainable rural communities as set out in the National Planning Framework (NPF) and the Regional Spatial and Economic Strategy for the Eastern and Midlands Region (RSES). The

Development Plan seeks to accommodate rural generated housing needs where they arise, subject to local housing need criteria and development management standards. The following strategic policies are of relevance:

- RUR DEV SP 1: “To adopt a tailored approach to rural housing within County Meath as a whole, distinguishing between rural generated housing and urban generated housing in rural areas recognising the characteristics of the individual rural area types”.
- RUR DEV SP 2: To ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed, subject to compliance with normal planning criteria. An assessment of individual rural development proposals including one-off houses shall have regard to other policies and objectives in this Development Plan, and in particular Chapter 8 Section 8.6.1 UNESCO World Heritage Site of Brú na Bóinne.

- 5.1.3. The site is located within an area identified within a Rural Area Under Strong Urban Influence as indicated on Map 9.1 of the Development Plan. The Development Plan sets out the following guidance in respect of the area:

Area 1 - Rural Areas under Strong Urban Influence

“Key Challenge: To facilitate the housing requirements of the rural community while directing urban generated housing development to areas zoned for new housing in towns and villages in the area of the development plan.

This area exhibits the characteristics of proximity to the immediate environs or close commuting catchment of Dublin, with a rapidly rising population and evidence of considerable pressure for development of housing due to proximity to such urban areas. This area includes the commuter- belt and peri-urban areas of the county and are the areas that are experiencing the most development pressure for one-off rural housing. These areas act as attractive residential locations for the inflow of migrants into the county”.

- 5.1.4. The following policies are of relevance:

- RD POL1 To ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural

community in which they are proposed, subject to compliance with normal planning criteria.

- RD POL2 To facilitate the housing requirements of the rural community as identified while directing urban generated housing to areas zoned for new housing development in towns and villages in the area of the development plan.

5.1.5. Section 9.4 of the County Development Plan relates to *“Persons who are an Intrinsic Part of the Rural Community”*. This outlines that the Planning Authority recognises the interest of persons local to or linked to a rural area, who are not engaged in significant agricultural or rural resource related occupation, to live in rural areas. Of relevance to this appeal, persons local to an area are considered to include:

- *Persons who have spent substantial periods of their lives, living in rural areas as members of the established rural community for a period in excess of five years and who do not possess a dwelling or who have not possessed a dwelling in the past in which they have resided or who possess a dwelling in which they do not currently reside;*

5.1.6. Section 9.5.1 – Development Assessment Criteria – outlines criteria that the planning authority shall also take into account in assessing individual proposals for one off rural housing. These criteria include the following:

- The housing background of the applicant in terms of employment, strong social links to rural area and immediate family;
- Local circumstances such as the degree to which the area surrounding area has been developed and is tending towards becoming overdeveloped;
- The degree of existing development on the original landholding from which the site is taken including the extent to which previously permitted rural housing has been retained in family occupancy. Where there is a history of individual residential development on the landholding through the speculative sale of sites, permission may be refused;
- The suitability of the site in terms of access, wastewater disposal and house location relative to other policies and objectives of this plan;
- The degree to which the proposal might be considered as infill development.

5.1.7. Section 9.5.4 of the Development Plan relates to Rural Nodes. This outlines *that “the housing needs of those members of the rural community who are not part of the agriculture/horticulture community as set out in Section 9.4 will be facilitated in the extensive network of rural nodes”*. Lismullin is designated as a rural node within the Table 9.2. The Plan outlines that *“the Council will support infill development on appropriate sites in rural nodes which make the most sustainable use of serviced land and existing public infrastructure”*. The following policies and objectives are of relevance:

- RUR DEV SO 5 To support the vitality and future of Nodes for rural development and ensure a functional relationship between housing in Nodes and the rural area in which they are located.
- RD POL 8: To ensure that the provision of housing in all rural nodes shall be reserved for persons who are an intrinsic part of the rural community. In all cases applicants shall certify to the satisfaction of the Planning Authority that they have been a rural resident for a minimum of 5 years. The node shall be within 12 km of their current place of residence.
- RD OBJ 1: To support rural nodes located across the County in offering attractive housing options to meet the needs of the established rural communities and to support existing local community facilities such as schools, post offices, recreational facilities and childcare facilities etc.
- RD OBJ4: All development in rural nodes should take cognisance of the prevailing scale, pattern of development and services availability.
- RD OBJ 10 To ensure that proposals for infill development take account of the character of the area and where possible retain existing features such as building line, height, railings, hedgerows, trees, gateways etc.
- RD OBJ 15 To require a minimum site area of 0.2 hectares (0.5 acres) for each residential unit in rural nodes where serviced by an individual waste water treatment plant.

5.1.8. Design Guidelines for Rural Houses are set out in Appendix 13 of the Development Plan.

5.1.9. Appendix 5 of the MCDP sets out landscape character areas for the County. The site is located just inside the boundary of the Tara Skryne Hills Landscape Character Area, (Map 01, Landscape Character Types). This area is defined as Hills and Upland Areas and is categorised as having 'Exceptional Value' and 'High sensitivity'.

5.1.10. Protected Views and Prospects are identified in Map 8.6 of the MCDP. Protected View no. 44, Hill of Tara Panomara is of relevance. View 44 is identified as being of national significance and described in Appendix 10 of the MCDP as *"Views across settled landscape with visible development including foreground powerlines, agricultural buildings, houses, quarries and roads. View to the west: other prominent hilltops visible at great distance. Foreground contains extensive areas of hedgerows and woodland. View to the south: Wicklow and Dublin Mountains visible on horizon. Relatively little development visible. Substantial woodland in the foreground. View to the east: across settled working landscape with a variety of structures and development visible including historic structures such as Skryne. Distant industrial plants. View to the north: panoramic views into very distant horizons. Encompassing a settled landscape with many buildings and structures visible in near and middle distance. Note areas immediately below hill to the north and south are obstructed by topography at variance with protection plan"*.

Meath Rural House Design Guide, (2009).

5.1.11. The Meath Rural House Design Guide (2009) is set out within Appendix 13 of the County Development Plan. This document sets out design guidance for single house developments in rural areas with particular reference to Site Layout, Building Design, Construction Details, Building Types and Sustainability.

5.2. National Planning Framework

5.2.1. Policy Objective 19 is of relevance to the proposed development. It requires the following:

'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;

- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements’.*

5.3. Sustainable Rural Housing Guidelines 2005

- 5.3.1. A number of rural area typologies are identified within the Guidelines including Areas under Strong Urban Influence, Stronger Rural Areas, Structurally Weak Areas and Predominately Dispersed Settlement Areas.
- 5.3.2. The site is located within an Area Under Strong Urban Influence as identified within the Guidelines as illustrated within the attached presentation document. The guidelines refer to the indicative nature of the Map and state that further detailed analysis of different types of rural areas would be carried out within the Development Plan process.
- 5.3.3. Examples are given of the types of circumstances for which ‘Rural Generated Housing Need’ might apply. These include ‘persons who are an intrinsic part of the rural community’ and ‘persons working full time or part time in rural areas’.
- 5.3.4. Section 3.3.3 deals with ‘Siting and Design’.

5.4. Natural Heritage Designations

- 5.4.1. The site is not located within or directly adjacent any Natura 2000 sites. The following sites are located within 15km of the site:
- River Boyne and River Blackwater SAC (Site Code 002299)
 - River Boyne and River Blackwater SPA (Site Code 004232)

5.5. EIA Screening

Having regard to the nature, scale and extent of the proposed development, the fact that the site is not in nor does it adjoin any Natura 2000 site, the absence of any

connectivity to any sensitive location, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development and the need for environmental impact assessment can, therefore, be excluded at preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal was submitted by John Callaghan Civil Engineer on behalf of Mr. James Murphy. The following provides a summary of the grounds of appeal:

- Cross reference is made to 3 no. submissions made by the appellant on the application.

Construction and Content of Application

- Concerns are raised in relation to the siting of the site notice. The notice was not visible along the road.
- The wording of the development description is ambiguous. Public notices are not in accordance with the requirements of the Planning and Development Regulations.
- The planning application form includes reference to an application for permission and permission consequent of a grant of outline permission.
- The Planning Authority is not at liberty to grant permission for a 2 storey house in instances where the outline permission related to a storey and a half dwelling. Case law precedent is referenced in this context.
- The Board is requested to refuse permission on the basis that the application was represented as both for permission and permission consequent to a grant for outline permission. Conflicts between the outline permission and the development proposed must be resolved.

Impact on Protected View no. 44 and Neighbouring Dwelling

- The proposal is not sensitive to its immediate neighbours or the Tara Complex and is devoid of screening landscaping on its southern aspect.

- The design of the proposal, as originally submitted, is not in accordance with the requirements of the Meath Rural Design Guide. The first floor patio area provided views over the countryside and neighbouring properties.
- Access could have been accommodated from the roadway to the north which would have left more space for a dual aspect rooms. Living space at first floor level is not sensitive to the adjoining properties or the sensitive landscape setting of the Tara Landscape. The design should have been informed by environmental constraints including ground conditions.
- Reference is made to the request for a Landscape and Visual Impact Assessment by MCC in relation to the impacts of the proposal on View 44. Photographs were subject to subjective selection.

Impact on the Environment

- EPA records identify a “poor water status” for the nearby stream. In low flow conditions the stream smells of sewage.
- Reference is made to the requirements of Condition no. 6 of MCC’s notification of decision to grant permission for the development which directed that the invert of percolation trench be raised to 150mm below ground level. This results in just 300mm of aerated soil being available for effluent dosing. This is contrary to EPA Code of Practice 2009 and 2021.
- The 2021 Code of Practice outlines that ground water protection response is predicated on a minimum of 1200mm to 2000mm of unsaturated undisturbed subsoil being above the water table or bedrock and the bottom of the percolation trench.
- Percolation into the top layer of topsoil as proposed by condition 6 leads to effluent ponding and migrating of surface water bodies as there are extensive preferential pathways in the top 150mm of topsoil.
- The trial hole results point to a seasonally variable water table with mottled soils to 450mm below ground level. The mottling is not identified within the Assessment Form.

- No secondary treatment or tertiary treatment is proposed in the Sewerage Treatment Proposal.
- Existing density of septic tanks in the area is very high. Development in the area has proceeded incrementally without cumulative assessment.
- Having regard to the poor water quality in the stream, the high water table, the density of existing septic tanks and the extent of one-off housing development to date it must be reasonably concluded that the area is overdeveloped, and it does not have a zoning status as an urban area or village.
- The proposal is premature from an environmental perspective pending a provision of a high level sewer services that can protect the surface and ground water quality. There is no basis to draw a conclusion that no adverse impact on surface water quality will arise.
- The appeal site is located within the catchment of the River Boyne and River Blackwater SAC and SPA. The water quality Q Values are “poor” and the water body with poor status is hydrologically connected to the River Boyne system.
- There is no sound basis for discounting adverse impact on water quality or on the Boyne’s salmon population.
- The criteria set out within Schedule 7 of the 2001 Planning and Development Regulations must be carefully considered in the determination of whether a proposed development would or would not be likely to have significant environmental effects.

History of Development on the Landholding

- Reference is made to Section 10.5.1 of the MCDP which outlines the following in respect of applications for rural housing: *“Where there is a history of individual residential development on the landholding through the speculative sale of sites, permission may be refused”*.
- The rural area is transitioning to an urban area that is not served by public sewers.

Urban Generated Housing within the Open Countryside

- In assessing local need the planner's report does not refer to the place of employment or to any economic need to live in the area. The applicant has not demonstrated a work history or economic activity in the Agriculture or Natural Resource Sector that would justify a grant of permission in accordance with national policy.
- Reference is made to the policy guidance set out within the NPF and Sustainable Rural Housing Guidelines in this regard. It is stated that the proposal is contrary to Ministerial Guidelines and would contravene Policy RD POL 2 of the Meath County Development Plan.
- Urban generated housing needs to be met at locations that can minimise emissions and demand for transport services.
- Reference is made to precedent cases by ABP including PL17.240138 (refusal on grounds of over concentration of septic tanks), 306950-20, 306468-20, 301109-18 (re rural housing policy and non-compliance with Development Plan and National guidance).

6.2. Applicant Response

The applicant provided a response to the third party appeal. The following provides a summary of the issues raised.

Construction and Content of Application

- Concerns relating to the siting of the site notice are unfounded. The notice was erected in accordance with the requirements of the Planning and Development Regulations and deemed acceptable by Meath County Council.
- It is stated that there is no ambiguity in terms of the development description.

Impact on Protected View no. 44 and Neighbouring Dwelling

- Compliance with the requirements of the Meath Rural Design Guide was demonstrated within the design statement submitted in conjunction with the FI response.

- Revised proposals were submitted in response to the FI request to negate against overlooking of adjoining residential properties. Contiguous elevations illustrated a marginal difference in height from the adjacent dwelling.
- A justification for the proposed access arrangements is provided. While the option of access from the northern site boundary was considered it was noted that the road along the southern site boundary has a lighter stream of traffic and better visibility. No safety concerns were raised by Meath County Council in relation to the proposed access arrangements.
- In terms of the visual impact of the proposal it is noted that the appeal site is marginally visible from the Hill of Tara located c.3km to the south of the site. The proposed dwelling would be the last in a row of houses on the stretch of road. The site is located at a lower level to the adjacent properties to the east.
- The proposed dwelling was designed to read as a single storey structure when viewed from the Hill of Tara. The incorporation of a green roof will be perceived from the distance as a lawn/meadow.
- The proposed dwelling has been designed in accordance with the policies and objectives of the MCDP 2013-2019.

Impact on the Environment

- The site is not located within or adjacent to any Natura 2000 sites.
- The principle of a septic tank at this location was established under PA Ref AA/191397. The septic tank will be constructed and maintained in accordance with the requirements of Condition no. 6 of MCC's notification of decision to grant permission for the development.

History of development on the landholding

- The appellants reference to the guidance set out within Section 10.5.1 of the MCDP is of no relevance to the appeal site. The landholding referred to by the appellant is owned by the applicant's parents and has never been subject to speculative sale or any commercial development. Development on the landholding comprises two primary dwellings which belong to the applicant's siblings who have an established economic and social need to live in the area.

- The principle of local need and residential development were not raised by appellant throughout the course of the application. It is requested that such concerns are deemed invalid in this regard.

Housing in the open countryside

- Compliance with the local need requirements as set out within Section 10.4 of the MCDP has been demonstrated by the applicant. The appellant's reference to the development being "Urban Generated Housing" is incorrect.

6.3. Planning Authority Response

Meath County Council have provided the following response to the grounds of appeal:

- The PA is satisfied that all relevant planning considerations set out within the appeal have been considered in the course of its assessment of the application.
- In relation to the issue of Construction and Content of the application, it is noted that the principle of residential development on the subject site is established under outline permission PA Ref AA191397. This decision was not appealed to An Bord Pleanála. The current application was deemed valid by the planning authority.
- The application as applied for is for full planning permission. It is clear that the application was not for permission consequent of outline permission and was not advertised as such. There is no ambiguity in the development description in this regard. In question 3 the applicant identified the proposal was for full planning permission. The application was assessed on its merits on this basis.
- The residential amenity of adjoining properties was carefully assessed during the course of the application. The original design was modified in response to the request for further information.
- The principle of residential development on site is established under PA Ref AA191397. The impact on the protected view was assessed during the course of this application.

- In relation to Environmental Impact of the proposed WWTP, the Board is referred to the report from the environment department issued under PA Ref AA 191397 wherein no objection was raised subject to condition.
- The development is not considered to represent urban generated rural housing.
- The Planning Authority requests An Bord Pleanala to uphold the decision to grant permission for the proposed development.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Procedural Issues
- Compliance with Rural Housing Policy
- Impact on Visual Amenity
- Impact on Residential Amenity
- Access
- Wastewater Proposal and Water Quality
- Environmental Impact Assessment
- Appropriate Assessment

7.2. **Procedural Issues**

7.2.1. At the outset, I note that there are a number of procedural issues raised within the grounds of appeal regarding the validity of the application. Concerns are raised in relation to the location of the public notice, the content of the application form and the development description set out within the public notices.

7.2.2. In terms of procedural matters and the alleged insufficiencies of the development description set out within the public notices and the siting of the site notice I note that the notices were considered acceptable by the planning authority and the application

was deemed valid. I am satisfied that this did not prevent the concerned party from making representations, both within the initial consultation period and on receipt of the FI response.

- 7.2.3. In my view it is clear that the subject application is not being submitted subsequent of the decision of Meath County Council to grant outline permission for a 1.5 storey dwelling on the site under PA Ref. AA191397. The development description as set out within the public notices clearly identifies the proposal as a 2 storey dwelling and no reference to permission consequent of outline permission is made within the public notices. I refer to the wording of Item 1 of Meath County Council's request for further information wherein it is explicitly stated that the principle of a 2 storey dwelling on site has not previously been determined by the planning authority. In my view this addresses the appellants references to ambiguities within the application. The difference between the previously approved and current proposal are clearly identified. The application was assessed on its individual merits.

7.3. Compliance with Rural Housing Policy

- 7.3.1. The appellant outlines that the proposal is contrary to RD POL 2 of the Meath County Development Plan and national policy in this regard. In this regard it is stated that the applicant has not demonstrated a work history or economic activity in the agriculture or natural resource sector that would justify a grant of permission in accordance with national policy.
- 7.3.2. The appeal site is located within a "Rural Area Under Urban Influence" as designated within the Meath County Development Plan 2021-2027 and the Sustainable Rural Housing Guidelines 2005. Policy RD POL 2 of the Meath County Development Plan seeks to facilitate the housing requirements of the rural community, as identified, while directing urban generated housing to areas zoned for new housing development in towns and villages in the area of the development plan.
- 7.3.3. Policy RD POL 1 of the Development Plan states that it is policy of Meath County Council to ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed. Section 9.4 of the Development Plan refers to 'persons who are an intrinsic part of the rural community' and sets out specific criteria

whereby the Planning Authority will support proposals for individual dwellings on suitable sites in rural areas as summarised in Section 5.1 above.

7.3.4. The applicant is applying for permission on the basis of the following criteria:

“Persons who have spent substantial periods of their lives, living in rural areas as members of the established rural community for a period in excess of five years and who do not possess a dwelling or who have not possessed a dwelling in the past in which they have resided or who possess a dwelling in which they do not currently reside”;

7.3.5. The documentation submitted in support of the application outlines that applicant has lived in the family home for 20 years and has social links to the local area. A map has been submitted indicating the location of the family home relative to the appeal site (c.133m to the east of the appeal site). The applicant works in Dublin. The following documentation is submitted in support of the application:

- Completed Local Needs Form
- Applicant Cover Letter
- Bank Statements
- Golf Club Letter
- GAA Letter

7.3.6. I refer to the guidance set out under NPO 19 of the National Planning Framework which outlines that: *“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”;*

7.3.7. Lismullin is designated as a Node within the Meath County Settlement hierarchy. The Development Plan specifically outlines that *“the housing needs of those members of the rural community who are not part of the agriculture/horticulture community as set out in Section 9.4 will be facilitated in the extensive network of rural nodes”*. The policies and objectives of the Development Plan seek to provide more sustainable formats of development within the rural area through supporting

the vitality of Nodes and existing local community facilities in offering attractive housing options to meet the needs of the established rural communities. Relevant policies and objectives in this regard include RD POL 8, RUR DEV SO 5 and RD OBJ 1. Lismullin is served by existing public and social infrastructure including a local school and connections to an existing watermain. Having regard to the existing pattern of development in the vicinity of the site I agree with the assessment of the planning authority that the site can be considered as an infill site.

- 7.3.8. On the basis of the information submitted, I consider that the applicant has demonstrated a social connection to the Lismullin area, with family home located within the immediate vicinity of the site. In my view, the principle of the development of the development of an infill house within a designated Node which is served by social and physical infrastructure complies with local and national policy.

7.4. Impact on Visual Amenity

- 7.4.1. The site is located within the Tara, Skryne Hills Landscape Character area which is designated as an area of exceptional value and high sensitivity. There are a number of protected views in the surrounding area. The site lies within the path of Protected View no. 44 – Hill of Tara as identified within the Meath County Development Plan. The grounds of appeal raise concern in relation to the impact of the proposed 2 storey dwelling on the visual amenities both within the immediate area and from Protected View no. 44.
- 7.4.2. In responding to the grounds of appeal, the applicant outlines that the proposal has been designed to negate against visual impact on the area. Existing development within the surrounding area comprises a range of dwelling types including single storey, one and a half storey and 2 storey dwellings. A variety of materials is evident in the surrounding area including brick, render and brick and natural stone finish.
- 7.4.3. The proposed development comprises a two storey dwelling (max ridge height of 7.84m) with render finish. I note the planning history of the site wherein outline planning permission was granted for a one and a half storey house on site under PA Ref AA/191397. A survey of the surrounding area was carried out to determine the significant level changes in the area. Drawing no. PP03 Proposed Contiguous Elevations illustrates the level differences between the appeal site and adjacent landholdings. The proposed dwelling would be the last in a row of houses on the

stretch of road. The site is located at a lower level to the adjacent properties to the east. The Contiguous Elevations illustrate that the ridge line of the proposed dwelling is only marginally higher than the ridge line of the adjoining property to the east and is lower than other dwellings in the immediate area.

- 7.4.4. A Design Statement prepared by More Architecture was submitted in response to Meath County Council's request for further information. This details how the proposal complies with the guidance set out within the Meath Rural Design Guide. On an overall basis I consider the design of the dwelling is simple and the proposed material pallet comprising a mix of render and stone and blue/black roof slates reflects the existing character of development in the area and is in accordance with the guidance set out within the Meath Rural Design Guide. Figures 1 and 2 of the FI response include CGI's of the proposed dwelling when viewed from the surrounding area. I do not consider that the proposal would read as a visually discordant addition to the area.
- 7.4.5. In terms of the wider views of the site from Protected View no. 44 Hill of Tara, I note that the proposed dwelling maintains a continuous skyline with adjacent properties. The proposed dwelling was designed to read as a single storey structure when viewed from the Hill of Tara. The landscaping plan illustrates that the proposed flat roof will have a header sedum roof covering which will be perceived from the distance as a lawn/meadow from the Hill of Tara. In this regard, I do not consider that the proposal will impact on the character or setting of the Hill of Tara. I furthermore note that the report on file from the Conservation Officer in MCC raises no objection to the proposal subject to condition.
- 7.4.6. I refer to the grounds of appeal which outline that a full Landscape and Visual Impact Assessment should be submitted in support of the application to illustrate the impact of the proposal from protected View no. 44. However, having regard to the nature of the proposal and distance from the Hill of Tara, I consider the information submitted to be sufficient.
- 7.4.7. In conclusion, I do not consider that the proposed dwelling would have a negative visual impact on the existing character and setting of the area on the basis of its proposed height or design.

7.5. Impact on Residential Amenity

- 7.5.1. Concerns relating to the design of the development and its impact on the residential amenity of the appellants property to the east of the site are raised within the appeal. The appeal outlines that the proposed first floor patio area and living space at first floor level which would overlook the appellant's private amenity space.
- 7.5.2. The appellant's dwelling is located to the east of the site and comprises a single storey detached dwelling. The proposed dwelling is set back c.14m from the eastern site boundary and is over 20m from the adjoining dwelling to the east. Existing window openings on the eastern elevation are limited to an opaque glazed en suite window. The Proposed Landscaping Plan (Drawing no. PP05) illustrates that the existing boundary treatment to the east and south comprises a 3m high hedge, which is proposed to be maintained.
- 7.5.3. In considering the concerns raised in relation to overlooking I note that the proposed patio area at roof level was omitted in response to MCC's request for further information and the first floor bedroom window on the eastern elevation was omitted. I consider that these revisions significantly address the appellant's concerns relating to overlooking.
- 7.5.4. I consider that overlooking of the appellant's property and private open space from the first floor south facing windows of the proposed dwelling is negated by separation distance between the proposed house and adjoining property to the east, elevational differences, the orientation of the house and the existing and proposed boundary treatment. I refer to Figure 5 of the applicant's response to Meath County Council's request for further information which provides a visualisation of the view from the first floor bedroom window. This illustrates that the window does not overlook the appellants garden to the east.
- 7.5.5. In conclusion, I do not consider that the proposal would result in undue overlooking of the appellants dwelling or private open space. I do not consider that the proposal would negatively impact on the residential amenity of the adjoining residential property to the east or any other residential properties in the vicinity.

7.6. Access

- 7.6.1. Access to the site is currently provided via the L-5002 which forms the southern boundary of the site. The grounds of appeal outline that consideration should be given to the provision of access from the north.
- 7.6.2. The L-5002 runs in a straight alignment in the vicinity of the site and has a speed limit of 80kmph. Sightlines are provided in accordance with Development Plan standards. The applicant has provided a justification for the proposed access arrangements on grounds of low traffic volume on the adjoining road and visibility at the proposed entrance.
- 7.6.3. While no report has been received from the Transportation Department in respect of the proposal, I note that access arrangements reflect those proposed and permitted under PA Ref AA/191397. In this instance no objection to the proposed access arrangements was raised in relation to the proposed access subject to conditions including the following:
- The applicant shall erect a timber post and tensioned wire fence in compliance with TII standard CC-SCD-00320 with a hedge planted inside the fence.
 - A revised layout shall be submitted showing gate piers at least 7 metres from the edge of the road and the driveway being at right angles to the road for at least the first 10m.
- 7.6.4. I have no objection to the proposed access arrangements and note that while alternative access options are available, the principle of access to the site is acceptable.

7.7. Wastewater Proposal and Water Quality

- 7.7.1. Wastewater proposals for the site include a septic tank and percolation area. Water supply is proposed via a new connection to the existing watermain which runs along the access road to the south of the site. Concerns relating to the proposed septic tank are raised within the third party appeal on grounds of the density of existing septic tanks in the area, lack of cumulative impacts assessment and impacts on water quality. The appellant outlines that there is no basis to draw a conclusion that no adverse impact on surface water quality will arise.

- 7.7.2. The appeal site is situated on a Poor Aquifer, with a low level of vulnerability. Groundwater protection response is R1, and the site is in principle suitable for a conventional septic tank system subject to normal good practice. I note that the principle of a septic tank and percolation area on the site was accepted by Meath County Council in granting outline permission for the development proposed under PA Ref AA191397.
- 7.7.3. The Site Characteristics Form details that the soil type comprises grey, brown podzolics. Groundwater flow is identified within a west/south-west direction. The nearest watercourse is identified as being 52m from the western boundary of the site.
- 7.7.4. A trial hole, with a depth of 1.9m recorded silt/clay for the first 700mm, clay/sandy for the next 400mm and clay/gravelly for the next 800mm. Groundwater was identified at 1.5m from surface. A likely T value of 43 is identified. The Site Characteristics Form identifies that the site seems suitable for discharge to ground and ground water remains a potential target and adequate soil depths for percolation should be provided.
- 7.7.5. With regard to the percolation characteristics of the soil 3 no. percolation test holes were examined. They resulted in T values of 149 minutes/ 100mm, 90 minutes/100mm and 119 minutes/ 100mm. An average T value of 42.19/25mm is identified. The form outlines that good sub soil percolation is identified and the proposal is suitable to accommodate a septic tank system as per EPA COP 2009.
- 7.7.6. Percolation tests were carried out at 3 no. trial holes. An average P value of 19.67/25mm was recorded. The Site Characteristics Form confirms that soil conditions are suitable to accommodate septic tank system and percolation area.
- 7.7.7. The Proposed Site Layout Plan (PP01) indicates that the proposed wastewater treatment system will be situated towards the southern boundary and will achieve adequate separation distances e.g., from watercourses/open drains, site boundaries, trees and dwelling houses. Having regard to the foregoing I am satisfied that the arrangements for the disposal of foul water will not give rise to pollution of ground or surface water.
- 7.7.8. I refer to the grounds of appeal which raise concern in relation to the density of existing septic tanks and one off housing within the area and outline that the area is

overdeveloped. It is stated that the area does not have a zoning status as an urban area or village. The Site Characteristics form identifies that there are 28 properties within a 250 metre radius, the nearest being 30m away on the eastern boundary. It is stated that the 5 immediately surrounding houses all use conventional septic tanks and appropriate separation distances are met in accordance with EPA guidance. The location of existing septic tanks in the vicinity of the site is illustrated within the Existing Site Layout Plan Drawing no. PP04.

- 7.7.9. I note that Lismullin is designated as a Node within the Meath County Settlement hierarchy and the policies and objectives of the Meath County Development Plan support the development within such settlements as a sustainable alternative to scattered one- off houses. Lismullin is served by social and physical infrastructure including connection to water supply. I consider the principle of the proposed dwelling to be acceptable in this regard.
- 7.7.10. No report has been received on file from the Environment Section in MCC. However, I note that outline permission was granted on site for a house and associated septic tank and percolation area under PA Ref: AA191397. I refer to the reports on file from the Environment Section of Meath County Council on this application which raise no objection to the proposed septic tank and percolation area subject to conditions including compliance with the requirements of the EPA Code of Practice and raising of percolation area due to observed mottling within the trial hole on-site inspection by the planning authority. Such conditions are reflected in Condition no. 6 of Meath County Council notification of decision to grant permission for the development. I consider the requirements of this condition are appropriate in the instance that the Board is minded to grant permission for the development.

7.8. Environmental Impact Assessment

- 7.8.1. Concerns are raised within the third party appeal in relation to the requirements for an EIAR to accompany the application. An Environmental Impact Assessment Screening report was not submitted with the application.
- 7.8.2. The proposed development is not listed in either Part 1 or Part 2 of Schedule 5, Planning and Development Regulations 2001 (as amended), which sets out the types and thresholds of development that requires a mandatory EIAR.

- 7.8.3. I have examined Article 109 of the Planning and Development Regulations 2001 (as amended) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) in particular the criteria set out for ‘characteristics of proposed development’, ‘location of proposed development’ and “characteristics of potential impacts’.
- 7.8.4. Under the provisions of Article 109, (3) of the Regulations, it is noted that the site is not located within a European site, is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site as discussed below.
- 7.8.5. The site is located within a designated node within the Meath County Settlement Hierarchy, is adjoined by existing residential development and the proposed development will not have an adverse impact in environmental terms on surrounding land uses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water of Irish Water, upon which its effects would be marginal. The proposed septic tank would be constructed, maintained and operated in accordance with the EPA Code of Practice.
- 7.8.6. Given the nature and scale of the proposed development and the site context, I am satisfied that the proposed development is not likely to have a significant impact on the immediate environment or on the wider environment. An EIAR, therefore, is not required.

7.9. Appropriate Assessment

- 7.9.1. Concerns are raised within the third party appeal in relation to the impact of the proposal on water quality in the area and associated impacts on designated sites.
- 7.9.2. The site is not located within or directly adjacent any Natura 2000 sites. The following sites are located within 15km of the site:
- River Boyne and River Blackwater SAC (Site Code 002299) – 2.5km
 - River Boyne and River Blackwater SPA (Site Code 004232) -2.5km

River Boyne and River Blackwater SAC (Site Code 002299)

7.9.3. The River Boyne and River Blackwater SAC (002299) is of conservation interest for the following habitats and species:

- Alkaline fens [7230]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, *Alnion incanae*, *Salicion albae*) [91E0]
- *Lampetra fluviatilis* (River Lamprey) [1099]
- *Salmo salar* (Salmon) [1106]
- *Lutra lutra* (Otter) [1355]

7.9.4. Site specific Conservation Objectives have yet to be published for the site. A general conservation objective has been published, which seeks:

‘To maintain or restore the favourable conservation condition of the Annex I habitat(s) and or Annex II species for which the site is selected’.

River Boyne and River Blackwater SPA (004232)

7.9.5. The River Boyne and River Blackwater SPA (004232) is of conservation interest for the following species:

- Kingfisher (*Alcedo atthis*) [A229]

7.9.6. Site specific Conservation Objectives have yet to be published for the site. A general conservation objective has been published, which seeks:

‘To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA’.

7.9.7. There is no direct link or connection between the appeal site and the above sites. I note the reference within the grounds of appeal to the poor water status of the nearby stream. This is located approximately 52m to the west of the site and is separated from the site by an existing road and residential property.

7.9.8. The proposed wastewater treatment system discussed above has been designed in accordance with the EPA guidelines on the treatment of domestic wastewater and is adequately removed from existing watercourses (EPA’s Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses).

Consequently, deleterious effects on either surface or groundwater in the vicinity of the site, or at distance from it, are unlikely. Notwithstanding this, in the absence of any mitigation measures, having regard to the effect of dissipation, dilution and biodegradation, of potential pollutants in their movement through soil/water at a distance of c.2.5 km from the River Boyne and River Blackwater SAC and SPA, significant adverse effects on water quality in the European site are unlikely.

- 7.9.9. Taking into consideration the nature and scope of the proposed development, the distance from designated sites, the lack of a direct hydrological link between the appeal site and designated sites, the wastewater treatment system proposed to serve the dwelling, the details provided on the site characterisation form and the nature of existing residential and agricultural development in the immediate vicinity, I am of the opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. I recommend that permission is granted for the proposal having regard to the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the provisions of the current Development Plan for the area, the detailed design, scale and form of the proposed development and its landscape context and setting, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would not endanger public safety by reason of traffic hazard or be prejudicial to public health or pose an unacceptable risk of environmental pollution and would not be inconsistent with rural housing policy at national or statutory development plan level. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, on 17/11/2020, 16/03/2021 and 19/04/2021 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter [unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant]. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p> <p>This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p>Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.</p>

3.	<p>The vehicular access, including visibility splays, set backs and landscaping, shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interests of traffic and road safety.</p>
4.	<p>The proposed materials and finishes of the dwelling shall be as shown on the submitted drawings, unless otherwise agreed with the Planning Authority.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Water supply and surface water drainage arrangements, including the disposal of surface water which shall incorporate SuDS measures, shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>
6.	<p>The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009 and the planning authority requirements relating to the raising of the percolation area so that the base of the trench is 150mm BGL.</p> <p>Reason: In the interest of public health.</p>
7.	<p>The garage shall not be used as habitable accommodation.</p> <p>Reason: In the interest of residential amenity.</p>
8.	<p>(a) Existing hedgerows, trees and shrubs on site shall be retained, except where it is necessary to accommodate the entrance to the site and sightlines.</p> <p>(b) Proposals for replacement planting identified on site layout drawing No. PP05 "Proposed Landscape Plan" shall be submitted for the written</p>

	<p>agreement of the Planning Authority, prior to the commencement of development.</p> <p>(c) Planting shall commence no later than the first planting season following commencement of development on site. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.</p>
9.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
10.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p>

	. Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.
--	---

Stephanie Farrington
Senior Planning Inspector
17th of November 2021