



An  
Bord  
Pleanála

## Inspector's Report

### ABP-310553-21

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<b>Development</b>	Construction of a single storey dwelling with attached domestic garage, new vehicular site entrance.
<b>Location</b>	Milltown, Grangebellew, Drogheda Co Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	201107
<b>Applicant(s)</b>	Andrew Ward
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Julie and Lester Winters Alannah Butterly
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	12 <sup>th</sup> of October 2021
<b>Inspector</b>	Angela Brereton

## 1.0 Site Location and Description

- 1.1. The application site (stated area 0.893ha) is located in the rural area c.1.5km to the north-east of Grangebellew, Co. Louth. The site is accessed via the narrow local road network and is to the east of the R166 (where their existing house is located). There are a number of one-off rural houses in the area and Raymond Butterly Motors is to the north-east.
- 1.2. The site is currently in agricultural use and is located on the south side of the county road close to a 90 degree bend c.75m from the proposed entrance. It is to be taken off the larger field area. There are no dwellings to the east or west but there are some one-off dwellings to the north-west on the opposite side of the road. The site slopes north to south and the road level would be higher than the field level. There is a hawthorn hedge along the roadside frontage of the site.
- 1.3. There is a laneway at the bend which leads to a cluster of farm dwellings and a dwelling house c. 130m SE of the proposed site. Milltown cottage is a P.S c.225m north of the site and is not visible from the site.

## 2.0 Proposed Development

- 2.1. This proposed seeks to erect a Single Storey Dwelling with attached domestic garage, new vehicular site entrance, site boundaries, wastewater treatment system and percolation area and all associated site development works and services.
- 2.2. Documentation submitted with the application includes:
  - Details relative to the applicant's local need, including health issues.
  - Drawings include Site Layout Plan, Floor Plans, Sections and Elevations.
  - A Site Characterisation Report.

## 3.0 Planning Authority Decision

### 3.1. Decision

On the 20<sup>th</sup> of May 2021, Louth County Council granted permission for the proposed development subject to 7no. conditions. These detailed conditions include relative to

a restriction on occupancy (7 years), development contributions, landscaping, infrastructural issues including relative to access and drainage, the wastewater treatment and disposal system.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner had regard to the locational context of the site, planning history and policy, to the inter-departmental reports and the submissions made. Their Assessment included the following:

- They note the site is located within Development Zone 5 of the Louth County Development Plan. They have regard to the applicant's local need and note that the applicant has submitted documentation to qualify for a dwelling under Criteria 6 for Zone 5.
- They note the large footprint of the proposed dwelling and consider that modifications to the design and layout should be requested.
- They recommend that a full landscape plan and visual impact plan be submitted.
- Following consultation with the Infrastructure Section they consider that adequate access arrangements have been demonstrated on site.
- They consider the proposed wwts and surface water drainage design to be acceptable.
- In view of the location of the proposed development they do not consider that it will have an impact upon the designated Natura sites.

#### Further Information request

This includes the following:

- Relative to housing need - the applicant was invited to demonstrate how the housing needs are not being currently accommodated within the existing residential home. To submit documentary evidence which supports section 2.19.1 of the Local Needs Qualifying Criteria.

- Revised plans to be submitted to show revisions to the proposed house type and a reduction in footprint.
- To submit a comprehensive landscape and a visual assessment to show the impact of the revised house design.
- Further details on the proposed wwts and percolation area.

#### Further Information Response

Herr Engineering & Design Ltd have submitted a response on behalf of the Applicant and this includes the following:

- A formal survey report outlining the specifics of the applicants existing home.
- A letter from the applicant highlighting the specific medical needs along with an Occupational therapist report from the HSE.
- Revised Floor Plan and Elevations reducing the bulk design to the front and rear and showing further amendments.
- Revised Site Layout and Site Sections clarifying the proposed FFL to be 97.420.
- A Visual Assessment using 3D photomontages and drone footage.
- A revised Landscape Plan with planting schedule and species native to the area has been attached.
- They provide details of the Engineering Company that will supervise the installation of the effluent treatment system and percolation area.
- Details include an amended drawing to show 72m of percolation piping as opposed to the initial 36m.
- Revised Public Notices.

#### Planning Officer's Response

This included the following:

- They note the submission of documentary medical evidence regarding the health condition of the Applicant's son. They consider that the exceptional

health circumstances provide the reasoning as to why it is necessary to live in the rural area.

- The dwelling feasibility assessment of their current dwelling shows it to be inadequate/unsuitable relative to these health needs. That their current property is incapable of being adapted to accommodate required facilities.
- They note the site is located in development zone 5 and a review of criteria 6 notes that it does not advise that an applicant cannot have owned a house previously when assessing the site.
- They note that the applicant has submitted revised plans and particulars relative to the proposed design and layout and that the floor area has been marginally reduced.
- They note that Herr Engineering are to supervise the installation of the effluent treatment system and percolation area which will be constructed in accordance with the EPA CoP 2009.
- They acknowledge that the large footprint is broken up and the low profile. The landscape plan and the proposed design being single storey assimilates the proposed dwelling into the landscape.
- On the basis of the information provided and having regard to the specific medical condition, they consider that the Applicant has adequately demonstrated that they need to reside in the rural area within 1.3km of their existing home.
- They consider the F.I submission acceptable and recommend that permission be granted subject to conditions.

### 3.3. Other Technical Reports

#### Infrastructure Section

They have no objection to the proposed development subject to conditions regarding access and visibility, surface water drainage, maintaining the state of roads.

### Environmental Compliance Section

They provide that the applicant has submitted adequate information to satisfy the Environmental Compliance Section that there will be no threat of environmental pollution from the proposed development. They recommend conditions relation to the wwts and percolation area.

#### **3.4. Prescribed Bodies**

The Planner's Report does not note any consultations or responses.

#### **3.5. Third Party Observations**

A number of Submissions have been made from local residents and issues of concern in summary include the following:

- Excessive scale of development in an area prone to ribbon development.
- Design and layout not in keeping with the character of the landscape.
- Access and road safety.
- Lack of demonstrated local need in accordance with development plan objectives.
- Impact on adjoining agricultural lands.
- Impact on Protected Structure in the vicinity.

Issues raised are considered further in the context of the Third Party Appeals in the Assessment below.

#### **4.0 Planning History**

The Planner's Report notes that there is no previous planning history relative to the subject site.

Details submitted relative to the Applicants current house:

- Reg.Ref. 02/1449 – Permission granted to Andrew Ward for a Dwellinghouse at Togher, Drogheda. This is the Applicant's current abode and is located in

the rural area of the western side of the R166 to the south of Togher crossroads. It is located c.1.3km to the north-east of the subject site.

## 5.0 Policy Context

### National Policy

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

Section 5.3 refers to the growth and development of rural areas and the role of the rural town as a catalyst for this. It is recognised that the Irish countryside is, and will continue to be, a living and lived-in landscape focusing on the requirements of rural economies and rural communities, based on agriculture, forestry, tourism and rural enterprise, while at the same time avoiding ribbon and over-spill development from urban areas and protecting environmental qualities.

Objective 18 refers to the policy to support the proportionate growth of and appropriately designed development in rural towns and villages that will contribute to their regeneration and renewal, including interventions in the public realm, the provision of amenities, the acquisition of sites and the provision of services.

Objective 19 outlines that within areas under urban influence, single housing in the countryside will be facilitated based on the core consideration of a demonstrable economic or social need to live in the rural area. It further states that in rural areas elsewhere, it is an objective to 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.

### Section 28 Guidelines

#### 5.2. Sustainable Rural Housing Guidelines for Planning Authorities (2005)

This seeks to encourage and support appropriate development at the most suitable locations. A distinction to be made between 'Urban Generated' and 'Rural Generated' housing need.

Section 3.2.3 concerns Rural Generated Housing and gives an example of Persons who are an intrinsic part of the rural community and Persons working fulltime or part-time in rural areas. This includes reference to people who have lived most of their lives in rural areas and are building their first homes.

Section 3.3 is concerned that the consideration of individual sites will be subject to normal siting and design considerations. These include the following:

- Any proposed vehicular access would not endanger public safety by giving rise to a traffic hazard.
- That housing in un-serviced areas and any on site wastewater disposal systems are designed, located and maintained in a way, which protects water quality.
- The siting of the new dwelling integrates appropriately into its physical surroundings.
- The proposed site otherwise accords with the objectives of the development plan in general.

Section 4.3 refers to Assessing Housing Circumstances and includes reference to exceptional health circumstances. Section 4.4 is concerned with Access and restriction of such on National Primary and Secondary Roads. Regard is also had to Roadside Boundaries Section 4.5 is concerned with Protecting Water Quality and Site Suitability issues

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.

### **5.3. EPA Code of Practice for Domestic Wastewater Treatment Systems 2021**

This Code of Practice (CoP) is published under Section 76 of the Environmental Protection Agency Act, 1992 (as amended).

Its purpose is to provide guidance on domestic waste water treatment systems (DWWTSs) for single houses or equivalent developments with a population equivalent (PE) of less than or equal to 10. It sets out a methodology for site assessment and selection, installation and maintenance of an appropriate PWWTS.



This CoP replaces the previous Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10) issued in 2009. This CoP applies to site assessments and subsequent installations carried out on or after 7th June 2021. It provides that the 2009 CoP may continue to be used for site assessments and subsequent installations commenced before 7th June 2021 or where planning permission has been applied for before that date.

#### 5.4. **EU Water Framework Directive**

The purpose of the EU Water Framework Directive (WFD) 'is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater.

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

Chapter 2 relates to the Core Strategy and Settlement Strategy.

Section 2.7 *Rural Settlements/Countryside* provides: *All of County Louth falls within 'rural areas under strong urban influence' as defined by the **National Spatial Strategy (NSS) 2002** by reason of its proximity to Dublin and its strong urban structure and for this reason, to facilitate the careful management of rural one-off housing in County Louth, Local Needs Qualifying Criteria have been outlined in detail in Section 2.19.1 of this Plan.*

The site is located within Development Zone 5 where the Strategic Objective seeks:

*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.*

Development Zone 5 includes 6 categories relevant to local needs.

Policy RD 39 refers – To permit limited one-off housing (refer to Section 2.19.1 for Local Needs Qualifying Criteria), agricultural developments etc...

#### S2.19 Rural Housing Policy

Section 2.19.1 provides the Local Needs Qualifying Criteria – Policy SS19 refers.

Section 2.19.2 provides a Definition of a Local Rural Area – Policy SS20 refers.

Section 2.19.5 provides a Definition of Qualifying Landowner.

Section 2.19.6 refers to Application of Occupancy Conditions Policy SS23 refers.

Section 2.19.7 provides the Development Management Assessment Criteria for One-off Rural Housing. Policies SS24 to SS29 refer.

*Policy SS 26 - To require that the design and siting of the proposed dwelling is such that it does not detract from the rural character of the landscape or the visual amenities of the area. In this regard, applicants will be required to demonstrate that the proposal is consistent with the document Building Sensitively and Sustainably in County Louth and the guidelines contained in Section 2.20.*

Section 2.19.11 refers to Dwelling gross floor areas and minimum site size Policy SS51/52 and Table 2.9 refers.

Section 2.19.12 refers to Ribbon Development Policy SS53 refers.

Section 2.19.15 refers to Access and notes that all applications will be required to show how visibility standards appropriate to the class of road as detailed in Tables 7.4 and 7.5 - Chapter 7 Transport) can be met - Policies SS59 and SS60 refer.

Section 2.19.16 refers to Domestic Garages/Outbuildings – Policy SS61/62 refers.

Section 2.19.17 refers to Roadside boundaries – Policies SS63/64 refer.

Section 2.19.18 refers to Wastewater – Policy SS65 refers.

Section 2.20 refers to Rural Housing Design and Siting Criteria – Policies SS66- 68 refer.

Chapter 7 refers to Transport and Section 7.3.6 to Entrances. Table 7.4 provides the Minimum Visibility Standards. Table 7.5 to Vehicle Access gradients and Fig. 7.1 to Junction Visibility Splays Policy TC12 refers.

Chapter 8 refers to the Environment, Section 8.4 to Water Quality and Section 8.4.2 to the Water Framework Directive. Section 8.5 to the Natural Water Systems and Groundwater. Section 8.7 to On Site Wastewater Treatment and Disposal Systems. Policies ENV19/22 refer.

## 5.6. Natural Heritage Designations

There are no designated sites within proximity to the site. Clogherhead SAC and Dundalk Bay SPA are located within 7kms of the site.

## 5.7. EIA Screening

Having regard to the nature and scale of the proposed development (a single dwelling) and the absence of any significant environmental sensitivity in the vicinity/ 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

Two separate Third Party Appeals have been submitted from local residents and their Grounds of Appeal are summarised below.

#### Julie and Lester Winters

- They ask the Board to strongly consider the countryside if putting this (6000sq.ft) houses in this location. They consider that it will detract from farming and wildlife in the area.
- They ask that National Policy Objective 19 be considered.
- The applicant already has a house in the area and is not a farmer. There are young people in the area, involved in farming that may be seeking houses.
- They are the future and to allow non farming families to build luxury homes in the middle of agricultural land does not seem fair.
- There is a need to avoid ribbon development and to protect environmental qualities.
- They attach a copy of their original submission by Michael Halligan Planning Consultant made at planning application stage. This was made on the

grounds of adverse impact on public health, visual amenity, natural habitat, traffic hazard and on being contrary to Development Plan Policy relative to local need.

### Alannah Butterly and Others

#### *Summary*

- The Butterly family have lived in this area for 3 generations and as a family they own prime agricultural land for growing potatoes on a large scale. They note the proximity of the land to their agricultural lands.
- They have regard to the 'Sustainable Rural Housing Guidelines' and submit that they make no provision for persons who already own a house to be accommodated as to someone with a rural housing need.
- They have regard to settlement policies in the Louth CDP 2015-2021 and submit that the local needs criteria have not been met as the applicant already owns a house and there is no provision made in national or local policy for another house.
- They would be concerned that the proposed development would by reason of its scale and location on this elevated site have a serious negative visual impact on the surrounding area and if permitted would result in damage to the environment.
- Due to insufficient sightlines, it would have a severe impact on the quality and capacity of the road network in the area which is largely used by agricultural machinery, serving their potato farm.
- It would result in loss of hedgerow and would give rise to traffic safety due to the proximity to the 90 degree bend which impedes sightlines.
- They have regard to planning policies and objectives at National, Regional and Local level relative to Settlement Strategy and provide that as the applicant already owns a house this cannot be regarded as a rural generated house.

#### Grounds of Appeal

In summary these are as follows:

1. The proposed development is for a second dwelling and does not comply with the Rural Housing policies.
2. The scale of the proposed development is excessive and would have serious negative visual impact on the surrounding area.
3. The proposed development would if permitted give rise to a traffic hazard and would conflict with agricultural traffic in the area.
4. The proposed development would give rise to an unacceptable demand for services in this area.
5. To permit such a dwelling would create an undesirable precedent for other similar applications.
6. The development of a house on such an elevated and exposed site would result in it being visually obtrusive from an expansive area.

The Appellant provides a detailed discussion under each of these headings and the issues raised are noted. Their Conclusion is as follows:

1. The proposed development is contrary to the Louth CDP policy on Rural Housing and is contrary to National Policy on Rural Housing and would if permitted be contrary to the settlement strategy for the area and to the proper planning and sustainable development of the area.
2. The proposed development would be reason of insufficient sightlines result in the creation of a traffic hazard and would conflict with agricultural operations in this local area.
3. The proposed development is of excessive scale and on an elevated site and would be visually obtrusive and have a detrimental impact on the surrounding area.
4. Notwithstanding the medical needs of the family, the applicants have not demonstrated a need for a second dwelling which could not be accommodated either through the adaptation of their existing dwelling or the construction of a replacement house.

## 6.2. Applicant Response

EHP Services response on behalf of the Applicants to the Third Party Grounds of Appeal, includes the following:

- They have carefully reviewed both appeals and do not find there to be any compelling or reasonable planning justification to set aside the Council's decision to conditionally approve permission.

### *Principle of Development*

- The proposed development meets and complies with Development Zone 5 and its principal planning objective.
- They reference a number of planning policies which they provide are applicable in this case.
- As indicated in the Planning Officer's assessment the application was submitted under the provisions and requirements of Category 6 (exceptional health circumstances) for Development Zone 5. It does not relate to the other categories.
- The proposal meets Policy SS24 (Appendix 1) which requires the proposed development to be consistent with the strategic objective for the development zone in which it is located.
- The singular reason for seeking planning permission to construct a new dwelling is that the applicant's existing house is not suitable for adaptation to meet the current and future health care needs of his son.
- Detailed information from the medical profession as regards the severity of his son's health care needs have been submitted.
- This information from such impeccable sources was of sufficient clarity and evidence to satisfy the Council that the Applicant's circumstances fully complied with Category 6 and justified the granting of permission.
- They note the reference made to National Planning Objective 19 (NPO19) which makes a distinction between urban and rural generated housing need.

- As the Applicant already lives rurally this is clearly not an urban generated house. This is simply the case of a long-term rural resident wishing to move from one location to another in the rural area.
- They do not consider that the provisions of NPO19 expressly prohibit the Applicant from obtaining planning permission for a new dwelling under the aforementioned circumstances and justifications.
- They refer to the Sustainable Rural Housing Guidelines (2005). Section 3.2.3 refers to more commonplace situations where planning permission is sought for a rural dwelling. Nowhere within these Guidelines does it expressly prohibit a person who already owns their own home from obtaining planning permission.
- The proposal is consistent with NPO19 and County Development Plan policies and is entirely in keeping with the proper planning and sustainable development of the surrounding rural area.

#### *Adapting the Existing Dwelling*

- The Appellant assumes incorrectly that the Applicant's dwelling would undergo relatively simplistic modifications to provide the necessary facilities and layout that have been accommodated in the proposed dwelling, to meet the needs of a profoundly disabled person.
- They refer to the accompanying medial reports relative to the Applicant's son's special needs. The collected benefit of the Occupational Therapists and Herr Engineering & Design Ltd's reports is that they completely support the medical circumstances/need for the new dwelling.
- The likelihood of finding a property that meets each of their unique layout and structural requirements and be converted as necessary is unrealistic and not a viable alternative to a purpose built replacement for their existing home. They include Appendix 3 which they consider justifies the need for a purpose-built new dwelling as proposed.

#### *Ribbon Development*

- They refute the Appellant's assertion that the proposal would constitute ribbon development. They note that there is a gap of c.360m to the nearest house to

the west. Policy SS53 states that a minimum gap of 300m shall be maintained between such developments. They do not consider the proposal contravenes this policy.

- The proposed development is categorically not ribbon development and does not represent an inappropriate form of development in the surrounding rural area. As such it does not contravene Policies SS53 or SS54.

#### *Design and Visual Impact*

- The proposed house is not excessive or out of character with the area. They have given the reasons for their increased floor space.
- The surrounding countryside is not within a designated AONB or Area of High Scenic Quality, designated scenic route, protected view and prospect, Greenbelt or coastal area.
- The overall design, choice of materials and finishes and resulting appearance is respectful of the mixed vernacular of neighbouring dwellings.
- The overall design is contemporary and low profile and aided by the proposed new landscaping will contribute positively to the character of the surrounding vernacular.
- The appeal offers no documentation or assessment supporting the notion that the proposed new dwelling will have any alleged negative visual impacts.
- They refer to the conclusions of the Landscape and Visual Impact Assessment (LVIA) prepared by Herr Engineering & Design Ltd and submitted as an F.I response. (Appendix 5 refers).
- The proposed new dwelling will sit at a slightly lower level than the road and the site is not elevated.
- Having regard to issues raised relative to the scale and location the appeal fails to provide satisfactory argument or evidence that the proposed development is contrary to Section 2.19.7 and Policy SS25 and they provide a Table to demonstrate this.



### *Traffic Impact*

- The proposal will not cause traffic conflict/hazard and they note that the Council's Roads Team recommended conditional approval for the proposed development.
- Within the context of existing traffic volumes, frequency and patterns of movement the additional extra traffic generated by a single residential property is negligible and in no way represents a threat or danger to other road users.
- They provide that the sightlines are in line with current standards and include Tables to demonstrate this. The proposed vehicular entrance is compliant with the requirements and provisions of Policy TC12 (Appendix 1).
- Condition no.5 of the Council's permission provides an appropriately comprehensive and enforcement platform to ensure the proposed entrance remains in a condition that is in the best interests of traffic safety.

### *Infrastructure*

- The proposal would not impact negatively on services. They provide details of proposed drainage including that water will be from a bored well, surface water drainage to be in accordance with SUDS design principles.
- Details are provided relative to the proposed wwts which they consider acceptable.
- They note condition nos. 6 & 7 of the Council's permission relate to the installation of both the surface water drainage and wastewater treatment systems.

### *Precedent*

- It is likely that when the Applicant's existing home is vacated that it will be put up for sale or rent. Whether or not the Applicant retains ownership of the existing dwelling is not material to the consideration of the proposed development. The family will not be living between the two properties, given the unique health requirements.

- There is no suggestion that the existing dwelling would become a second home or a holiday home for the Applicant as it is located only 1.3km from the appeal site.
- The circumstances and justification for the proposed development are unique and infinitely less common in comparison to other reasons for needing to live rurally in Development Zone 5.
- No future application for a rural one-off dwelling under Category 6 for Development Zone 5 or elsewhere can rely upon a grant of permission in this case as good reason for approval of permission in this case.

### *Conclusion*

- They note the development is considered on its merits and is not contrary to national, or local planning policy or to the Sustainable Rural Housing Guidelines (2005). It is in compliance, as there is a genuine rural generated housing need.
- The appeal fails to present a compelling or well considered objection to the proposed development. They consider that there are ample and obvious compelling reasons to dismiss these appeals and uphold the Council's decision.
- They include a number of Appendices in support of their application.

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

They provide they have no further comment to make and refer all interested parties to the reports on file.

### **6.4. Observations**

None noted on file.

## 7.0 Assessment

### 7.1. Settlement Policy and Local Needs

- 7.1.1. The Settlement Strategy has regard to Rural Generated Housing Need. This is a matter of compliance with rural settlement strategy which requires consideration of not just local but also regional and national planning provisions that deal specifically with this matter. National Policy Objectives 18 and 19 of Project Ireland 2040, refer. As noted in the Policy Section above, Objective 18 seeks to develop a programme for new homes in small towns and villages. Objective 19 seeks that: “In rural areas under urban influence, to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in the 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”.
- 7.1.2. Regard is also had to the Sustainable Rural Housing Development Guidelines 2005 where the strategy indicates that there should be a presumption against urban-generated one-off housing in rural areas adjacent to towns. The site is located in an area classified as being under “Strong Urban Influence” as identified in the Guidelines. Section 3.2.3 refers to ‘Rural Generated Housing’. This includes reference to “people who have lived most of their lives in rural areas and are building their first homes”. Section 4.3 of the Guidelines refers to Assessing Housing Circumstances and includes: “In particular, planning authorities should recognise that exceptional health circumstances – supported by relevant documentation from a registered medical practitioner and a disability organisation – may require a person to live in a particular environment or close to family support”.
- 7.1.3. The Third Parties are concerned that the applicant does not comply with national and local housing policy relative to rural housing and local need criteria in that applicant’s already own a home in the rural area and there is no provision in planning policy at National or Local levels for permitting a second house in the countryside. That this proposal would have a detrimental impact on the viability of existing settlements and represents an unnecessary interference in agricultural practices in this rural area. That the proposed development would set an undesirable precedent and therefore

be contrary to planning policy and to the proper planning and sustainable development of the area.

- 7.1.4. Details of the applicant's local need have been submitted with the planning application and the appeal. It is put forward that the applicant has a proven local need and there should not be a ban on genuine applicants in the area. The First Party's response refers to the documentation submitted and provides that they have established the particular circumstances as to why a new dwelling instead of the adaptation of the applicant's existing home is the only viable solution to the particular spatial requirements of the applicant's disabled child with suitable care facilities and how in complying with all planning policies and objectives relevant to a development of this nature, is entirely in keeping with the proper planning and sustainable development of the area.
- 7.1.5. It is noted that the site is located in Development Zone 5 of the Louth CDP and that this includes 6no. categories relevant to the qualifying criteria for local needs. Category 1 relates to the son/daughter of a qualifying landowner. This includes: "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." Category 2 also refers to this issue. It is not specifically referred to in Category 6.
- 7.1.6. The First Party submit that their local need is based on Category 6 i.e: "That the applicant is required to live in a rural area for exceptional health reasons. Such application 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."
- 7.1.7. In this case the applicant has submitted considerable medical details as to the specific health circumstances of his son. In response to the Council's F.I request, further details have been submitted included a report from a registered Occupational Therapist from the HSE. This includes details as to the child's specialised medical needs and as to why the current accommodation is not suitable. Further details have also been submitted in the First Party response to the appeals. Appendix 3 relates.

- 7.1.8. The applicant's existing house, is a detached dormer bungalow (permission granted 2002 – Reg.Ref. 02/1449 refers). It is c.1.3km to the northeast of the site with access from the R166. Also included in response to the Council's F.I request is a formal survey report, outlining the specifics of the applicants existing home, and as to why it is not considered appropriate for adaption to the needs of the applicant's son. This concludes that the current dwelling is impractical due to its insufficient access, restricted circulation and segregation between rooms. This notes that the O.T. report has outlined a number of points required to achieve an acceptable standard of living for this child. This recommends that a purpose built bungalow as per the designs accompanying the current planning application.
- 7.1.9. The Board may decide to grant this permission in view of the specific medical needs of the Applicant's son. If so, I would recommend that an occupancy condition as per Policy SS 23 of the CDP and condition no. 2 of the Council's permission be included.
- 7.1.10. However, while I note the medical circumstances, I would not consider that a site specific need has been established. It maybe that there are other options are available to the applicant, such as a purpose built extension to the existing house, an alternative house/replacement house, rather than building a second house on a greenfield site on agricultural land in the countryside. The issue of precedent has also been raised. In general, as noted in 'The Sustainable Rural Housing Guidelines (Section 3.2.3) rural generated housing is based on the concept that it is for people who have lived most of their lives in rural areas and are building their first home.

## **7.2. Design and Layout**

- 7.2.1. The Site Layout Plan shows the location of the site, that is to be taken off the larger field area, with frontage to the local county road at Milltown c.1.5km from the settlement of Grangebellew. This proposal is to construct a single storey dwelling, divided into linked sections with attached domestic garage. In addition, to provide a new vehicular entrance, site boundaries, a waste water treatment system, percolation area and all associated works and services.
- 7.2.2. As per the application form, the floor area of the proposed dwelling is 520sq.m. which is sizable. It is proposed that it be divided into 4 different sections, which breaks up the overall bulk. In response to concerns regarding the proposed

development being excessive and the scale and massing of the proposal, as shown on the revised floor plans the footprint has been marginally reduced in the F.I submitted to 518sq.m. It is provided that the front entrance to the dwelling has been relocated to the side to provide shelter for the child when entering and exiting a vehicle. The front canopy at this entrance has been significantly reduced to minimise the visual impact of the front façade. They provide that this canopy is imperative as to the needs of keeping the child's medical equipment dry. The First Party response acknowledges that the footprint is greater in comparison than neighbouring dwellings but reiterate the reasons for the increased gross floor area have been clearly established.

- 7.2.3. The proposal is low profile and the ridge height is shown as c. 6.6m. The F.I submission clarifies that the proposed FFL is 97.420. External finishes include dark grey/blue black slate finish, smooth finish plaster, zinc/pix trim to flat roof area. As the house is shown set back a minimum of 14.8m from the road and is on a lower level, it will not be very visible from the road. If the Board decides to permit it is recommended that a condition regarding external finishes be included.

### **7.3. Landscaping and Visual Assessment**

- 7.3.1. This Assessment has been carried out and submitted in response to the Council's F.I request. It is provided that the proposed dwelling is strategically located as to minimise the impact of a detached dwelling within the existing landscape. A discussion is had of impact on views in the Landscape and Visual Assessment.
- 7.3.2. Volume 2C, Appendix 18 of the Louth CDP provides a Record of Protected Structures. It is noted that a P.S (Ref.Lhs018-022, NIAH 13901842) 'Milltown Thatched Cottage' dating from mid-17<sup>th</sup> Century is c. 165m to the north east of the site. View C refers to Milltown Thatched Cottage. The site is not visible, nor will the house be visible from this location. I noted that it is not visible from the site and it is stated that the proposal will not have an impact on this P.S.
- 7.3.3. View B refers to 'Moneyveg Tower' P.S (Lhs018-002, NIAH 13901815) which is located c.850m to the north-west of the proposed site, in an elevated position in the middle of an agricultural field. I noted on site that the tower is visible in the distance. However, it is provided that the proposed dwelling will not be intrusive in the

landscape and will not have a negative impact on the Tower from any viewpoint of the proposed site. Also, that there is no direct link between both the tower and the proposed site. The First Party also include drone footage to show that there are 2 storey houses that are more visually obtrusive relative to the views of the Tower.

- 7.3.4. Bermeath Castle P.S (Lhs18-020 13901817) stands some 1.84km from the proposed site. While not visible from the site, it is contended that a view of the proposed site may be just possible from the upper quarters of the Castle. However, there is screening in the form of vegetation and existing structures (such as the existing housing on the main road to the site along with Moneyveg Tower).
- 7.3.5. The Assessment includes conceptual views and 3D Models of the proposed dwelling on the site. It is noted that there is an existing 1.8m hedgerow along the site frontage. They provide that this, along with the reinforcement of semi-mature trees, planting and additional hedgerows will further integrate the proposed dwelling into the existing landscape. If the Board decides to permit it is recommended that a landscaping condition be included.
- 7.3.6. It is noted that there are a number of more prominent dwellings in the landscape with access to this county road. However, the issue is whether it is desirable to site another one-off house within the area. The issue of ribbon development is also discussed. Regard is had to policies SS 53 and 54 of the Louth CDP and to Appendix 4 of 'The Sustainable Rural Housing Guidelines' 2005. It is noted that while there are 3no. houses in proximity on the opposite side of the road, the siting of the proposed development would not constitute ribbon development, in this context. Rather it would seen as sporadic one-off rural housing in an area under pressure for development.

#### **7.4. Access and Road Safety**

- 7.4.1. There is an existing agricultural access that serves this land and the field to the west. The proposed access is to be sited to the east of this. The Third Party has expressed concern that along this small stretch of county road, there are already many residential properties and two busy farm yards consisting of Dairy and Potato Growers and a Mechanics Garage. That this proposal will add to the proliferation of

entrances along this narrow county road and will impact on traffic including agricultural traffic.

- 7.4.2. There is concern about the location of the proposed entrance relative to the 90 degree bend on the road c.75m to the east. When onsite I noted that visibility to the east is somewhat restricted by the horizontal and vertical alignment of the local road and the relative proximity to this bend. The site is not within an area where lower urban speed limits apply. Section 7.3.6 and Table 7.4 of the Louth CDP refers to Minimum Visibility Standards in respect to new entrances and 75m sight distance, would appear to be in accordance with these.
- 7.4.3. I note that the Council's Infrastructure Section has no objection to the proposal subject to the adequate visibility being made available and maintained for a minimum of 75m on either side of the driveway at a point 3m back from the edge of the carriageway. They provide this including that where necessary that hedges/banks walls be removed along the frontage to allow for this visibility. The Site Layout Plan states that sight lines of 75m taken from a distance of 3m from edge of roadway at a height of 1.05m to 600mm can be achieved in either direction. It has not been clarified as to whether existing hedgerows will have to be removed to facilitate these sightlines. Condition no.5 of the Council's permission relates to visibility and to the set back of the proposed entrance, along with surface water drainage. If the Board decides to permit it is recommended that an appropriate condition relative to these issues be included.

## 7.5. **Drainage issues**

- 7.5.1. The Site Layout Plan shows that it is proposed to provide a waste water treatment system and a well to the rear of the site to serve the proposed development on this unserviced site. It is noted that the site slopes downwards from the road. A Site Characterisation Report has been submitted. This notes potential targets being groundwater and existing and proposed wells. Vulnerability is given as moderate and the aquifer category is classified as poor 'P1'. They provide that the site is potentially suitable so long as a minimum separation distance of 1200mm is maintained between invert of percolation pipes and the water table.



- 7.5.2. As noted in the Policy Section above this CoP document has now been replaced by the EPA Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Dwellings (2021). This includes: *The 2009 CoP may continue to be used for site assessments and subsequent installations commenced before 7th June 2021 or where planning permission has been applied for before that date.* It is noted that this application was made to the Council on the 15<sup>th</sup> of December 2020, and granted on the 20<sup>th</sup> of May 2021, so therefore the 2009 CoP still applies.
- 7.5.3. Table 6.2 of the 2009 EPA Code of Practice provides the minimum depth requirements for on-site systems discharging to ground i.e. 1.2m and at the base of polishing filter 0.9m. i.e. minimum depth of unsaturated subsoil to bedrock and the water table. Table 6.3 provides an interpretation of percolation test results and “in cases where  $3 < P < 75$  the site may be suitable for a secondary treatment system and polishing filter at ground surface or overground if the soil is classified as Clay...” The ‘T’ and ‘P’ test values given should be within this range.
- 7.5.4. Percolation test results provide that the average ‘T’ test result is 49.47. The recommendation is to install a packaged wastewater treatment system and polishing filter. The First Party response provides that based on the findings and recommendations of the Site Characteristics prepared by ECC Design & Engineering wastewater will be treated through a Klargestor Bioficient Treatment plant and soil percolation area located in the south-eastern corner of the appeal site. A Site Suitability Form by Kingspan Klargestor has been submitted.
- 7.5.5. The Council’s Environmental Section does not object to the proposal but requested additional information as to the name of the person who will supervise the installation of the wwts and that they will provide a constructed report confirming that the effluent treatment system & percolation area were constructed in compliance with the EPA CoP 2009. Also, that 72m of percolation piping is required (not 36m as shown on the site layout map).
- 7.5.6. In response to the Council’s F.I request details are provided including that the installation of the proposed wwts will be overseen by a suitably qualified and accredited person. They note that Herr Engineering and Design Ltd will supervise the installation of the effluent treatment system and percolation area which will be

constructed in accordance with EPA CoP 2009. They also provide an amended drawings to show 72m of percolation piping as opposed to the initial 36m.

- 7.5.7. While concerns about the proliferation of individual wwts in the unserved rural area are noted, it appears that the site is suitable for the disposal of effluent. I would recommend that if the Board decides to permit, that appropriate conditions be included.

## **7.6. Screening for Appropriate Assessment**

- 7.6.1. The Planner's Report notes that no AA Screening has been provided with this application. It is noted that the site is located within 7km of Clogherhead SAC (site code:01459), Dundalk Bay SAC and Dundalk Bay SPA (site code: 000455). They include a Table that lists the Qualifying Interests of each of the designated sites. Their Assessment provides that considering the distance of this proposal from a stream located c.250m to the south of the subject site and given the nature of the conservation objectives of those areas, they do not consider that this development will have an impact upon designated Natura sites.
- 7.6.2. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. It is recommended that permission be refused for the reasons and considerations below.

## **9.0 Reasons and Considerations**

Having regard to: -

- (i) the location of the proposed development in a rural area, classified as Development Zone 5 within the Louth County Development Plan 2015-2021, which seeks to protect agriculture and sustainable rural communities in an area

which has been subject to increasing pressure for development of one-off rural housing due to proximity to Dublin and access to the M1 motorway and in accordance with Policy RD39 only allow for limited one-off housing where applicants must demonstrate a genuine local need to live in this area,

(ii) the national policy, as set out in National Policy Objective 19 of the National Planning Framework 2018 and the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and local Government in April 2005, that facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements, and

(iii) the documentation submitted with the application and appeal,

the Board is not satisfied that the applicant who already owns a house in the rural area, has provided sufficient justification for a rural housing need to build another house in this rural area, or that alternative options have been sufficiently explored to satisfy the applicant's housing need, rather than to build a new home in the rural agricultural area. While the Board acknowledges the medical issues as presented, and the applicant's family ties to the area and that this complies with the relevant local need criteria of the County Development Plan, it is considered that the threshold to demonstrate a functional economic or social need to build another rural house in this area under development pressure has not been met. In the absence of a sufficient justification, it is considered that the proposed development would contribute to the development of random rural housing in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would be contrary to the Sustainable Rural Housing Guidelines and to overarching national policy, notwithstanding the provisions of the Louth County Development Plan 2015-2021 and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Angela Brereton

Planning Inspector

15<sup>th</sup> of October 2021