



An
Bord
Pleanála

Inspector's Report 310960-21.

Development	Dwelling, garage, wastewater treatment system and entrance Significant further information/ revised plans submitted on this application
Location	Milltown, Dromiskin, Co. Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	20/836
Applicant(s)	Sarah-Louise Brennan and Andrew McGuinness
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Padraig Smith.
Observer(s)	None.
Date of Site Inspection	19 th January 2022
Inspector	Lucy Roche.

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1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.26ha and is located in the townland of Milltown c1km west of the settlement boundary of the Level 4 Settlement of Dromiskin and c3km to the southwest of the Level 1 settlement boundary of Dundalk. The M1 Motorway and northbound Applegreen Castlebellingham service station are located c0.7km to the east of the site.
- 1.2. The appeal site comprises the southwest corner of an agricultural field. The eastern (roadside) boundary is defined by a mature native hedgerow atop a sod and stone bank. A laurel hedge defines the boundary with the adjoining property to the south, while the northern and western boundaries are open having regard to the site forming part of a larger agricultural field.
- 1.3. The lands on the eastern side of the appeal site sit above (c0.5m) the level of the adjoining public road (L5183-180) however slope gradually downward in a westerly direction towards the Kinincoole River, which is situated c100m west of the appeal site.
- 1.4. The appellants property, comprising a two-storey detached dwelling and associated outbuildings is located to the south of the appeal site,

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a part single, part two storey detached dwelling (with a stated gross floor area of 226sq.m), single storey detached garage (with a stated gross floor area of 47sq.m), new a packaged treatment system and percolation area, well, surface water drainage system and new entrance, together with all associated site works.
- 2.2. The design of the dwelling and location of the entrance were revised as part of the applicant's response to the further information request.

3.0 Planning Authority Decision

3.1. Decision

Louth County Council issued a notification of decision to grant permission for the proposed development subject to 6no. conditions. The following conditions are of note:

- Condition 2: Occupancy clause.
- Condition 5: infrastructure Requirements
- Condition 6: Wastewater Requirements

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planner's Report (25/11/2020)

The Planner in their report had regard to the locational context of the site; relevant planning history and policy; to the inter-departmental reports and the submissions made. Their initial assessment included the following:

- They noted that the site is located within Development Control Zone 5 of the Louth County Development Plan 2015-2021. They noted and considered the information / documentation submitted by the applicant, Sarah-Louise Brennan, to support her application for rural housing under Qualifying Criteria 2 (Having lived for a minimum period of 10years in the local area etc) and considered the information submitted insufficient.
- They noted the 3no concurrent applications for outline planning permission on adjoining lands and raised concerns regarding the accumulative impact of same on the rural area while also noting that proposed development was to be assessed on its own merits.
- Notwithstanding the traffic speed survey submitted, they raise concerns regarding the lack of sightline visibility to the north of the proposed entrance. They also raise concerns regarding the extent of hedgerow removal required to facilitate the proposed entrance and required sightline distances.

- They consider the proposed development, in terms of layout, scale and design, to be generally acceptable however they consider that additional landscaping would be required.
- They do not consider, having regard to its design and position with the site that the proposed dwelling would result in overlooking on adjoining properties.
- They consider proposals for on-site wastewater treatment to be acceptable; they note a lack of information in respect of proposals for surface water drainage particularly at the proposed entrance and driveway.
- In view of the nature and scale of the development and the nature of the receiving environment and the recommendations of the Environment Section they do not consider that it will have an impact upon the designated Natura sites.
- The initial planner's report recommends a request for further information in relation to:
 1. Rural Housing Need – the applicant was invited to submit further documentary evidence to demonstrate that she lived for a minimum period of 10 years in the local rural area
 2. The extent of hedgerow removal required to facilitate the development
 3. Design details of the proposed access (entrance gates and piers etc)
 4. Proposals to aid the assimilation for the development into the landscape
 5. The provision of adequate sightline distances at the proposed entrance
 6. The management of surface water at the entrance and driveway

Planner's Report (30/06/2021)

- They note the submission of additional documentary evidence to support the applicants claim that she has resided in the local rural area for a minimum period of 10 years. They consider that the applicant has demonstrated compliance with SS18 and SS19 of the Louth County Development Plan 2015-2021.

- They note that the applicant has relocated the proposed entrance further to the north and are satisfied that revised proposals to remove 4.1m of hedgerow to facilitate the entrance and lower c71m of hedgerow to the north of the entrance to a height of 1.05m, will enable the required sightlines to be achieved as well as retaining a roadside hedgerow.
- They note the drainage proposals submitted and are satisfied that such proposal address the concerns raised.
- They consider the design and scale of the proposed access gates and piers to be acceptable.
- They consider revised landscaping proposals to be acceptable.
- They note that the design of the proposed dwelling has been amended and are satisfied that the amended design would not result in any adverse impact on the residential amenity of neighbouring properties.
- They recommend that permission be granted subject to 6no. conditions

3.2.2. Other Technical Reports

Environment Report received 4th November 2020. Stated no objection subject to 4no. condition

Infrastructure:

Report received 19th November 2020. Recommended further information in relation to sightline visibility and surface water drainage.

Report received 23rd June 2021 following receipt of further information. Confirms no objections subject to 10no. conditions.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

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

- Overdevelopment of this rural area. The proposed development would in conjunction with the other three applications proposed in this field result in overdevelopment and lead to ribbon development.
- The applicants lack a bone fide reason or necessity for a new dwelling in the rural area.
- Traffic safety: Inadequate sightline distances proposed. The development of these lands would alter the character of the road and result in higher speeds and increased traffic volume. Concerns in relation to the accuracy and reliability of the traffic count.
- The extent of hedgerow removal required to achieve adequate sightline distances.
- The lack of detail in the plans submitted
- The proposed well is located too close to existing well and may impact upon supply.
- Overlooking of adjoining property.
- Flood risk assessment required due to flooding of river along field boundary. The development should ensure roadside drainage is not impeded.

4.0 Planning History

- 4.1. The proposed development was one of four applications submitted concurrently by the applicant and her three siblings on lands at Milltown, Dromiskin, Dundalk Co Louth.

P.A. Ref. 20/829 December 2020. Outline Permission refused to Shane Brennan for dwelling house etc for reasons of failure to demonstrate a local need for rural housing and impact upon the rural character and visual amenities.

P.A. Ref. 20/830 December 2020. Outline Permission refused to Martin Brennan for dwelling house etc for reasons of failure to demonstrate a local need for rural housing and impact upon the rural character and visual amenities.

P.A. Ref. 20/821 December 2020. Outline Permission refused to Ruth Brennan for dwelling house etc

4.2. Other applications on family lands at Milltown, Dromiskin:

ABP-311335-21 (P.A Ref:21/785) Awaiting Decision. First Party Appeal against the decision of Louth County Council to refuse Outline permission to Martin Brennan for dwelling etc

5.0 Policy Context

5.1. National Planning Framework

The NPF in relation to rural housing includes objective 19-

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.

5.2. Sustainable Rural Housing Guidelines 2005

The Sustainable Rural Housing Guidelines require planning authorities to differentiate between rural housing demand arising from rural housing need and housing demand arising from proximity to cities and towns. Additionally, development plans should distinguish rural areas under strong urban influence, stronger rural areas, structurally weak rural areas and areas with clustered settlement patterns. Development management policy should be tailored to manage housing demand appropriately within these areas.

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. Development Plan

5.3.1. The application was assessed by Louth County Council in accordance with the policies and objectives of the Louth County Development Plan 2015-2021. The Louth County Development Plan 2021-2027 was adopted by Louth County Council on the 30th of September 2021 and came into effect on the 11th of November 2021. I have assessed the proposal under the provisions of the operative Development Plan, namely the Louth County Development Plan 2021-2027.

5.3.2. Louth County Development Plan 2021-2027.

The subject site is not zoned in the Louth County Development Plan 2021-2027 and is in the rural area. Section 3.17.3 of the County Development Plan classifies all rural areas within the county as being rural areas under strong urban influence however it also notes that there are parts of the County that are more environmentally sensitive due to their high scenic quality and cultural value and as a result categorises two Rural Policy Zones. Rural Policy Zone 1 encompassing areas identified as being

under strong urban influence and of significant landscape value and Rural Policy Zone 2 encompassing areas identified as being under strong urban influence.

5.3.3. The appeal site is located within Rural Policy Zone 2 – Area under strong urban influence as indicated on Map 3.2 of the Development Plan. Table 3.5 of The Development Plan sets out the Local Need Qualifying Criteria in Rural Policy Zone 2 as follows:

1. Persons engaged in full time agriculture. This includes livestock, poultry, dairy, and tillage farming, bloodstock and equine related activities, forestry, and horticulture. The nature of the agriculture activity shall, by reference to the landholding, livestock numbers, or intensity of the use of the land, be sufficient to support full time or significant part time occupation. Depending on the activity the documentation available will vary however the onus will be on the applicant to demonstrate the viability of the enterprise. Information to be provided shall include:

- The size of the landholding
 - The nature of the operations
 - Buildings and storage associated with the operations
 - Number of persons employed
 - Livestock numbers (if applicable)
- i. Participation in government schemes/ programmes e.g. Bord Bia Quality Assurance, Basic Payment Scheme (BPS), GLAS, or any similar or replacement programmes or schemes.
 - ii. Any other information that would support the application.

Or

2. A person whose business requires them to reside in the rural area. The nature of the operations of the business shall be specific to the rural area. Any application shall demonstrate the viability of the business and clearly set out

the nature of activities associated with the business and why it requires the owner to reside in the vicinity.

Or

3. Landowners including their sons and daughters who have demonstrable social or economic ties to the area where they are seeking to build their home. Demonstrable social or economic ties will normally be someone who has resided in the rural area of Louth for at least 18 years prior to any application for planning permission. Any applicant under this category must demonstrate a rural housing need and shall not own or have sold a residential property in the County for a minimum of 10 years prior to making an application.

Or

4. A person who is seeking to build their first house in the area and has a demonstrable economic or social requirement to live in that area. Social requirements will be someone who has resided in the rural area of Louth for at least 18 years prior to any application for planning permission. Any applicant under this category must demonstrate a rural housing need and shall not own or have sold a residential property in the County prior to making an application.

Or

5. An emigrant who was resident of the area (previously resided in the area for at least 18 years in total) and wishes to return to the area to live. The applicant shall not own or have sold a residential property in the County for a minimum of 10 years prior to making an application.

Or

6. Persons who are required to live in a rural area, for exceptional health reasons. Any application shall 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. The application shall also demonstrate why the existing home of the family member cannot be adapted to meet the needs of the applicant.

Or

7. Residents who have demonstrable social ties to the area and are providing care for an elderly person(s) or a person(s) with a disability who lives in an isolated rural area and who does not have any able-bodied person residing with them. Any application shall demonstrate why the existing property cannot be extended or modified to provide residential accommodation for the carer. One house only will be allowed on this basis and the site must be adjacent to the dwelling in which the elderly person(s) or person(s) with the disability resides.

Or

8. A person who has been a resident for at least 10 years that previously owned a home and is no longer in possession of that home due to the home having been disposed of following legal separation / divorce / repossession and can demonstrate a social or economic need for a new home in the rural area.

5.3.4. Relevant Policy Objectives:

- HOU 36 To discourage urban generated housing in rural areas and direct proposals for such housing to the towns and villages in Settlement Levels 1-4 in the County as set out in the Settlement Hierarchy in Table 2.4.
- HOU 41 To manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with the Local Needs Qualifying Criteria relative to the Rural Policy Zone set out in Tables 3.4 and 3.5.
- HOU 42 To manage the development of rural housing in the open countryside by requiring that any new or replacement dwelling is appropriately designed and located so it integrates into the local landscape and does not negatively impact or erode the rural character of the area in which it would be located.

- HOU 44 To attach an occupancy condition of 7 years in the form of a Section 47 agreement in respect of all planning permissions for new dwellings in rural areas and Level 5 Settlements restricting the use of the dwelling to the applicant, or to those persons who fulfil the criteria set out in Tables 3.4 and 3.5.
- HOU 47 To require applications for one off rural housing to comply with the standards and criteria set out in Section 13.9 of Chapter 13 Development Management Guidelines 'Housing in the Open Countryside'
- NBG 31 Where in exceptional circumstances, trees and or hedgerows are required to be removed in order to facilitate development, this shall be done outside nesting season and there shall be a requirement that each tree felled is replaced at a ratio of 10:1 with native species and each hedgerow removed is to be replaced with a native species. In Drogheda and Dundalk, replacement trees will be required at a ratio of 5:1 where the removal of trees is required in order to facilitate development.

5.4. Natural Heritage Designations

The site is not located within or directly adjacent to a Natura 2000 site. There are however a number of Natura 2000 sites within a 15km radius of the appeal site. The nearest are:

The Special Area of Conservation: Dundalk Bay SAC (Site Code: 000455), which lies c3.4km to the east of the site, at its nearest point.

The Special Protection Areas: Dundalk Bay SPA (Site Code: 004026) which lies c3km to the east of the site, at its nearest point.

The Special Protection Areas: Stabannon Braganstown SPA (Site Code: 004091) which lies c4.5km to the south, at its nearest point.

5.5. EIA Screening

Having regard to the nature and scale of the proposed development comprising a single dwelling house, domestic garage and associated works, and the nature of the receiving environment, 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 as screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was submitted on behalf of Mr. Padraig Smith. The following provides a summary of the grounds of appeal:

- The proposed development represents an urban generated housing need – the applicant has failed to demonstrate a bone fide reason or necessity to live in the rural area contrary to national and County Development Plan Policy. The appellant refers to a number of recent appeal cases for rural one-off dwellings where the issue of developing in areas under strong urban influence was a key point of consideration in each refusal.
- Appropriate Assessment – having regard to the proximity of the proposed development to the Kilincoole River (a hydrological conduit to Dundalk Bay SPA and SAC), the location of the appeal site within a field that is prone to flooding, the proposed development which includes a new wastewater treatment system and surface water drainage system it has been submitted

that the County council was in correct to screen out the development proposal at application stage.

- The majority of the c148m long hedgerow and embankment defining the eastern boundary of the appeal site and adjoining field will be substantially and drastically altered in order to provide the minimum sightlines and visibility splays required.
- The proposed development will result in a new entrance and additional volumes of traffic onto a narrow, high sided tertiary local access road that is already heavily trafficked. Concerns raised in relation to the traffic count submitted with the application, the reliability around its dataset and the conclusions based thereon.
- Potential for overlooking from the first-floor bedroom window in the south facing elevation
- Noise, equipment drone, dust and general disturbance arising from associated construction traffic and workers entering and existing the site will give rise to an unacceptable level of disruption to the appellants general amenities and peace and quiet.
- The proposed development will also radically and detrimentally impact upon the northern outlook of the appellants dwelling and private amenities spaces which will be visually dominated by the two-storey dwelling.
- The proposed driveway is uncharacteristically long, would create an incongruous feature within the surrounding pattern of development and may be used to facilitate future development of the adjoining field.

6.2. Applicants Response

6.2.1. A response to the third-party appeal was received on the 19th August 2021. This can be summarised as follows:

- The response to the grounds of appeal provides an outline of applicant, Sarah Louise Brennan's personal and family connections to the local rural area. The details provided state that the applicant, Sarah Louise, was born and reared in

this rural area, she went to school in the area and played for the local G.A.A club. She is employed with Acorn Financial Services the nature of her work is that she travels to different farmers in the area and provides administrative financial services and supports to landowners. The applicant is the daughter of the landowner and is getting married shortly – they will need a home of their own. She does not own and has never owned a house. Sarah qualifies as being an intrinsic part of the local community.

Andrew McGuinness works for PayPal which is only a short distance from the appeal site. He works from home, so his need is based on his local employment. The applicants have a genuine rural housing need based on Sarah's long-established links to the rural area and the fact that they are both working locally in this rural area.

- The proposed wastewater treatment system is designed in response to an EPA site suitability test which is carried out in accordance with the EPA Code of Practice. This test is quite comprehensive and is designed to ensure the protection of ground water. The County Council, the competent authority, were satisfied that the proposed development would not impact on any European sites and would not impact on Dundalk Bay which is 3km away.
- They are satisfied that adequate sightlines can be achieved with minimal loss of hedgerow which can be largely achieved through pairing back of the existing wide hedge. The site layout does not require the removal of the earth embankment.
- The road is not heavily trafficked it is lightly trafficked with sufficient capacity to accommodate the additional level of traffic to be generated by the proposed development.
- The proposed dwelling is sufficiently removed from the appellants boundary and will not give rise to overlooking / loss of privacy
- Suggestion that the proposed development would impact upon the northern outlook of the appellants dwelling suggests an element of NIMBYism

6.2.2. The applicant's response to the third-party appeal included the submission of the following:

- The submission of documentary evidence to demonstrate the applicant, Sarah Louise Brennan's address at Green Road, Dunmahon, Dundalk Co. Louth including: Birth certificate; Letters from schools attended; letter from Credit Union, letter from local pharmacy; letter from the Parish of Haggardstown and Blackrock; documentation from revenue (2012-2020).
- Declaration from the applicant Sarah Louise Brennan stating that she does not own nor has owned a house in the rural area of the County within 5 years prior to making this application.
- A Design Statement
- Map showing the location of the applicant's home and other family homes living locally to appeal site

6.3. **Planning Authority Response**

None

6.4. **Observations**

None

6.5. **Further Responses**

None

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and having 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:

- Demonstration of Need of Rural House

- Access and traffic Safety
- Residential Amenity
- Other Matters
- Appropriate Assessment

7.2. Demonstration of Need of Rural House

- 7.2.1. The appellant outlines that the proposed development represents an urban generated housing need and that the applicants have failed to demonstrate a bone fide reason or necessity to live in the rural area contrary to the requirements of the National Planning Framework's National Planning Objective 19 (NPO 19), the 2005 Sustainable Rural Housing Guidelines and the policies and objectives of the Louth County Development Plan.
- 7.2.2. The appeal site is located within the rural area outside of any settlement centre identified within the Louth County Development Plan 2021-2027 (the operative CDP). Due to a number of contributory factors, including the high rate of outbound commuting from the rural areas of Co. Louth to the Dublin Metropolitan Area and the Regional Growth Centres of Drogheda and Dundalk for employment and the levels of one-off housing in rural parts of the County, all rural areas within the County have been identified as 'rural areas under strong urban influence'. The Sustainable Rural Housing Guidelines advise that houses in such areas may be provided to meet the housing needs of the local rural community, but that urban generated housing should be directed to zoned and serviced lands within settlements.
- 7.2.3. National Planning Framework's National Planning Objective 19 (NPO 19) states that the provision of single housing in rural areas under urban influence is to be 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.

7.2.4. Policy Objective HOU 41 of the County Development Plan states that in order to manage the development of rural housing in the open countryside applicants are required to demonstrate compliance with Local Needs Qualifying Criteria relative to their respective Rural Policy Zone. Map 3.2 of the Louth County Development Plan 2021-2027 identifies the appeal site as being within Rural Policy Zone 2 – Area under Strong Urban Influence. Table 3.5 of Section 3.17.4 sets out the Local Housing Need Qualifying Criteria relative to Rural Policy Zone 2; 8 Qualifying Criteria are listed; these Criteria are set out in more detail in section 5.3.3 of this report.

7.2.5. Following consideration of the information / documentation submitted in support of this application and appeal I am satisfied that the applicants have not provided any evidence that they would come within the scope of the following 6 qualifying criteria:

Qualifying Criterion 1 Persons engaged in full time agriculture

Qualifying Criterion 2 Persons whose business requires them to reside in the rural area. (The nature of the applicant’s employment relative to their housing need is discussed in more detail below)

Qualifying Criterion 5 An emigrant who was resident of the area and who wishes to return to the area to live

Qualifying Criterion 6 Persons who require to live in the rural area for exceptional health reasons

Qualifying Criterion 7 Residents who have demonstrable social ties to the area and are providing care for an elderly person(s) or Person(s) with a disability

Qualifying Criterion 8 A person who has been resident for at least 10 years that previously owned a home and is no longer in possession of that home due to having disposed of following legal separation / divorce / repossession.

As such the above Criteria do not in my view warrant further consideration.

7.2.6. Qualifying Criterion 3 makes provision for landowners, their sons and daughter who:

- Have demonstrable social or economic ties to the area where they are seeking to build (i.e. they have resided in the rural area of Louth for at least 18 years prior to any application for planning permission
- Have a rural housing need, and
- Do not own or have sold a residential property in the county for a minimum of 10 years prior to making an application

In accordance with the details provided, the appeal site is owned by the applicant, Sarah Louise Brennan's father, Martin Brennan. While it is not known for how long the lands have been held in family ownership, I note that Qualifying Criterion 3 of Table 3.5 does not specify that the 'landowner' must meet with the definition of a Qualifying Landowner i.e. A person who owns a landholding of at least 1.5 hectares and has owned the land for a minimum of 15 years, and therefore I conclude that this is not a relevant factor for consideration under this criterion.

7.2.7. Qualifying Criterion 4 provides for persons who are seeking to build their first house in the area and who:

- Have demonstrable social or economic ties to the area where they are seeking to build (i.e. they have resided in the rural area of Louth for at least 18 years prior to any application for planning permission
- Have a rural housing need, and
- Do not own or have sold a residential property in the county prior to making an application

7.2.8. In accordance with the details set out in the response to the grounds of appeal the applicants have a genuine rural housing need based on the applicant Sarah- Louise Brennan's long established intrinsic links to the rural area and the fact that both applicants work locally in this rural area. It is stated in the response to the appeal that they do not own a house and I note the sworn declaration from Sarah Louise

Brennan which states that she does not own and has not owned a house within the rural area of the County within the 5 years prior to making the application (this 5 year stipulation was relevant to the local needs qualifying criteria under the Louth County Development Plan 2015-2021 that was in effect at the time the application and appeal was lodged).

- 7.2.9. While I am satisfied, based on the information provided that the applicant, Sarah-Louise Brennan, has demonstrated that she has social and family ties to this area as per the requirements of Qualifying Criteria 3 and 4 (she was born and reared in the rural area at Green Road, Dunmahon, which is situated approximately 2.8km north of the appeal site), I am not satisfied that the applicants have demonstrated that they have a 'rural housing need' which is also a qualifying factor for both Criteria 3 and 4.
- 7.2.10. The County Development Plan does not specifically define 'rural housing need', I therefore refer back to the National Planning Framework in particular National Policy Objective 19 which requires that in areas under strong urban influence, single houses should be restricted to those with a demonstrable economic or social need to live in a rural. No evidence has been provided to demonstrate either a social or economic need to live within the rural area.
- 7.2.11. The applicant, Sarah Louise Brennan is employed in financial services and while the information submitted in response to the grounds of appeal refers to the services and supports, she provides to local landowners and farmers as part of her employment, I do not consider that the nature of her employment is such that would necessitate a specific requirement to live at this site within the rural area. Andrew McGuinness is employed with PayPal and while he can work from home, the nature and location of his employment is not linked to an essential rural-generated housing need.
- 7.2.12. In addition, having regard to the proximity of the applicant, Sarah Louise Brennan's family home and the appeal site to local settlements I am not satisfied that the applicants housing need could not be met within a local town or settlement. I refer to Policy Objective HOU36 which seeks to discourage urban generated housing in rural areas and direct proposals for such housing to the towns and villages in Settlements Levels 1-4.

7.2.13. Accordingly, based on the information submitted as part of the application and appeal, I am not satisfied that the applicants come within the scope of the economic or social housing need criteria set out in the overarching National Guidelines or the relevant Local Housing Need Qualifying Criteria of the Development Plan and I recommend that permission is refused on this basis.

7.3. Access and Traffic Safety

7.3.1. Access to the site is proposed via a new entrance off the public road (L5183-180) to the east of the site. The appellant is of the opinion that road is already highly trafficked and that the proposed development would lead to unnecessary and unwanted congestion and danger to other road users. The applicants responded that the road is lightly trafficked and has sufficient capacity to accommodate the level of traffic to be generated by the proposed development.

7.3.2. The road in question is a narrow rural road of approximately 1.3km in length. It connects the L1182 local road to the north and L1185 to the south and serves a number of one-off rural dwellings and agricultural holdings. The road is sub-standard in width (only sufficient for a single car). Roads of this nature can have limited carrying capacity and while the road did not appear to be heavily trafficked during site inspection, I would have concerned regarding its ability to accommodate any notable increase in traffic movements. Notwithstanding, I note that the appeal site is located c100m from the junction of the access road with the L1182 to the north and I would consider that the traffic movements generated by a single dwelling at this location would be unlikely to have a significant impact upon the carrying capacity of the road. I also note that there is adequate pedestrian refuge for walkers in the vicinity.

7.3.3. The appellant has also raised concerns in relation to the impact on the proposed development on the roadside hedgerow and embankment which they consider will be substantially and drastically altered as a result of the proposed development.

- 7.3.4. The development as originally presented included proposals for the removal of c53m of the existing roadside boundary to facilitate the provision of the new site entrance and sightline distances. The Local Authority Planner raised concerns regarding the quantum of hedgerow proposed for removal along the limited sightline visibility proposed to the north of the entrance. The applicants responded by relocating the proposed entrance further to the north along the road and by reducing the quantum of hedgerow proposed for removal to that required to facilitate the proposed entrance (c4.1m). Sightline distances of 75m in both directions are to be achieved by lowering the existing roadside boundary to a height of 1.05m. Sightlines to the north of the entrance require works outside of the appeal site, these lands are shown to be within the family landholding. A letter of consent was submitted. Proposals for access and sightline provision were deemed acceptable by the Planning Authority and would accord with the development standards set out in Section 13.16.17 of Chapter 13 Development Management Guidelines of the County Development 2021-2027.
- 7.3.5. While I note the concerns raised regarding the lack of clarity on Drawing No.MGA-18-0188-PL102 particularly in relation the extent of the roadside boundary proposed for removal, I consider the drawing sufficient for assessment purposes and I note that if deemed necessary further clarification could be provided on this issue by way of condition in the event that planning permission is granted.
- 7.3.6. The existing roadside boundary comprises a high sod and stone bank with native hedgerow. The works proposed to facilitate sightline distances would reduce the height of the boundary and result in a loss of vegetation however I do not consider that such works would have a detrimental impact upon the character or setting of this rural area. As proposed, the existing roadside boundary will be substantially retained, save for the section required to facilitate the proposed entrance. Additional planting is also proposed to enhance a section of the boundary to the south of the proposed entrance. The boundary is wide and well established, and I note that no mature trees are proposed for removal. I consider that the proposed works would not significantly undermine the importance of the boundary as a habitat and wildlife corridor. Overall, I consider that the proposal an acceptable solution in terms of traffic safety, visual amenity, and biodiversity.

7.4. Impact upon Residential Amenity

- 7.4.1. The proposed development comprises a part single part two storey dwelling, the closest part of the proposed dwelling, the single storey element, being c10.9m from the southern boundary of the site and c25m from the nearest point of the dwelling to the south. The appellant is concerned that the proposed first floor bedroom window in the south elevation will directly overlook down and onto their private amenity space.
- 7.4.2. Following review of the plans submitted I note that there are three first floor windows in the south elevation, these windows are set back c19m from the southern boundary. Two of the three windows serve bathroom /en-suites the third serves the first-floor landing. Any views from the two most easterly windows would be obscured by the pitched roof of the single storey element. Having regard to the separation distances available and the fact that the remaining window serves a non-habitable room (bathroom), I am satisfied that it would not result in overlooking of the adjoining property.
- 7.4.3. In addition, while the development of the site as proposed may alter the northern outlook from the appellant property, this is not in itself a material planning consideration, and I am satisfied that the development as proposed would not give rise to any undue residential amenity impact by way of overbearing or overshadowing.
- 7.4.4. Development by its nature can have an undue impact on the amenities of adjoining properties, particularly in terms of noise, nuisance, dust etc. however such impacts are temporary in nature and can be managed through implementation of good building practice. Therefore, I would recommend that, any grant of permission include appropriate conditions to ensure that during the construction phase nuisances are kept to a minimum and in accordance with best accepted practices for the same.

7.5. Wastewater Treatment / Drainage

- 7.5.1. The proposed development is to be served by a new packaged treatment system and percolation area located to the west of the dwelling. A new well is to be located to the southeast corner of the site, c40m upgradient of the DWWTs. All separation distances appear to accord with EPA guidelines.
- 7.5.2. The applicants Site Suitability Assessment Report records the underlying aquifer as poor, with the groundwater having moderate vulnerability. The ground protection response for the area has been identified as R1. The EPA CoP indicates that for sites which fall within the R1 response category, an on-site system is acceptable subject to normal good practice (i.e. system selection, construction, operation and maintenance in accordance with this CoP).
- 7.5.3. The submitted Site Characterisation Report indicates that a trial hole with a depth of 2.2m was dug. No rock or water table were encountered. During site inspection I noted that the ground was firm and dry under foot, no water was observed in the trial holes.
- 7.5.4. The Site Suitability Assessment recorded a T-Value of 19.44. As such, Table 6.4 of the EPA Code of Practice (2021) confirms that the site is suitable for an on-site wastewater treatment system with discharge to ground.
- 7.5.5. Surface water from the site is to be directed to a soakaway located to the west of the proposed dwelling. A soakaway design report including infiltration tests was submitted in support of the application. The report concluded that the site is suitable for a blanket infiltration system design and constructed in accordance with best practice. In addition to the soakaway an ACO drain is proposed at the site entrance in order to prevent surface water discharged onto the public road.

7.6. Other

- 7.6.1. The appellant is concerned that the proposed driveway, due to its design and length, would appear as an incongruous feature and that it would be used to facilitate the future development of the adjoining field.

- 7.6.2. The relocation of the entrance further north along the road resulted in the extension of the driveway serving the proposed dwelling by c20m. The proposed driveway runs parallel to the public road, close to the existing roadside boundary, and I consider that with the provision of adequate landscaping, as proposed, the driveway could be adequately assimilated into the landscape without having a significant negative impact upon the visual amenities or character of this rural area.
- 7.6.3. Any future development of the adjoining lands reliant upon the proposed entrance / driveway, would be subject to a separate planning application and any such application would be assessed and determined on its own merits.

7.7. **Appropriate Assessment – Screening**

7.7.1. Compliance with Article 6(3) of the Habitats Directive

- 7.7.2. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

7.7.3. Background on the Application

A screening report for Appropriate Assessment was not submitted. Therefore, this screening assessment has been carried out de-novo.

7.7.4. Screening for Appropriate Assessment – Test of likely significant effects

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

7.7.5. Brief description of the development

The subject site has already been described under Section 1 above and a description of the main elements of the proposed development is included under Section 2. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Construction related -uncontrolled surface water/silt/ construction related pollution; and
- Habitat disturbance /species disturbance (construction and or operational).
- Contamination of ground water (operational)

7.7.6. Submissions and Observations

No submissions have been received from prescribed bodies relevant to this assessment. I note that the appellant raised concerns regarding the potential for the proposed development, in particular the proposed wastewater treatment and surface water drainage systems to result in contamination of ground water which in turn has potential to result in contamination of surface waters and in tern the Dundalk Bay SAC/SPA.

7.7.7. European Sites

Table 7.1: Summary Table of European Sites within a possible zone of influence of the proposed development.				
European Site (site code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
Special Area of Conservation (SAC)				
Dundalk Bay SAC (000455)	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p>	3.4km to the east	<p>No direct connection.</p> <p>The Kilincoole River, located c90m to the west of the application site connects to the River Fane which in turn flows into the Dundalk Bay SAC over a distance of c5km</p>	Y

Special Protection Area (SPA)				
Stabannan-Braganstown SPA (004091)	Greylag Goose (<i>Anser anser</i>) [A043]	c. 4.5 km (south)	No direct avenues of connectivity.	N (due to separation distance and lack of connectivity)
Dundalk Bay SPA (004026)	Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Greylag Goose (<i>Anser anser</i>) [A043] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052] Mallard (<i>Anas platyrhynchos</i>) [A053] Pintail (<i>Anas acuta</i>) [A054] Common Scoter (<i>Melanitta nigra</i>) [A065] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Lapwing (<i>Vanellus vanellus</i>) [A142] Knot (<i>Calidris canutus</i>) [A143]	3km (east)	No direct connection. Stream located c90m to the west of the application site connects to the River Fane which in turn flows into the Dundalk Bay SPA over a distance of c5km	Y

	<p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Common Gull (<i>Larus canus</i>) [A182]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184] Wetland and Waterbirds [A999]</p>			
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7.7.8. Identification of Key Significant Effects

Construction Phase:

Construction phase activity on site will likely include vegetation removal, excavation, infill of construction materials / hard landscaping (for driveway / hardstanding areas etc) dust and noise disturbance during works. During the construction phase there is potential for surface water runoff from site works to temporarily flow downhill and discharge to river which runs along the field boundary c90 to the west of the appeal site and which ultimately discharges to Dundalk Bay SAC and SPA (safter a distance of c5km).

In my opinion the separation distances between the appeal site and the water course and the water course and designated European site mean that water quality in the European sites would be unlikely to be negatively affected by any contaminants, such as silt from site clearance and other construction activities, due to dilution and settling out over such a distance. Therefore, the construction phase of this small-scale development would be unlikely to not result in significant environmental impacts that could affect the Dundalk Bay SAC / SPA or other European Sites within the wider catchment area.

Operational Phase Impacts:

Operational phase impacts may include direct emissions to air and water, surface water run off containing sediment and contamination, light disturbance, noise, presence of people, vehicles, and activities on site.

As stated previously given the separation distance involved it is not expected that the water quality pertinent to the European sites will be negatively affected by any possible run off contaminants from the site. The proposed DWWTS and soakaway are to be located c. 100m uphill from the River. The site has been deemed suitable for wastewater disposal and water infiltration. While I note that the lands adjoining

the river have been identified as being prone to flooding, the appeal site is located c50m uphill of the flood zone.

No significant impacts are likely to occur during the operational phase.

7.7.9. In combination effects

All recent extant and proposed planning applications in the area have been screened for appropriate assessment and where necessary Natura Impact Statements have been submitted and assessed. While I note that there a number of historical one-off rural dwellings and individual on-site wastewater treatment systems in the area, having examined the submitted site investigations report and suitability assessment, I am satisfied that the current proposals for onsite wastewater treatment system would be unlikely to have any significant effects that would result in any significant in-combination effects.

7.7.10. Other Concerns Raised

None

7.7.11. Mitigation Measures

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise

7.7.12. Screening Determination – Finding of no likely significant effect

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on the Dundalk Bay SAC (000455), Dundalk Bay SPA (004026), Stabannan-Braganstown SPA (004091) or any other European site, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on the following: Distance of the proposed development from European sites, the lack of meaningful ecological connections to those sites and dilution factor.

8.0 Recommendation

8.1. I recommend that planning permission be **refused** for the proposed development based on the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to:

- The location of the site within a rural area under urban influence in accordance with Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government 2005
- National Policy Objective 19 of the National Planning Framework (February 2018) which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements
- The objectives of the Louth County Development Plan 2021-2027 which seek to discourage urban generated housing in rural areas and to direct proposals for such housing to the towns and villages in Settlement Levels 1-4 in the County and which seek to manage the development of rural housing in the open countryside by requiring

applicants to demonstrate compliance with the Local Needs Qualifying Criteria

It is considered that the applicants do not come within the scope of either the economic or social housing need criteria set out in the overarching National Guidelines or the relevant Local Housing Need Qualifying Criteria of the Development Plan.

The proposed development, in the absence of any identified locally based need for the house at this location, would result in a haphazard and unsustainable form of development in an unserved area, would contribute to the encroachment of random rural development in the area and would mitigate against the preservation of the rural environment and the efficient provision of public services and infrastructure and undermine the settlement strategy set out in the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Lucy Roche
Planning Inspector

21st January 2022