



An
Bord
Pleanála

Inspector's Report

ABP-311156-21

Development	Construction of 5 detached dwelling, each with domestic garage, proprietary effluent treatment system & percolation area.
Location	Lismullin, Garlow Cross, Navan, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	2138
Applicant(s)	Patricia Thorpe.
Type of Application	Permission.
Planning Authority Decision	To grant with conditions.
Type of Appeal	Third Party
Appellant(s)	Carmel Donnellan.
Observer(s)	None
Date of Site Inspection	13 th December 2021.
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

1.1. The c.1.9ha appeal site is situated 5km to the south east of Navan town and c.650m to the north east of junction 7 on the M3. It lies in the townland of Lismullin, County Meath. The site lies to the south of a local road (L-1000) and immediately west of Lismullin National School. It comprises an agricultural field which slopes broadly from west to east and from north to south. To the east of the property is a residential dwelling (appellant's property). It is a detached house that is separated from the appeal site by a hedgerow. Along the L-1000 east and west of the site is residential development, in the form of one off housing, and to a lesser extent agricultural buildings. At the time of site inspection the appeal site was grazed by horses. Further, cars were parking on the southern side of the L-1000 extending towards the site, picking up children from the National School.

2.0 Proposed Development

2.1. The proposed development, as revised by way of significant further information submitted on the 4th June 2021 (readvertised on the 24th June 2021), comprises 5 no. detached dwelling houses (1,579sqm), each with an individual proprietary effluent treatment system, percolation area and domestic garage. Dwellings are arranged around an internal access road. It joins the L-1000 by simple priority junction. 90m sightlines are shown in each direction, at 2.4m back from the edge of the public road. The proposed houses are a mix of single and part single/part two storey dwellings. Water supply is proposed from a new connection to the public mains.

2.2. The application includes drawings and the following reports:

- Planning Report.
- Landscape Stipulations and Planting Plan.
- Site Suitability Assessment for sites 1 to 5.
- Design Statement.
- Surface Water Drainage Report.
- Habitats Directive Screening Report.

- Traffic Report.
- Flood Risk Assessment Report.
- Landscape and Visual Impact Assessment.
- Photomontages.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 10th July 2021, the planning authority decided to grant permission for the development subject to 22 conditions. These include:

- C2 – Requires the dwellings to be occupied by individuals with a rural housing need.
- C3 – Sets out requirements in relation to transportation, including treatment of boundary to public road, provision of shared surfaces, drainage for internal access road and provision of pedestrian crossing.
- C4 – Requires details of boundary treatment along the perimeter of the site and common boundaries to be submitted for written agreement.
- C5 and C6 – Stipulate external finish to dwellings.
- C9 & C9 – Require permeable paving to driveways and surface water to be disposed of within the site, respectively.
- C10 & 12 – Require retention of hedgerows, except where removal is required, and implementation of landscaping plan, respectively.
- C17 – Sets out conditions in respect of the WWTS.
- C18 to 22 – Require payment for monitoring the construction phase of the development, security deposit and development contributions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 5th March 2021 – Refers to the planning history of the site, relevant planning policy, technical reports, submissions by prescribed bodies (Inland Fisheries Ireland) and observations made. The planning assessment of the development considers that the development, which is situated in the Graig of Lismullin is acceptable in principle, as per RD POL 8 of the Meath County Development Plan 2013-2019, is designed in accordance with the Meath Rural Design Guide, and is acceptable in terms of its impact on neighbouring properties and private amenity space. The report refers to concerns raised by the Conservation Officer (the effect of the development on protected views) and Transportation Section (treatment of roadside boundaries, road layout). The report contains screening for appropriate assessment (no AA needed) and environmental impact assessment (not required). It recommends further information in respect of matters raised in technical reports/submissions i.e. landscape effects, transportation matters, third party submissions and comments made by IFI.
- 19th July 2021 – Refers to the further information (FI) submitted and considers that in the context of Development Plan policy for Graigs, it is acceptable, with no adverse effects or issues in respect of landscape, flooding or traffic (subject to conditions) or in respect of appropriate assessment or environmental impact assessment. The report recommends a grant of permission.

3.2.2. Other Technical Reports

- Water Services (11th February 2021) – No objections subject to conditions.
- Transportation (25th February 2021) - Recommends applicant submit revised site layout to provide concrete kerb along edge of road for full width of site, with positive road drainage system, grass verge and footpath along the site frontage, entrance radii in line with DMURS, 1.8m footpath within the development, evidence of sightlines at entrances within the development, increase in turning bay, positive drainage system for the internal access road and boundary details along the public road. Subsequent report (19th July 2021) recommends refusing permission on the grounds of traffic hazard. If permission is to be considered recommends conditions including provision of

appropriate roadside boundary (footpaths, kerbs, fencing, public lighting and drainage), provision of shared surfaces/home zones, internal boundary treatment and pedestrian crossing.

- Public Lighting, Transportation (12th February 2021) – Recommends a condition for a footpath and lighting along the site’s frontage with the public road and within the site.
- Environment (3rd March 2021) – No objections subject to conditions. These include that WWTS, and polishing filters be installed as recommended in the site characterisation forms, soil polishing filter has been designed and constructed in accordance with design proposed by site assessor, and maintenance contract for WWTS.
- Architectural Conservation (3rd March 2021) – Refers to the Hill of Tara and the exceptional landscape character of the wider area in which the site is located. Considers that the quantity of dwellings proposed is too dense and will create a linear collection of buildings as viewed from Tara. Recommends that the number of buildings be reduced.

3.3. Prescribed Bodies

- Irish Water (11th February 2021) – No objections subject to conditions.
- Inland Fisheries Ireland (IFI) (12th February 2021) – Object to the application on the grounds that (i) multiple houses, all served by individual proprietary wastewater treatment systems, are proposed in close proximity to Lismullin tributary of the River Skane, an important nursery with prominent stocks of Atlantic salmon, Brown Trout, eel and Lamprey and a tributary of the Boyne River SAC (ii) minimal detail on treatment works, (iii) No Natura Impact Statement (NIS) or appropriate assessment (AA), (iv) requirements of the Water Framework Directive (WFD) to protect the ecological status of river catchments, and (v) the requirements of the 2009 Surface Water Regulations that require a public authority in performance of its functions not to cause or allow deterioration in the chemical or ecological status of a waterbody and to restore good status to waters by 2015. River Skane closest to the site has *poor* status. Recommends refusing permission.

3.4. Third Party Observations

3.4.1. There are two third party observations on file, both made by the appellant. These raise the following concerns:

- Flooding and public health.
- Consistency with rural housing policy.
- Impact of development on views from Tara and Skryne.
- Construction impacts of noise, dust, traffic etc. if development is built at the same time as redevelopment of Lismullin National School.
- Traffic. Increase in concentration of traffic at location of National School, which generates significant parked cars on same stretch of road.

4.0 Planning History

- PA ref. AA200329 – Application by Patricia Thorpe for 6 no. detached dwellings on the subject site. Withdrawn.
- PA ref. AA190363 – Application by Patricia Thorpe for 6 no. detached dwellings on the subject site. Withdrawn.
- PA ref. NA/70208 – Permission for the demolition of an existing habitable dwelling and construction of a replacement storey and a half dwelling with detached domestic garage (site area 0.569 ha) was refused on the grounds that the proposed house type was at variance with the established form and character of the area and would be incongruous and dominant in the local landscape.

5.0 Policy Context

5.1. National and Regional Policy

- National Planning Framework, 2019 (NPF).
- Sustainable Rural Housing Guidelines for Planning Authorities, 2005.

- The Planning System and Flood Risk Management Guidelines for Planning Authorities, 2009.
- Eastern and Midland Regional Assembly. Regional Spatial and Economic Strategy 2019-2031 (RSES).

5.2. Development Plan

5.2.1. The current Meath County Development Plan 2021-2027 sets out the following relevant policies (in summary):

- Section 2.14.2 Objectives (Core Strategy). To secure the implementation of the Core Strategy and Settlement Strategy, by directing growth towards designated settlements (set out in Table 3.4).
- Section 6.10.2 Flood Risk Management. States that it is policy to implement the government's guidelines on flood risk management in the assessment of development proposals, to require Flood Risk Assessment of any development proposal where flood risk may be an issue and require the use of Sustainable Urban Drainage Systems (SuDS) in new developments to reduce the potential impact of existing or predicted flood risks (INF POL 18, 19, 20 and 25).
- Section 8.17.5 Landscape Character Sensitivity. The appeal site lies within the Tara Skryne Hills and Upland Area Landscape Character Area (LCA). It is designated as a landscape of Exceptional Value and of High Sensitivity. Appendix 5 of the Plan refers to the LCA and states that it has low potential capacity to accommodate multiple housing developments due to their high impact on views afforded from the hills and of the hills from the lowlands, and a medium potential capacity for one off houses with careful planning in terms of the local vernacular, design, location, scale and materials and cumulative effects. Policies of the Plan protect landscape character and require landscape and visual impact assessments for developments which may have significant impact on landscape character (HER POL 52, HER OBJ 49 and HER OBJ 50). In May 2010 a draft Landscape Conservation Area for the Tara/Skryne landscape was published, as a national pilot project. Policy HER 54 protects the rural character, setting and amenity of the Landscape

Conservation Area and policy objectives HER OBJ 52 to 55 supports the designation and active management of a Landscape Conservation Area for the Tara Skryne landscape.

- Section 8.18 Views and Prospects. Affords protection to views and prospects listed in Appendix 10 of the Plan and on Map 8.6 (policy HER OBJ 56). These include views from the Hill of Tara (no. 44) and from Skryne (Skreen) Church (no. 47).
- Section 09 Rural Development Strategy.
 - Goal – Continued sustainable development of rural communities without compromising physical, environmental, natural and heritage resources of the county.
 - Rur Dev SO 5 – To support Rural Nodes for rural development. Nodes are shown in Table 9.2. For Ashbourne MD these include Lismullin.
- Section 9.2 Rural Settlement Strategy.
 - Goal – To ensure rural generated housing needs are accommodated in the areas they arise, subject to good practice in relation to siting, access, drainage, design parameters and that urban generated housing need is accommodated in built up areas or land identified through the development plan process.
 - RUR DEV SP 2 – To ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed, with assessment of proposals to have regard to other policies and objectives of the Plan.
- Section 9.3 Rural Area Types – The appeal site falls within a rural area under strong urban influence (map 9.1). RD POL 5 facilitates the housing requirements of individuals who are an intrinsic part of the rural community in these areas while directing urban housing to areas zoned for development in towns and villages.
- Section 9.4 defines persons who are an intrinsic part of the rural community.

- Section 9.5 refers to ‘All Areas’ and sets out development assessment criteria for one off rural housing e.g. housing need, local circumstances, existing development on original holding, suitability of site, degree to which development might be considered infill, ribbon development and use of occupancy conditions (RD POO 7).
- Section 9.5.4 sets out policies in respect of Rural Nodes. For residential development, these include:
 - Facilitating the housing needs of those members of the rural community who are not part of the agricultural/horticultural community in the network of rural nodes which are designated for limited development at a sustainable scale (policy RD POL 8, RD OBJ 1).
 - New residential development to be in accordance with the Meath Rural House Design Guide, and compatible with the character of its setting, including provision of footpaths where appropriate (policy RD OBJ 2).
 - Suburban type developments or multiple housing developments will not be permitted (RD OBJ 3).
 - Development to take cognisance of the prevailing scale, pattern of development and services availability (RD OBJ 4).
 - Provision of high quality, durable, appropriately designed, secure boundary treatments reflective of the rural environment (RD OBJ 8).
 - Retention of field boundaries and mature trees and hedgerows to protect rural character (RD OBJ 9).
 - Promotion of the clachan tradition of clustering housing together in a modern context (policy RD OBJ 13).
 - Provision of footpaths and public lighting, as appropriate.
- Section 11.14.6 describes the objective of the zoning of Rural Nodes (RN), to provide small scale infill development including community facilities and supporting services serving local needs while maintaining the rural nature of the node. The Plan states that the nodes are intended to provide a viable alternative to settlement in the open countryside and to support small scale

infill development by providing the rural community with an opportunity to choose more rural style housing than is provided in towns and villages. Residential uses are permitted, subject to compliance with the Rural Settlement Strategy.

5.3. Natural Heritage Designations

- 5.3.1. Approximately 3km to the north west of the appeal site, the River Boyne is designated as a Special Protection Area (SPA) and Special Area of Conservation (SAC) the River Boyne and River Blackwater SPA and SAC site codes 004232 and 002299 respectively.

5.4. EIA Screening

- 5.5. The proposed development is modest in scale (5 no. dwellings) and is situated in a cultivated agricultural field. The site falls from north to south and is likely to drain to a tributary of the River Boyne (the Skrane). This water body flows in a westerly direction and joins the River Boyne c.3km to the west of the site.
- 5.6. Having regard to the modest nature of the proposed development, the absence of any significant environmental sensitivity in the vicinity of the site and distance of the development from downstream sites, there is no real likelihood of significant effects on the environment arising from the proposed development. Issues in respect of European sites can be addressed under appropriate assessment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. Third party grounds of appeal are that the development would:
- Conflict with rural housing policy and result in speculative, unsustainable one off rural housing contrary to national planning policy. Site is within a rural area under strong urban influence. No information is sought from the

applicant regarding complying with rural housing policy. Applicant has no housing need. Location in a Graig does not obviate need to comply with rural housing policy. Conflict with NPO19 and RP04.08 Regional Spatial and Economic Strategy 2019-2031 which facilitate rural housing in rural areas under strong urban influence, based on core consideration of demonstrable economic or social need to live in an area.

- Increase in hardstanding would exacerbate flooding on the site and at the appellant's property and create a significant risk of ground water pollution (with contaminated floodwaters). Applicant has conducted a single soak test for surface water drainage. No location shown for test. Soak tests should be carried out for each dwelling. Soak pit within sites 4 and 5 would become ineffective in flood conditions (as indicated in photographs). Rainfall runoff from the development would exacerbate any pluvial flooding that pre-dates the development. No assessment of effects of flooding on wastewater treatment plants, percolation areas and soakpits Drainage to gravel sub-base along access road likely to be ineffective during any significant rainfall given slope of road and tendency of water to flow across road rather than through sub-base, with adverse effects on existing pluvial flooding. Applicant misrepresents extent of flooding on the site, with one proposed dwelling almost fully within the recorded flood area (south east corner of site). Provision of 5 no. wastewater treatment systems in a saturated field would create risk of ground water pollution, including risk to appellants well.
- Detrimentially impact on protected views from the Hill of Tara (no 44) and Hill of Skryne (no. 47).

6.2. Applicant Response

6.2.1. In response to the appeal, the applicant argues:

- The location of the site is within a Graig (Node in the then draft Meath CDP). Policies of the current (and draft) Meath County Development Plan direct rural housing to these smaller settlements as an alternative to one off housing. The design, scale and nature of the development fully accords with the principles of the new Draft Plan. The small scale cluster of houses in a

clachan style arrangement was designed in consultation with the planning authority. The approach of the planning authority to applications for multiple housing units within Graigs would be different to that of applications for single houses in the countryside in relation to the requirement for local needs documents. The applicant is happy to comply with the condition of the planning authority in respect of local needs. The conditions attached to the planning authority's decision, ensure compliance with the Rural Housing Need objectives.

- Development subject to comprehensive flood risk assessment. No development to be located in Flood zone A. Each landowner is responsible for managing flood water in their own site. Runoff from site will be at greenfield rate. All surface water from hardstandings will be captured and directed to soakaways designed in accordance with BRE Digest 365 and to accommodate climate change. Any possible flood risk will be restricted to areas below 74mAOD and the limited area to the south east of the site. There will be no risk to remainder of the site from any form of flooding. All surface water soakaways and percolation areas will be above this height. No infrastructure to be located below 74.5m on the site to ensure a minimum 0.5m margin of safety above projected maximum flood height.
- The visual impact assessment and photomontages prepared ensure that the proposed development would not have any significant impact on views from the Hill of Tara or Hill of Skryne. The LVIA accepts that there will be a localised increased intensity of residential development. However, the surrounding landscape experienced from the Hill of Tara and Hill of Skryne (development will be less visible from Hill of Skryne) is a settled patchwork of farming scattered with rural development. The proposed development does not diverge from the prevailing landscape character and will be barely noticeable in the middle distance views from the Hill of Tara or Hill of Skryne. Design is site specific. Development will be located behind the local school, with houses designed to take account of topography of site. Developments outside of the red line boundary are not relevant to this appeal.

6.3. Planning Authority Response

- Considers that the matters raised have been addressed in the Executive Planner's Report of the 19th July 2021.

6.4. Observations/Further Responses

- None.

7.0 Assessment

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

- Consistency with planning policy.
- Flood risk.
- Landscape effects.
- Other matters (traffic and construction effects).

7.2. Consistency with Planning Policy

7.2.1. The policy context for the proposed development is set out in section 5 of this report. Government policy, set out in the National Planning Framework (NPF), supports the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth and by managing the growth of areas that are under strong urban influence to avoid over-development (National Policy Objective, NPO, 15). In rural areas under urban influence the NPF facilitates 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 (NPO 19). This requirement is reflected in the RSES (policy RPO4.80).

7.2.2. The planning authority's decision on the subject development was made under the policies of the Meath County Development Plan 2013-2019. These included that the

proposed development was located in a Graig. Policies of the Plan facilitate the development of housing within Graigs, where the applicant can demonstrate a local housing need. The 2013-2019 Plan has been superseded by the Meath County Development Plan 2021-2027. However, a similar policy context is provided in the current plan for the proposed development.

- 7.2.3. The appeal site falls within a rural area under strong urban influence (Meath CDP 2021-2027, map 9.1). Consistent with the NPF, policies of the current Meath County Development Plan facilitate the housing requirements of individuals who are an intrinsic part of the rural community in these areas, while directing urban housing to areas zoned for development in towns and villages (RD POL 5). In all rural areas, including those under strong urban influence, the Plan seeks to accommodate the housing needs of those members of the rural community who are not part of the agricultural/horticultural community in an extensive network of rural nodes, which are designated for limited development at a sustainable scale. Policies in respect of residential development in rural nodes promote the clachan tradition of clustering development and require that developments have regard to character of its setting, existing features and the scale and pattern of existing development. Suburban type developments or multiple housing developments will not be permitted.
- 7.2.4. The proposed development lies in an identified Rural Node at Lismullin. The node comprises Lismullin National School and the one-off houses which lie on the road network in the immediate area of the subject site, in particular to the west of the National School at Garlow Cross Roads. The site is a large agricultural field, directly adjoining the national school, opposite and beside existing residential development. It would appear therefore to lie very much within the existing cluster of development which forms the node. Further, the policy context for the development permits, in principle, a one-off rural house within the node, by those having a rural housing need in the area of the site (12km for development in nodes), subject to good practice in relation to siting, access, drainage, design parameters.
- 7.2.5. In contrast, the proposed development comprises 5 detached properties i.e. it is a multiple housing development, albeit on a small scale. In this respect there is perhaps a contradiction in the Development Plan which invites a clustered approach to development and precludes multiple housing developments. Further, the development is speculative, with no identified end user. Whilst this may be

addressed by condition, the development is at odds with a national and regional policy approach which facilitates the site specific needs of members of the rural community in areas under strong urban influence.

- 7.2.6. The Design Statement refers to the Meath Rural Design Guide Design and Best Practice Guidelines for Cluster Housing Schemes by Tipperary County Council and buildings design. In many respects the development is consistent with aspects of these design guidelines. However, the Design Statement and analysis which has been carried out strays little outside the confines the site with very limited analysis of the existing node (characteristics and features), how the site functions within this context and how the proposed development will contribute to the character of the node. What results is therefore generic, large scale dwellings in a suburban format, with little attempt to root the development in its context.
- 7.2.7. Having regard to the foregoing, I am not satisfied that the proposed development is consistent with the policy context for housing development in Rural Nodes, which seeks to meet the needs of persons who are intrinsic part of the rural community, in a manner which is compatible with the character of the existing settlement.

7.3. **Flood Risk**

- 7.3.1. The appellant argues that the proposed development, with the proposed increase in hard surfaces, will exacerbate flooding which arises after heavy rainfall, with the risk of pollution of on site and off site waste water treatment systems, and adverse effects on well water.
- 7.3.2. The appeal site falls from north west to south east by a maximum of c.8m. Currently, in periods of heavy rainfall it is evident from the submissions by the appellant that the south east corner of the appeal site floods, as well as the public road outside of the appellant's property and her property. Flooding appears to arise from overland flow, with ponding on low lying areas on and adjoining the appeal site. Flooding of the appellant's property appears to arise from flows on the public road, not the appeal site.
- 7.3.3. The proposed development extends across the entire agricultural field, to include the area of land which is subject to flooding (compare Site Layout Plan and photograph 'Field Subject of Planning Permission' in appellant's submission). The applicant's

Flood Risk Assessment Report refers to the OPWs Preliminary Flood Risk Assessment (PFRA) and states that the site is at risk of 1 in 100 year pluvial flood event (see Figure 3.0 extract from OPW PRFA). It is also stated that in flood event flood waters are likely to reach a maximum elevation of 74m AOD. The report does not explain how this elevation has been derived.

7.3.4. The report states that:

- No development is planned below a level of 74.5m AOD, to include a buffer or margin of safety of 0.5m to the predicted maximum level.
- The floor level of the appellant's property is a 75.5m AOD and will not be affected by predicted maximum levels.
- Flooding of the appellant's property is likely to arise from the adjoining public road, which is above the level of the property. Water from the site will move towards the south east, away from the property.
- There will be no storm water run off from the site as it will be diverted into soakaways. Soakaways have been designed for climate change. Wastewater will percolate to ground after treatment.
- There will be no surface water discharge to the drain along the eastern side of the appeal site.

7.3.5. The predicted flood limit is indicated in the Site Layout Plan 'flood risk area'. However, the 74.0m contour line shown appears to have been breached by actual flood levels indicated in photographs and differs from the 74.0m contour shown in the Gordon White LiDAR assessment of contour levels. I am not satisfied therefore, that the applicant's survey of the site adequately demonstrates an understanding of flood events that have occurred on the site (or therefore with climate change, with potential levels in excess of past events).

7.3.6. Surface water arising on hard surfaces will be directed to gravel sub-bases (road) or soakaways (dwellings). The appellant argues that due to the slope of the access road, proposals for drainage of the road may be ineffective and I consider that there is merit in this argument, with the risk of overland flow under storm conditions, exacerbating flooding to the south east of the site.

- 7.3.7. In response to the appeal, the applicant indicates the location of the BRE Digest 365 testing (for soakaway design) and refers the five site suitability assessments carried out. I would accept that these suggest broadly similar ground conditions across the site. I would also accept that the soakaways for house nos. 1 to 3 are not located in areas prone to flooding and that the wastewater treatment systems are largely located outside of the flood zone. However, I would be concerned that soakaways for house nos. 4 and 5 are close to, if not within the flood zone and may not function to accept or attenuate water. Similarly, the soil polishing filter for house no. 4 would appear to be close to area of the field that is subject to flooding currently (no levels are indicated for the filter bed). Any flooding of the percolation area could result in pollution of surface water and with subsequent percolation to ground, a risk to groundwater quality.
- 7.3.8. Having regard to the foregoing, I am not satisfied that the applicant has adequately demonstrated a robust understanding of the likely extent of flooding on the appeal site. Consequently, as proposed, there is a risk that the development itself will be adversely affected by flooding (house nos. 4) and that the development will exacerbate flooding downstream (buildings in the flood zone, displacing water, ineffective means to accept and attenuate flows) and may give rise to pollution of downstream waters (inundation of soil polishing filter, house no. 4). In coming to this conclusion, I am also mindful of requirements of the 2009 Surface Water Regulations that require a public authority in performance of its functions not to cause or allow deterioration in the chemical or ecological status of a waterbody and to restore good status to waters.

7.4. Landscape effects.

- 7.4.1. The appellant raises concerns regarding the impact of the proposed development on protected views from the Hill of Tara (no. 44) and from the Hill of Skryne (no. 47). Reference is made to PA ref. AA201284 where permission for an individual dwelling at a similar distance but lower elevation, was refused permission on the grounds on impact on the protected view (no. 44).
- 7.4.2. The applicant's Landscape and Visual Impact Assessment (LVIA) identifies the location of the appeal site in Tara Skryne Hills LCA, with exceptional value and high

sensitivity. To the north of the LCA, the landscape changes to a lowland one, with the Central LCA having a high landscape value and moderate sensitivity. The study also identifies protected views from the Hill of Tara (no. 44) and from Skryne Church (no. 47) as potentially affected by the development.

7.4.3. The LVIA assesses the landscape impact of the development (effects on the landscape and on the elements that make up the landscape) and the visual impact of the development (effects on specific views and general visual amenity). Landscape and visual impact assessment criteria are indicated in Appendix A of the report.

7.4.4. *Landscape impact assessment.* The LVIA considers that the development, which will require a reasonable degree of earthworks to re-grade the site, will provide a typology of dwellings that are similar to those in the study area and result in a permanent landscape impact with limited spatial extent. Impacts on landscape character are considered to be low given the minor increase in intensity of built development and limited effects on the wider landscape. Overall it is considered that the development will result in a slight significance of landscape impact in the context of the immediate setting.

7.4.5. *Visual impact assessment.* Visual impact assessment is assessed from the two protected view points and at two locations on the local road to the north of the site (Figure 8). Sensitivity of visual receptors are considered to be very high (Hill of Tara), High (Skryne) and Medium-Low (views from local roads). The nature and magnitude of visual effects on the visual receptors are:

- Hill of Tara - Considered to be negligible given the function of the development, its scale, distance from the protected view and intervening screening. Overall a rating of visual effects is considered to be slight-imperceptible.
- Skryne – Considered to be negligible given a similar context to views from the Hill of Tara, a foreground which is dominated by the church and graveyard and middle ground that is dominated by woodland. Overall a rating of visual effects is considered to be imperceptible.
- Viewpoints from local road – Considered to be low due to intervening vegetation, declining terrain, tone and textures of dwellings and likely effect of adding to the intensity of residential development but in a context where

residential dwellings are common place. Overall a rating of visual effects is considered to be slight-imperceptible.

7.4.6. The report concludes that the development is not considered to give rise to any significant landscape of visual effects.

7.4.7. The appellant argues that the LVIA is incorrect as the magnitude of visual effects on the Hill of Tara and Skryne should be medium, not negligible as the introduction of five new dwellings constitutes uncharacteristic elements that would lead to changes in landscape character (Table A2). Further, applying the Very High landscape value and sensitivity and medium landscape impact (Table A3), overall significance of impact on Tara would be substantial, not slight-imperceptible.

7.4.8. I refer the Board to the photomontages produced by the applicant. Having regard to these, the submissions of file and my inspection of the site I consider that:

- When approaching the appeal site on the public road to the east and west, views would be screened by intervening vegetation and development. However, views of the development from the public road when passing the site would be substantial. Similarly, landscape effects would be substantial at a local scale. As stated above, I am not satisfied that the visual effects of the development have been considered in the context of the character of the existing node. In this regard I note that there are no contextual elevations of the proposed development.
- When viewed from the Hill of Tara I am inclined to accept the applicant's view. Whilst Lismullin National School is visible in the middle distance, it does not dominate or influence the view from the Hill of Tara or Skryne in any significant way. I would accept that visibility may increase with any redevelopment works. Notwithstanding this, the proposed development would add 5 dwellings alongside the school, within an existing rural node with roadside residential development. The elevation of these properties will be stepped across the site, and they will not read as a single structure. Proposed materials and landscaping with soften and screen, respectively, the appearance of the structures, with the development blending into the working rural landscape, that is already characterised by scattered residential development.

- PA ref. AA/201284, lies to the west of the appeal site, at a similar distance from the Hill of Tara to the subject site. However, the merits of this development would have been addressed having regard to its site specific context. Consequently, it is not of direct relevance to the subject development.

7.4.9. Having regard to the foregoing, I am satisfied that the proposed development would not detract from landscape character or from protected views or prospects (Nos. 44 and 47).

7.5. Other Matters

7.5.1. Traffic – I note the comments on file by the Transportation Section and the location of the proposed development alongside Lismullin National School. If the Board are minded to grant permission for the development, the matters raised should be addressed by condition.

7.5.2. Construction effects – Local impacts from construction of the development, alone or in combination with works at the adjoining school, could be addressed by condition, requiring submission and agreement of a Construction Management Plan.

8.0 Appropriate Assessment

8.1. Screening

Compliance with Article 6(3) of the Habitats Directive

8.1.1. 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.

Background on the Application

8.1.2. The applicant has submitted a screening report for Appropriate Assessment 'Habitats Directive Screening of a Proposed Development at Lismullin, Garlow Cross, Navan, County Meath'. The applicant's Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of

influence of the development. The applicants AA Screening Report concluded that in view of best scientific knowledge and on the basis of objective information, the development individually or in combination with other plans and projects, will have no impact on Natura 2000 sites, and that the development does not need to proceed to Stage II of Appropriate Assessment. Having reviewed the documents, submissions I not satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites, for the reasons set out below.

Description of the development

8.1.3. The applicant provides a description of the proposed development in the plans and particulars on the development and in section 3 of the applicants screening report. In summary, the development comprises:

- The construction of five detached dwelling houses, each with a detached domestic garage and wastewater treatment system and percolation area.
- New entrance to the public road, roadside boundary and internal access road and landscaping.
- Provision of soakaways and roadside drainage to limit surface water discharges to greenfield levels.
- The south east corner of the site has been identified as at risk of flooding. It is stated in the application documentation that all infrastructure associated with the development will be located at a minimum of 74.5m AOD to allow a freeboard of 0.5m above maximum predicted flood level.

8.1.4. 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 effects arising from soil movements and potential discharge of contaminated surface water off site or to ground.
- Operational effects arising from the discharge of effluent from the site to ground, and risk of contamination of surface and ground water from flood events.

Submissions and observations

8.1.5. Inland Fisheries Ireland raises concerns regarding:

- Multiple houses, all served by individual proprietary wastewater treatment systems, in close proximity to Lismullin tributary of the River Skane, an important nursery with prominent stocks of Atlantic salmon, Brown Trout, eel and Lamprey and a tributary of the Boyne River SAC,
- Minimal detail on treatment works, absence of Natura Impact Statement (NIS) or appropriate assessment (AA) and the poor quality of River Skane closest to the site.

European Sites

8.1.6. The appeal site is not located in or immediately adjacent to a European site. Two European Sites occur within the possible zone of influence of the development site.

European Site (code)	Qualifying Interests	Distance from Development Site	Connections
River Boyne and River Blackwater SAC (002299)	<ul style="list-style-type: none">• River lamprey• Salmon• Otter• Alkaline Fens• Alluvial forests with alder and ash.	2.8km west	Potential hydrological connection
River Boyne and River Blackwater SPA (004232)	<ul style="list-style-type: none">• Common kingfisher	3km west	Potential hydrological connection

8.1.7. The River Boyne and River Blackwater Special Area of Conservation is a long linear site that comprises stretches of the River Blackwater, the River Boyne and several of its tributaries. Alkaline fens are removed from the appeal site, concentrated in the area of Lough Shesk, Freehan Lough and Newtown Lough (north west of Athboy). Wet woodland fringes many stretches of the Boyne, dominated by alder and ash.

The site is important for Atlantic salmon (River Boyne and its tributaries), River lamprey (lower reaches of River Boyne) and Otter (throughout).

8.1.8. The SPA is designated along much of the same River system. It is of high ornithological importance as it supports a nationally important population of Kingfisher, a species listed on Annex I of the EU Birds Directive. Conservation objectives for the two sites are:

- River Boyne and River Blackwater SAC (002299) – To maintain or restore the favourable conservation condition of the qualifying interests by reference to defined attributes and targets.
- River Boyne and River Blackwater SPA (004232) - To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests.

Identification of Likely Effects

8.1.9. The appeal site is removed from River Boyne and River Blackwater SAC and SPA, such that no adverse effects are likely by way of land take, habitat fragmentation or disturbance. The appeal site lies in the Boyne catchment (07) of the Water Framework Directive (WFD), the Boyne sub catchment (07-19) and the Skane sub basin (Skane_040). The closest waterbody to the site is the Gillstown (or Lismullin) stream that flows c.341m south of the site in a westerly direction to join the River Skane, c.2.4km to the west of the appeal site (by river). The River Skane discharges into the River Boyne c.3.4km to the site (by river). Gillstown stream is identified as having poor status for the period 2013-2018 and at risk in the third cycle of the WFD of not achieving good status by 2027. The Skane river, north of its confluence with Gillstown stream has good status (2013-2018) and the River Boyne downstream of its confluence with the Skane also has good status (2013-2018). The site is within the Hill of Tara groundwater body, with overall good status.

8.1.10. Construction of the proposed development will entail movement of soils and use of heavy equipment with potential for contamination of surface and ground water (sedimentation, hydrocarbons). Operation of the proposed development could give rise to effects on the water environment by way of discharge of effluent to ground and, as discussed above, flooding of effluent treatment systems (percolation areas). Any pollution of waterbodies could affect water quality downstream, including in

European sites, with the potential for adverse effects on water quality dependent habitat and species.

- 8.1.11. The appeal site slopes from north west to south east and surface water falling on the site, and ground water is likely to drain towards Gillstown stream. In the absence of any direct hydrological connectivity, the attenuating and dissipating effects of soils, discharges from the site would be unlikely to have any adverse effects on Gillstown stream or any downstream water body. This conclusion would be consistent with the applicant's Appropriate Assessment Screening report which considers the development to be removed from the features of conservation interest and having no hydrological connectivity between the appeal site and the River Boyne and River Blackwater SAC/SPA. Notably it is stated in the Screening report and Site Assessments that there are no drains or streams adjacent to the site.
- 8.1.12. In contrast, the Flood Risk Assessment refers to an open drain located at the eastern boundary of the development site (section 8.0 Flood Risk Assessment Report). This was not confirmed on site due to the presence of stock in the field and vegetation obscuring views.
- 8.1.13. There is limited information on the extent of this drain, its size, function or if it ultimately discharges to Gillstown River, for example, via interconnected field drains. Further, the area of the site that floods is directly connected to this field drain. There is therefore risk of hydrological connectivity to Gillstown River and a risk of downstream effects. Having regard to the distance of the appeal site from downstream European sites, the diluting effects of intervening water bodies may prevent any pollution of the River Boyne and the River Blackwater and its associated waters. However, in the absence of further information, e.g. on measures to ensure that the development site lies demonstrably outside of the flood zone, clarity regarding surface water connections to Gillstown River and construction practices to minimise the likelihood of pollution of waters, I consider that there is an unquantified risk to downstream water bodies and the potential for effects on European sites.

Mitigation measures

- 8.1.14. 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.

8.2. Screening Determination

- 8.2.1. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site Nos. 002299 and 004232, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

9.0 Reasons and Considerations

1. Having regard to the location of the site within an Area Under Strong Urban Influence and to policies of the current Meath County Development Plan 2021-2027 in respect of development in Rural Nodes within such areas, it is considered that the speculative multiple housing unit conflicts with the requirements of the County Development Plan for development within rural nodes and does not adequately demonstrate a local housing need at the location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site in an area which is prone to flooding and on the basis of the submissions made in connection with the planning application and appeal, the Board is not satisfied that the proposed development would not give rise to an increased risk of flooding of the site or of property in the vicinity. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.
3. The Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that adequate information has been provided on hydrological conditions pertaining on site and connectivity with European sites. It is therefore considered that the Board is unable to ascertain, as required by Regulation 27(3) of the European Communities (Natural Habitats) Regulations, 1997, that the proposed development will not adversely affect the integrity of a European Site and it is

considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

Deirdre MacGabhann

Planning Inspector

22nd December 2021