



An
Bord
Pleanála

Inspector's Report ABP-311335-21

Development	Outline permission for a single storey/dormer type house, detached garage, wastewater treatment plant and polishing filter and new vehicular entrance onto public road and all associated site works.
Location	Milltown, Dromiskin, Dundalk, Co. Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	21785.
Applicant	Martin Brennan.
Type of Application	Outline Planning Permission.
Planning Authority Decision	Refused.
Type of Appeal	First Party.
Appellant	Martin Brennan.
Observer	Tim Reidy.
Date of Site Inspection	18 th day of December, 2021.
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The 0.4ha irregular shaped appeal site is located in the Townland of Milltown, c1.9km to the northwest of Dromiskin; c4.5km to the northwest of Castlebellingham and c5.8km to the south west of Blackrock, as the bird would fly, in County Louth.
- 1.2. The site which forms part of a larger agricultural tillage field which has a given 3.02ha area. With the site itself located in the north-eastern most corner and bound by the L-1182 on its western side. The L-1182 is a heavily trafficked local road where the maximum speed limit applies, it has an undulating character and at this point it continues in a south easterly direction to where it overpasses the M1 motorway just over 1km away.
- 1.3. The site has a given gradient that rises from 3.74AOD on its northernmost portion to 4.74AOD on its southernmost portion.
- 1.4. The Kilincoole River runs along the northern boundary of the site and the site is highly visible from the public domain of the L-1182.
- 1.5. The surrounding landscape is heavily undulating with Milltown Castle forming part of the site's visual backdrop.
- 1.6. There is a strong proliferation of one-off dwellings aligning with the L-1182 and the network of local roads in the vicinity of the site.

2.0 Proposed Development

- 2.1. Outline planning permission is sought for a dwelling described as a single/dormer type structure, a detached domestic garage, a waste water treatment plant and polishing filter, a new vehicular entrance onto the public road together with all associated site works.
- 2.2. According to the accompanying planning application form the proposed entrance would open onto the L-1182 with sight visibility splay with a setback of 3.0m available in both directions; it is proposed to raise and fill a portion of the site to augment the ground level from 3.7m to 4.1m (150mm higher than predicated 1 in 1000-year floor level), with the displaced water to be contained within the field and with the dwelling and garage having a proposed finished floor level of 4.25; the development would be

served by a private well located 45m from the percolation area; the surface water is proposed to be dealt with by a stone soakaway located outside of any potential flooding area.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 12th day of August, 2021, the Planning Authority issued a notification to refuse outline planning permission for the following stated reasons:

- “1. *Policy SS 53 of the Louth County Development Plan 2015-2021 seeks to prevent the creation of ribbon development by not permitting more than four houses in a row along any public road. A minimum gap of 300 metres shall be maintained between such developments. The proposed development is located within 300m of existing ribbon development to the west along the western side of the L-1182 road. The proposed development is located within 300m of existing ribbon development to the west along the western side of the L-1182 road. As such, the development is contrary to Policy SS 53 of the Louth County Development Plan 2015-2021 and would therefore be contrary to the proper planning and sustainable development of the area.*
2. *The proposed development, by reason of its location on site, its open and exposed nature with a lack of nature screening or shelter and removal of an excessive length of existing roadside hedgerow would constitute inappropriate development which would result in an intrusive encroachment of physical development into the open rural landscape and would militate against the preservation of the rural environment and would set an undesirable precedent for other such development in the vicinity. Furthermore, the proposed development, having regard to the proliferation of one-off houses in the vicinity of this site would militate against the preservation of the rural environment. As such, the development is contrary to Policies SS 25 and SS 26 of the Louth County Development Plan 2015-2021 and would therefore be contrary to the proper planning and sustainable development of the area.”*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Authority's Planning Officer's report dated the 10th day of August, 2021, is the basis of its decision. It includes the following comments:

- Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, flood mitigation measures and given that the proposed development would comply with the EPA Code of Practice, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effective individually or in combination with other plans or projects on a European site.
- Concern is raised that there is a proliferation of one-off dwellings in this locality as well as ribbon development.
- This proposal is contrary to Policy SS 53 of the Development Plan which relates to ribbon development.
- Excessive removal of hedgerow is required for this development.
- The site is one with an open nature and the proposed development would result in further intrusive encroachment of physical development in the open rural landscape.
- The proposed structures would remain exposed until the landscaping proposed matures.
- The construction of the proposed dwelling, garage, and the extent of works to facilitate the access would result in significant visual depreciation of the amenities of the area.
- The proposed development would give rise to any residential amenity impact given the lateral separation distance between it and the nearest dwelling.
- The site meets the minimum site size requirements for this type of development.
- Sightlines for the proposed entrance are dependent upon removal of roadside hedgerows.
- Further information would be required to adequately address flood risk.

- The wastewater treatment system and well are not located in areas prone to flooding.
- The proposed development, if permitted, is subject to Development Contributions.
- The proposed development would not impact on the setting of Recorded Monument.
- This report concludes with a recommendation to refuse.

3.2.2. **Other Technical Reports**

Environmental Compliance Section report, dated 21st day of July, 2021, raises no objection subject to safeguards in the event of a grant of outline permission.

Infrastructure Directorate report, dated the 28th day of July, 2021, raises no objection subject to safeguards in the event of a grant of outline permission.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. The observer to this appeal submitted a Third-Party Observation to the Planning Authority during the course of its determination of this application. The substantive planning concerns raised therein correlate with those raised in their appeal submission to the Board which is summaries under Section 6.3 below.

4.0 **Planning History**

4.1. **Recent Planning History Pertaining to the Subject Landholding**

- **ABP.310960.21 (P.A. Ref. No. 20836):** There is a concurrent Third-Party Appeal with the Board in relation to the Planning Authority's decision to grant planning permission for a two storey dwelling, single storey detached garage, new entrance onto the public road together with all associated site works. This application was made by Sarah Louise Brennan (the appellants in this appeal case sister) and Andrew McGuinness. At the time this report was prepared no decision had been made.

- **P.A. Ref. No. 20830:** The appellant was **refused** outline planning permission for a one-off rural dwelling, wastewater treatment plant with polishing filter, new entrance onto public road and all associated site works.

The given two reasons of refusal related to 1) failure to demonstrate compliance with the rural settlement strategy; and, 2) adverse visual amenity impacts.

- **P.A. Ref. No. 20831:** Outline planning permission was **refused** for a one-off rural dwelling, wastewater treatment plant with polishing filter, new entrance onto public road and all associated site works. This application was made by a Ruth Brennan (the appellant in this appeal case's sister).

- The given two reasons of refusal related to 1) failure to demonstrate compliance with the rural settlement strategy; and, 2) adverse visual amenity impacts.

- **P.A. Ref. No. 20829:** Outline planning permission was **refused** for a one-off rural dwelling, wastewater treatment plant with polishing filter, new entrance onto public road and all associated site works. This application was made by a Shane Brennan (the appellant in this appeal case's brother).

The given two reasons of refusal related to 1) failure to demonstrate compliance with the rural settlement strategy; and, 2) adverse visual amenity impacts.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Louth County Development Plan, 2021-2027, came into effect on the 11th day of November, 2021. Under Map 3.1 of the said plan the site is located in a rural area under urban influence (Rural Category 1) and under Map 3.2 the site is located within Rural Policy Zone 2 land. Applicants for one-off dwellings in Rural Policy Zone 2 are required to meet the qualifying criteria set out in Table 3.5 of the said Plan.

5.1.2. Section 13.9 of the Development Plan deals with the matter of housing in the open countryside. With Section 13.9.1 setting out that countryside is a valuable resource that provides a scenic landscape enjoyed by residents and visitors, and farmland that delivers high quality produce. It also sets out that "*whilst this Plan acknowledges the desire of local residents to live in the rural area, the provision of one-off housing in the*

open countryside must be carefully managed in order to protect the landscape and countryside for future generations to work in and enjoy”.

- 5.1.3. Section 13.9.10 of the Development Plan deals with Garages and Outbuildings in the Countryside. It sets out that: *“garage will normally be positioned to side or rear of the dwelling and will be designed and finished in materials that match the dwelling. The design and scale of any garage shall be proportionate to the dwelling”.*
- 5.1.4. Section 13.9.5 of the Development Plan deals with the matter of ribbon development.
- 5.1.5. Section 13.9.19 of the Development Plan states: *“applicants for one-off rural housing will be required to demonstrate compliance with the criteria relevant to the specific Rural Policy Zone in which the application site is to be located. The qualifying criteria for each policy zone is outlined in Section 3.17.4 of Chapter 3 ‘Housing”.*
- 5.1.6. Section 13.20.3 of the Development Plan deals with Domestic and Commercial Wastewater Treatment and states that: *“domestic wastewater treatment plants and percolation areas must comply with the Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent ≤10) (EPA, 2021) or any subsequent updated guidance”.*
- 5.1.7. Section 13.16.17 of the Development Plan deals with Entrances and Sightlines. It states that: *“a well-designed access is important for safety and convenience of all road users”.*
- 5.1.8. Section 8.11 of the Development Plan deals with the matter of hedgerows and sets out that there will be a presumption other than in exceptional circumstances against their removal.
- 5.1.9. Section 13.16.17 of the Development Plan deals with the matter of entrances and sightlines.
- 5.1.10. Table 13.13 of the Development Plan sets out the requirements for entrances onto various categories of roads and for local roads requires a sightline of 75m from a 3m setback from the edge of the carriageway.
- 5.1.11. Section 13.19 of the Development Plan deals with the matter of Heritage.

- 5.2. **Regional Spatial Economic Strategy – Eastern & Midland Region, 2019-2031.**
- 5.2.1. RPO 4.80 sets out that Local Authorities shall manage urban growth in rural areas under strong urban influence by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstratable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- 5.3. **National**
- 5.3.1. **National Planning Framework – Project Ireland 2040, Department of Housing, Planning and Local Government, (2018):** Of relevance to this appeal case is National Policy Objective 19. This national policy objective refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence i.e., commute catchment of cities and large towns and centres of employment. This will be subject to siting and design considerations. In all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitely demonstrate that the proposed development will not have an adverse impact on water quality and requirements set out in EU and national legislation and guidance documents.
- 5.3.2. **Sustainable Rural Housing Guidelines, (2005):** The overarching aim of the Guidelines is to ensure that people who are part of rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures. To ensure that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated. Of relevance to this appeal case is that the site is located in an area classified as an under **Strong Urban Pressure**. Section 3.3.3 of these guidelines deals with ‘Siting and Design’.
- 5.3.3. **Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021.**
- 5.3.4. The **Development Management Guidelines for Planning Authorities**, June, 2007.

5.4. **Natural Heritage Designations**

5.4.1. There are a number of other European sites in the wider setting including:

- Dundalk Bay SPA (Site Code: 004026) which is located c2.9km to the east of the site at its nearest point.
- Dundalk Bay SAC (Site Code: 000455) which is located c3.2km to the east of the site at its nearest point.
- Stabannan Bragganstown SPA (Site Code: 004091) which is located 4.7km to the south at its nearest point.

5.5. **EIA Screening**

5.5.1. The proposed development comprises a 'project' for the purposes of environmental impact assessment and falls within a class set out in Part 2, Schedule 5 of the Planning and Development Regulations, 2001 (as amended), Infrastructure Projects, construction of dwelling units.

5.5.2. The development is significantly below the threshold for the class. Notwithstanding as set out in Section 5.3.1 above it is located in the wider setting of Dundalk Bay SPA and SAC (Site Code: 004026) and it bounds the Kilincoole River on its northern boundary.

5.5.3. Based on the information submitted with this application and on appeal which demonstrates that the that surface water and wastewater will be discharged on site, with no adverse effects on the aforementioned European sites or any others in the wider vicinity the need for environmental impact assessment, the lateral separation distance of the nearest European Site which is c2.9km to the east over such a distance significant dilution and dispersion would take place to the extent that any potential impact on the qualifying interests associated the Dundalk Bay SPA, the nearest European site, and any other European sites located at further distance from the site on their qualifying interests would be infinitesimal, and therefore can be excluded at preliminary examination and a screening determination is in my view not required for this subthreshold proposed development.

5.6. Built Heritage

5.6.1. In the vicinity of the site are the following Recorded Monuments:

- LH-001162 'TOHO' – Limestone, greywacke, boulders, slab and block medieval tower house/castle (NIAH Reg. No. LH012-061001).
- LH-01163 'BAWN' – The bawn wall is associated with the town house LH012-061001) (NIAH Reg. No. LH012-061002).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The Appellants grounds of appeal was received by the Board on the 7th day of September, 2021. It can be summarised as follows:

- The appellant contends that they meet the requirements for a one-off rural dwelling at this location.
- A sight visibility splay of 75m at a setback of 3m is available in either direction of the proposed entrance onto the L1182 and the legal wayleaves to remove and trim the roadside boundaries have been signed by the landowner.
- As much of the native hedgerow as possible would be maintained and strengthened. This would also provide screening for the proposed dwelling.
- Additional information has been provided with this appeal to support that between 10 to 15m of hedgerow would be removed to provide the required sightlines for the new entrance. The Planning Authority should have sought clarity on this matter by way of further information. It is not correct that extensive hedgerows would be removed to facilitate this development.
- While technically the proposed site would constitute ribbon development it is not accepted that it creates, exacerbates or results in a proliferation of ribbon development as the site is still in a rural location and not within a built-up area. In addition, the alignment of the road ensures that it would not read as part of ribbon development.

- The appellants parents have owned the site since 2018 and are gifting him the site. The site forms part of a family landholding of 3.02ha.
- A single storey/dormer dwelling would naturally be accommodated on the site and it would have minimal visual impact on the surrounding area.
- This proposal would not give rise to any adverse residential amenity impact.
- The proposed development does not represent an unacceptable flooding risk nor would it exacerbate flooding in the immediate vicinity or the wider area.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response to the grounds of this appeal was received by the Board on the 30th day of September, 2021. It includes the following comments:

- The Planning Authority remain of the view that the proposal, if permitted, would exacerbate ribbon development along this public road. The cumulative impact of this when considered in the context of the existing pattern of over development in the locality would have an adverse visual impact on this rural area. It would also further detract from the rural character of the local landscape.
- The appeal submission has now clarified that 10 to 15m of hedgerow would be lost to accommodate this development and raised concerns that they were not allowed to clarify this by way of further information. It was considered that to request further information on this matter would have conflicted with the Development Management Guidelines for Planning Authorities, June, 2007, as applicants should not have to suffer unnecessary delay or expense if refusal is likely.
- The site is being subdivided from a large tillage field and only benefits from two existing natural boundaries along the perimeter. It has an open nature and despite the landscaping proposed the proposal would result in further intrusive encroachment of physical development into the open rural landscape.
- The appellant does not come under the exception contained in Policy SS53 of the Development Plan. This policy provides exceptions where consideration is given by the Planning Authority for applicants who propose a one-off dwelling on site a ribbon development type site.

- There is no materially new information submitted in the appeal that would warrant a reversal of the Planning Authority's decision.
- The Board is requested to uphold its decision.

6.3. Observations

6.3.1. An observation from a Mr. Tim Reidy was received by the Board on the 4th day of October, 2021. It includes the following comments:

- This is the appellant second application for outline planning permission for a one-off rural dwelling in the last 8mths on the same family-owned field. The appellant and three siblings submitted separate applications under P.A. Ref. No. 20829, 20830 and 208836 in October, 2020. With the appellants and two other sibling's applications refused.
- The appellant does not comply with the local needs qualification for a one-off dwelling at this location.
- The Board has determined in previous cases that the need to live in a rural area is different from a desire to live in a rural area and that a demonstratable need to live in a rural area is clearly articulated under National Policy Objective NPO 19 of the National Planning Framework for a rural dwelling at such locations under strong urban influence.
- The appellant is employed in the family haulage business which is based in Haggardstown, Dundalk, Co. Louth.
- The appellants employment has no connection with the rural economy.
- National planning provisions seek to avoid *ad hoc* piecemeal development in rural areas, including one-off houses, which militate against the preservation of the rural environment.
- The appellant does not have a legitimate or demonstratable rural generated housing need.
- The appellant has not justified why their housing need could not be meet in any nearby settlement.

- The proposed development, if permitted, would undermine the uneconomic provision of public services and community facilities in contravention of the County's settlement strategy.
- The lack of detailed information provided with this outline application makes it difficult for the proposed development to be properly assessed.
- The proposed development will create ribbon development which is universally considered an inappropriate and undesirable form of development in the countryside. This type of development has visually diminished rural landscapes.
- The landholding was purchased in 2018 and the appellant has failed to provide consideration of alternative sites within the family landholding at either Milltown or Dunmahon.
- This development is an inappropriate form of rural development and should not be permitted.
- If permitted the proposed development would exacerbate ribbon development within the context of the L-1182 which would in turn detract from the rural amenities of the area.
- If permitted, the proposed development would give rise to further infill opportunities for other similar developments in this locality.
- It is not accepted that no Appropriate Assessment issues arise as the proposed development seeks extensive ground alterations and works to the river embankment within as well as outside the site in an attempt to avoid flood displacement. It also includes the provision of new waste water treatment and percolation area in extreme proximity to Kilincoole River.
- The lack of appropriate assessment precludes the Board from assuming or being satisfied that the proposed development, either alone or in-combination with other plans or projects, would not be likely to have a significant effect on Dundalk Bay SPA and SAC in view of their respective conservation objectives. This is reason in itself for permission to be refused.

- This appeal site is prone to regular pluvial flooding events and after any medium to heavy rainfall event the periphery of the lands immediately adjacent to the Kilincoole River floods and this impedes normal rates of percolation.
- A substantial area along the river embankment regularly floods and this development would interfere with the existing patterns of pluvial flooding resulting in the displacement of pluvial floodwater onto adjoining lands and properties.
- The Site Characterisation Report describes drainage within the surveyed site but does not accurately its immediate setting in proximity to the river embankment.
- The site is located in an area at moderate risk to vulnerable groundwater sources and is surrounded by area of even higher risk. The Development Plan seeks to protect groundwater sources.
- There is an over proliferation of wastewater treatment systems in an area where there is dependence on groundwater source for water supply.
- The Development Plan seeks to protect against excessive removal of mature hedgerows.
- The roadside hedgerow and roadside verge will need to be extensively modified to accommodate the proposed vehicle entrance.
- The submitted drawings do not accurately set out the modifications required nor the loss of hedgerow to accommodate the proposed developments vehicular entrance.
- There is confusion as to whether the applicant proposes a single storey or dormer dwelling.
- The existing hedgerows have already been extensively damaged by the appellant by way of cutting them down to stumps.
- The appellant proposed to raise the ground levels on which the new dwelling and garage would be sited in an open and expansive development plot surrounded by uncharacteristically and unnecessary large visually incongruous apron of hard surfacing.

- The degree of additional planting that would be required for screening this development would be visually incongruous and would further exacerbate the *ad hoc* piecemeal development that has occurred on the L-1182.
- The proposed siting, design and layout would adversely impact upon the protection of Milltown Castle and Bawn as well as views and vistas to this structure.
- The appeal has failed to provide any planning based justification as to why the Planning Authority's decision should be overturned.
- The Board is requested to uphold the Planning Authority's decision in this case.

7.0 **Assessment**

7.1. ***Preliminary Comment***

7.1.1. Having examined the application details, all other documentation on file, including all of the submissions received in relation to this appeal case, carried out an inspection of the site together with having regard to relevant local through to national policies and guidance, I consider that the main issues in this appeal arise from the Planning Authorities reasons for refusal with these relating to:

- 1) Principle of the Proposed Development & Compliance with Rural Settlement Strategy; and,
- 2) Visual Amenity Impact Concerns.

7.1.2. For the purposes of assessing the proposed development fully the matters of 'Appropriate Assessment' requires examination and I propose to deal with other pertinent matters under the heading 'Other Matters Arising' at the end of my assessment.

7.2. **Principle of the Proposed Development and Compliance with Rural Settlement Policy Provisions**

7.2.1. The first reason given in the Planning Authority's notification to refuse outline planning permission considered that the proposed development did not meet the exception whereby the proposed development would be permitted under Policy SS 53 of the previous Development Plan.

- 7.2.2. The Louth County Development Plan, 2015-2021, has been superseded by the Louth County Development Plan, 2021-2027, which came into effect on the 11th day of November, 2021.
- 7.2.3. This recently adopted Development Plan is the applicable Development Plan under which the proposed development sought under this application must be assessed.
- 7.2.4. Under this Development Plan there is a general presumption against one-off rural housing at rural locations in the open countryside of Louth with the entirety of rural land being identified as under strong urban influence. With Policy Objective HOU 36 of the Development Plan sets out that the Council will discourage urban generated housing in rural areas and directing such proposals to towns and villages. In addition, Policy Objective HOU 41 of the Development Plan sets out that the Council will manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with Local Needs Qualifying Criteria relative to the Rural Policy Zone set out in Tables 3.4 and 3.5 as appropriate.
- 7.2.5. The site is located on Rural Policy Zone 2, a rural area of strong urban influence and the qualification criteria for an applicant seeking to build a one-off dwelling must demonstrate that they comply with one Table 3.5 of the Development Plan.
- 7.2.6. Having regard to different qualifying criteria set out under Table 3.5 of the Development, criteria three criteria three which states that the following: *“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”* appears to be the criteria for which the applicant in this case fits best. The other criteria are not supported by the documentation provided with this application or with the appeal submission.
- 7.2.7. According to the information provided the appellant is the son of the landowner of the 3.02ha of land which contains the subject site. Of concern Section 3.17.4 of the Development Plan defines a qualifying landowner as: *“a person who owns a landholding of at least 1.5 hectares and has owned the land for a minimum of 15*

years". The landowner in this case appears to have owned the subject landholding since 2018.

- 7.2.8. Of further concern the third criteria set out under Table 3.5 of the Development Plan sets out that the applicant must have demonstrable social or economic ties to the area where they are seeking to build their home. By road the site is located just over 4km from the applicants home and though this is within the rural area as defined under Section 3.17.4 of the Development Plan. With this section defining the local rural area as being a radius of 6km from the qualifying family. I note however the qualifying residence appears to be a rural one-off dwelling that dates back to circa 1993 and of further concern the documentation provided by the applicant on file does not show a demonstrable social or economic tie to the rural locality of Milltown. Nor does it substantiate the applicants current and/or recent years place of residence at the family home.
- 7.2.9. Moreover, in the absence of any robust evidence, I note that the appellant has provided no affidavit that supports that they do not own or have sold a residential property in the County for a minimum of 10 years prior to the making of an application.
- 7.2.10. In relation to locations identified as being under strong urban influence the National Planning Framework, National Policy Objective 19, requires developments like this to demonstrate a functional economic or social requirement for housing need in areas under urban influence. With this being stated as a necessity.
- 7.2.11. It also indicates that such applications shall be also subject to siting and design considerations.
- 7.2.12. As discussed below in my assessment below there are other matters, in particular the visual amenity impact on the site's sensitive to change setting and along a section of road whereby the proposed development would proliferate ribbon development which in turn diminishes further this rural landscape setting. Further, the recently adopted Development Plan indicates that ribbon development is a form of residential development there is a presumption against. Even if the applicant did demonstrate a functional economic and/or social requirement for housing need as opposed to a desire for a one-off dwelling in an area of strong urban influence these are substantive concerns that in my view cannot be overcome.

- 7.2.13. Further, National Policy Objective 3a of the National Planning Framework seeks to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements and National Policy Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development as well as at an appropriate scale of provision relative to location.
- 7.2.14. There are settlements within the wider location, including those with infrastructural services such as mains drainage and potable water through to other services as well as amenities, where there is capacity to absorb additional residential development in a sustainable manner than at this location.
- 7.2.15. In addition within the boundaries of such settlements such developments are unlikely to result in significant diminishment of the visual amenities of an area where the proposed dwelling would add to the proliferation of ribbon development. Within settlements there is also the positive benefit that a dwelling would have less reliance on the use of private vehicles and proprietary infrastructure. In addition within settlements occupants of dwelling units would have access to amenities, facilities and other land uses that are synergistic to residential development that together foster a more sustainable and less climate impactful pattern of development.

7.2.16. Conclusion

Based on the above considerations, I am of the view that in the absence of a demonstratable rural housing need, to permit the proposed development would be contrary to local and national policy framework for rural one-off housing. This in itself is substantive reason alone to refuse outline planning permission for the development sought under this application.

Notwithstanding, the matter of ribbon development further adds to this as the whilst the recently adopted Development Plan does not carry through Policy SS 53 it does provide guidance on the matter of ribbon development under Section 13.9.5.

This Section of the Development Plan I consider aligns with that set out in the Sustainable Rural Housing Guidelines defining ribbon development as five or more houses on any side of a given 250m of road frontage.

It also states that “*buildings sited back, staggered, or at angles with gaps between them can still represent ribbon development, if they have a common frontage or they*

are visually linked” and “in cases where a development would create or extend ribbon development, the proposal will not be considered favourably”.

On this matter the appellants submission to the Board whilst accepting that the proposed site and the provision of a dwelling house thereon would technically constitute ribbon development considers that this concern is overcome by the curvature of the road and characteristic of the pattern of development in the immediate area.

I do not consider that these arguments outweigh the cumulative visual diminishment of further ribbon and linear type of developments on a local road where its rural character has become significantly diminished and eroded by such development that to permit another such dwelling, particularly where there is no genuine demonstratable economic and/or social reason for such a development. To permit such a proposal would be contrary to Policy HOU 41 as previously mentioned and in a manner consistent with Policy Objective HOU 36 this type of development should be directed to settlements. These policies accord with national planning provisions and guidance on such matters.

Moreover, where the site chosen is one which would visually diminish the legibility of the Recorded Monument of Milltown Castle as approached on the L-1182 in a north westerly direction. Such developments militate against the preservation of rural landscapes, including in this case they visually diminish landscapes that include built heritage that significantly add to the quality, uniqueness, and intrinsic identity of place. With Milltown Castle being a significant feature of built heritage interest that adds significantly to the uniqueness and character of its rural setting.

For this reason, to permit the proposed development would be contrary to Policy Objective BHC 6 of the Development Plan. This policy seeks to ensure that any development adjacent to or in the immediate vicinity of a Recorded Monument shall not be detrimental to or detract from the character of the archaeological site or its setting.

Having regard to the extent of proliferation of one-off dwellings in this locality I question the capacity to absorb further similar developments and what little capacity there may be in this rural locality should be safeguarded in a manner consistent with the rural

settlement strategy set out in the Development Plan for genuine rural location specific developments that are synergistic with its predominant agricultural function.

7.3. Visual Amenity Impact

- 7.3.1. The second reason given by the Planning Authority in their notification to refuse outline planning permission raises concern that the proposed development as a result of the sites open and exposed nature with a lack of screening or shelter alongside the removal of an excessive length of existing roadside hedgerow would result in an intrusive encroachment of physical development into the rural landscape.
- 7.3.2. In relation to this the Planning Authority considered that it would also militate against the preservation of the rural environment and would set an undesirable precedent for other such development in the vicinity.
- 7.3.3. It was also further considered that the proposed development would add to the proliferation of one-off houses in the vicinity of this site in a visually adverse manner. For these reasons it was concluded that the proposed development would be contrary to Policies SS 25 and SS 26 of the previous Development Plan.
- 7.3.4. Having regard to Policy SS 25 and SS 26 of the previous Development Plan, I note that the recently adopted Louth County Development Plan, 2021-2027, contain similar requirements to these policies. In that it requires all applications for rural dwellings to demonstrate compliance with the development management criteria for this type of development and by way of requiring such developments through sensitive siting and design to not detract from the rural character of the landscape or the visual amenities of the area. For example, Policy Objective HOU 47 of the Development Plan requires such applications to comply with the standards and criteria set out in Section 13.9 of Chapter 13 of the Development Management Guidelines 'Housing in the Open Countryside'.
- 7.3.5. In addition, Policy Objective HOU 42 seeks to manage the development of rural housing in the open countryside by requiring that any new dwelling is appropriately designed and located so it integrates into the local landscape as well as does not negatively impact or erode the rural character of the area in which it would be located.
- 7.3.6. Furthermore, Section 13.9.1 of the Development Plan recognises that the countryside of Louth is a valuable resource that provides a scenic landscape enjoyed by residents

and visitors with its farmland delivering high quality agricultural produce and “*whilst this Plan acknowledges the desire of local residents to live in the rural areas, the provision of one-off housing in the open countryside must be carefully managed in order to protect the landscape and countryside for future generations to work in and enjoy*”.

- 7.3.7. As previously raised as an issue is ‘site selection’ with the proposed dwelling whether it be of single or dormer design with its modified finished floor levels to raise the part of the site on which the proposed dwelling would be sited would undoubtedly diminish the visual setting of Milltown Castle, a Recorded Monument.
- 7.3.8. Despite what appears to be the significant destruction of the roadside hedgerow along not just the LL-1182 roadside boundary of the site but also the roadside boundary along the southern portion of the larger field in which the site is located Milltown Castle, which sits on a more elevated landscape position. Milltown Castle (and Bawn) are built heritage features of merit as one approaches the parcel of land via the LL-1182 in a westerly direction on which the site is proposed. The destruction of the natural features, i.e., the native hedgerow and the sporadic trees along this roadside for whatever reason has added to the site’s visibility and to the open character of the landscape around this medieval built heritage feature that is afforded protection as a ‘Recorded Monument’ (Milltown Castle/LH-001162 ‘TOHO’/NIAH Reg. No. LH012-061001 and LH-01163 ‘BAWN’/ NIAH Reg. No. LH012-061002).
- 7.3.9. Against the visual backdrop of Milltown Castle the proposed dwelling in my view would be a visually jarring and highly visible new insertion into the visual setting of this nationally protected monument. The absence of any existing robust and qualitative natural features to assimilate the proposed dwelling, garage, the extensive drive and stands, the augmented topography of the site around both buildings would in my view further add to this visual incongruity in its setting. Particularly as viewed from the adjoining local road and when taken with the linear character of one-off dwellings in the immediate vicinity of this Recorded Monument.
- 7.3.10. To permit the proposed development at this location with such an adverse outcome to the visual setting and the appreciation of this Recorded Monument from the public domain would be contrary to Policy Objective BHC 6 which seeks to protect the setting of nationally important monuments from inappropriate developments within their visual setting.

- 7.3.11. For the same considerations, the proposed development would also be contrary to Section 12 of the National Monuments (Amendment) Act, 1994, which affords protection to Recorded Monuments like Milltown Castle (and Bawn).
- 7.3.12. I do not consider that the visual impact assessment provided robustly demonstrates that no adverse visual impact would occur from the proposed development.
- 7.3.13. I also do not consider that the siting and the limited information provided on the design due mainly to the fact that this is an outline planning application allays the potential adverse visual impacts of the dwelling house, garage through to the augmented topography would have on the intrinsic character and qualities of this rural landscape.
- 7.3.14. Nor do I accept that the landscaping scheme proposed to screen the proposed structures, the augmented ground through to the supplemental planting along the roadside boundaries would have any meaningful impact for the short to medium term.
- 7.3.15. Moreover, in my considered opinion landscaping alone cannot be dependent upon as there is no guarantee when it is mature that it would be properly maintained and nurtured as a form of effective screening in a visual sensitive setting like this.
- 7.3.16. In addition to the above concern, I share the Planning Authority's Planning Officer's view that this area has been significantly diminished by a proliferation of similar developments and that regard should be had to the capacity of this landscape to absorb further such developments. In this case, the appellant has not satisfied the criteria for a one-off rural dwelling at this location and the choice of site even within the limited size of the family's contended modest landholding is poor.
- 7.3.17. Further, no justification was provided as to why no consideration was given by the appellant to reside in settlements in this locality including those in proximity to their family home through to place of employment.
- 7.3.18. Of additional concern, Section 13.9.14 of the Development Plan sets out that the entrances, driveways and surfaced areas should be sensitively located and run unobtrusively alongside existing hedgerows, respect the site contours and cross them gently. It also advises that sweeping driveways shall be avoided.
- 7.3.19. Conclusion

Having regard to the design and layout of the proposed development sought under this application it is my view that the entrance, the driveway, and surface area do not

accord with this section of the Development Plan and if permitted in the form proposed they would add to the visual incongruity and visual obtrusiveness of a proposed development which is heavily reliant upon private vehicle usage. It is also unclear from the documentation provided that the extensive surface area would not be used by the applicant for the parking of large heavy goods vehicles. The latter is a concern given their contended employment.

Based on these considerations I generally concur with the second reason given by the Planning Authority in its notification to refuse outline planning permission.

7.4. Appropriate Assessment

- 7.4.1. Whilst I note that the Observer in this appeal case raise concerns in relation to the findings of the Planning Authority's 'Appropriate Assessment', having regard to the nature and scale of the development, the lateral separation distance between the site relative to European sites, with the nearest site being c2.9km away which even with the presence of Kilincoole River running along the northern boundary of the site which potentially provides a pathway between the site and Dundalk Bay SPA as well as SAC, this distance is lateral separation distance and there is a much greater distance due to the changing course of this river. As such there is a significant distance for dilution and dispersion to take place with this added to by other watercourses joining into this river along its route. I therefore consider that the potential for impact on the qualifying interests of the nearest or any other European sites would be infinitesimal. I consider it is reasonable to conclude on the basis of the information on file, which I consider to be adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on a European site.

7.5. Other Matters Arising

7.5.1. Flooding:

The documentation submitted with this application does include a Flood Risk Assessment with the finished floor level of the proposed development having regard to its findings.

While I concur with the Planning Authority's conclusions that subject to safeguards that the proposed development, if permitted, is highly improbable to give rise to any

adverse flooding issues, I consider that the augmentation of the topography of the site in proximity to a fast flowing river in an area of visual and ground water sensitivity is not an appropriate type of development considering that this development has no basis on genuine need for a rural one off dwelling at this location.

In saying this there is in my view substantive reasons outside of this matter that in their own right warrant the refusal of planning permission of the proposed development sought under this application.

7.5.2. ***Proliferation of Proprietary Wastewater Treatment Systems:***

The Observer in this case raises concerns that further one-off rural dwellings like that proposed in an area where there is ground water vulnerability and where existing residential as well as other land uses are dependent upon wells for their potable water supply is a concern.

Though I accept that the documentation on site appears to support that the proposed wastewater treatment system would be provided in a manner that would meet the EPA Code of Practice for this on-site servicing infrastructure together with surface water being dealt with within the confines of the 0.4ha site. Notwithstanding, I consider that there is merit in the Observers concern that further proliferation of waste water treatment systems could give rise to cumulative further environmental damage and could be prejudicial to public health.

Of further concern the documentation with this application do not robustly demonstrate that a safe, qualitative, and sustainable potable water source would be available from a private well on site.

Despite these concerns I note that this application is one for outline planning permission and that there are other substantive planning considerations that support in this case that the proposed development be refused.

7.5.3. **Access:**

I raise concern with relation to the extensive modification of roadside boundary to accommodate access and egress for the proposed dwelling given the over development of this locality for this type of development together with the proliferation of entrances onto a local road where the maximum speed limit applies and which at the time of my inspection was heavily trafficked as well as pedestrians and cyclists

using it for amenity purposes. The proposed development, if permitted, would add to the cumulative diminishment of the carrying capacity, road safety and efficiency of this local road in serving this local area.

7.5.4. ***Speculative Development:***

Having regard to the available documentation it would appear that since the applicant's family ownership of this modest agricultural land in 2018 the applicant's family have made several applications for one-off rural houses. These are set out in the Planning History section of this report above with this history showing that four were made concurrent to one another.

On this point I note that Policy Objective HOU 46 of the Development Plan seeks to restrict residential development on landholdings including where there is a history of speculative development of sites irrespective of applicant's compliance with local need criteria. With being the case I consider that there is merit in the Observers concerns in this regard. Notwithstanding, the applicant has not demonstrated compliance with the Qualifying Criteria relative to Rural Policy Zone 2 and Table 3.5. This is a requirement for a rural housing in the open countryside under Policy HOU 41 and therefore the lack of such demonstration is substantive reason to warrant a refusal of outline planning permission.

8.0 **Recommendation**

8.1. I recommend that outline planning permission be **refused**.

9.0 **Reasons and Considerations**

1. Having regard to the location of the site within an 'Area Under Strong Urban Influence' as identified in the Sustainable Rural Housing Guidelines for Planning Authorities, issued by the Department of the Environment, Heritage and Local Government in April 2005, and in the Louth County Development Plan, 2021-2027, by way of its Rural Policy Zone 2, where housing is restricted to persons demonstrating local need in accordance with the Table 3.5, it is considered that the

applicant does not come within the scope of the housing need qualifying criteria for a rural one-off dwelling house at this location.

For this reason, the proposed development is inconsistent with Policy Objective HOU 41 of the said Development Plan which seeks to manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with Local Needs Qualifying Criteria relative to the Rural Policy Zone 2 as set out in Table 3.5.

In addition, having regard to 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, it is considered that the applicant has not demonstrated compliance with National Policy Objective 19 and the local need qualifying criteria set out under Table 3.5 of the Development Plan.

The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural car dependent development in an area where there is a strong proliferation of such developments.

It would also militate against the preservation of a rural environment. A rural environment that in this case is highly sensitive to change due in part to the site and its setting forming part of the visual setting of Milltown Castle, a Recorded Monument (Milltown Castle – LH-001162 ‘TOHO’/(NIAH Reg. No. LH012-061001)). The curtilage of which includes Recorded Monument LH-01163 ‘BAWN’ (NIAH Reg. No. LH012-061002). Thus, adding to the built heritage sensitivity of this landscape setting in which Milltown Castle adds unique character, a unique sense of place and identity due to its visibility within it, including from the public domain of the L-1182 in the vicinity of the site.

To permit the proposed development at this built heritage and visually sensitive location would be contrary to Policy Objective BHC 6 of the said Development Plan which seeks to ensure that development in such settings shall not be detrimental to and detract from the character of the archaeological site or its setting as well as be designed to protect the monument and its setting. The proposed development

by its design and positioning in this rural environment would be detrimental to the character of the said Recorded Monuments. In turn it would be contrary to the protection afforded to them under Section 12 of the National Monuments (Amendment) Act, 1994).

It is considered that proposed developments like that sought under this application should be directed to serviced zoned land in settlements in a manner consistent with National Policy Objectives 3a as well as National Policy Objective 33 of the National Planning Framework which seeks to direct residential development to the built-up footprint of existing settlements, at locations that can support sustainable development and at an appropriate scale of provision relative to location.

The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

24th day of January, 2022.