



An  
Bord  
Pleanála

## Inspector's Report ABP-312028-21

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|-------------------------------------|---|
| <b>Development</b>                  | Permission is sought for a new dwelling house, septic tank, percolation area and all associated site works. |
| <b>Location</b>                     | Mollyrue, Collon, Co Louth.   |
| <b>Planning Authority</b>           | Louth County Council.   |
| <b>Planning Authority Reg. Ref.</b> | 211129.   |
| <b>Applicant</b>                    | Jane McKeon.  |
| <b>Type of Application</b>          | Planning Permission.  |
| <b>Planning Authority Decision</b>  | Refused.  |
| <b>Type of Appeal</b>               | First Party.  |
| <b>Appellant</b>                    | Jane McKeon.  |
| <b>Observer(s)</b>                  | None.   |
| <b>Date of Site Inspection</b>      | 25 <sup>th</sup> day of February, 2022.   |
| <b>Inspector</b>                    | Patricia-Marie Young.   |

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## 1.0 Site Location and Description

- 1.1. The rectangular in shape appeal site has a stated area of 0.2661ha and it is located in the Townland of 'Mollyrue' with the site setback a circa 425m from the N2, (Dublin – Derry) National Road, c1.8km to the north of the centre of Collon and c6.1km from the centre of Ardee, both as the bird would fly, in County Louth.
- 1.2. The subject site on its southern side bounds restricted in width, poorly surfaced and of poor horizontal as well as vertical cul-de-sac Class 3 road (Road No. 267A). With this road having a dense hedgerow which includes mature trees and the lands associated with the site rise in their ground levels behind it and consisting of grazing land.
- 1.3. The Class 3 cul-de-sac road provides access for agricultural buildings and a number of one-off dwellings and opens onto to the N2 to the east of the site at a point where this national and heavily trafficked road has a curving alignment, the maximum posted speed applies and there is a central reserve to the immediate north accommodating access onto the R169 which provides access to the east to the M1 – Dublin Belfast Motorway and to the settlement of Dunleer which is located c7.7km away as the bird would fly. In relation to this road the site occupies much higher ground levels in what is a drumlin landscape but at this location has an upland quality.
- 1.4. The site forms part of a rural landscape where the predominant use is agricultural related. Notwithstanding, it contains a significant proliferation of one-off dwellings.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for a two-storey four-bedroom dwelling house with a given floor area of 215m<sup>2</sup>, septic tank, percolation area and all associated site works. This application is accompanied by the following documentation:
  - Documentation in support of local need.
  - Site Characterisation Form.
  - Letter of Consent from the Landowner.

The planning application form indicates that a new bored well would serve the proposed development in terms of potable water supply.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On the 28<sup>th</sup> day of October, 2021, the Planning Authority decided to **refuse** planning permission for the proposed development for the following stated reasons:

- “1. *Having regard to the location of the application site along a Class 3 Road where the alignment, surface and narrow are substandard and where two vehicles cannot pass, it is considered that the proposed development would endanger public safety by reason of a traffic hazard, would set an undesirable precedent for further such development and would be contrary to the proper planning and sustainable development of the area.*
  
2. *Having regard to the intensification of the use of access of this Class 3 road onto the N2, national road Ardee – Collon where there is no right hand turning lane and where visibility is restricted, it is considered that the intensification of the use of this access would endanger public safety by reason of a traffic hazard, would set an undesirable precedent for further such development and would be contrary to the proper planning and sustainable development of the area.”*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

In a memorandum prepared by the Planning Authority’s Senior Executive Planner to the Acting Director of Services, dated the 28<sup>th</sup> day of October, 2021, the following comments are made:

- Having considered the planning report prepared by the Executive Planner in respect of the proposed development sought under this application it is considered that the proposed dwelling at this location is not acceptable having regard to local planning provisions.
  
- The alignment, surface, and width of the Class 3 road (Road No. 267A) can not cater for the additional traffic movements resulting from this development and the

intensification of the use of this roads access onto the N2, national road, where there is no right-hand turning lane and where visibility is restricted.

- The design of the dwelling is unduly complex and bulky. It does not comply with the design parameters for one-off rural houses as set out in the Development Plan.
- The site is elevated in the landscape and at a significantly higher level than the road and slopes.
- Based on the details provided the extent of works to facilitate this development is unclear.
- They are not satisfied that a two-storey dwelling would not be unduly prominent and obtrusive in this scenic rural landscape. However, it is recognised that such matters could be dealt with by way of further information.
- This document concludes with a recommendation to refuse planning permission.

I have noted the Executive Officer's Planning Report referred to above. This report is dated the 20<sup>th</sup> day of October, 2021; is attached to file; and concludes with a recommendation to grant planning permission subject to conditions.

### 3.2.2. **Other Technical Reports**

**Environmental Compliance Section:** No objection, subject to safeguards.

**Infrastructure:** No objection, subject to safeguards.

### 3.3. **Prescribed Bodies**

3.3.1. None.

### 3.4. **Third Party Observations**

3.4.1. None.

## 4.0 **Planning History**

### 4.1. **Site and Setting**

4.1.1. There are no relevant appeal cases relating to the site or setting.

## 5.0 Policy & Context

### 5.1. Development Plan

- 5.1.1. The Louth County Development Plan, 2021-2027, came into effect on the 11<sup>th</sup> 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 1 land, i.e., an area under strong urban influence and of significant landscape value. Applicants for one-off dwellings in Rural Policy Zone 1 are required to meet the qualifying criteria set out in Table 3.4 of the said Plan. In addition, under Map 3.1 the site forms part of a rural area identified as under urban influence.
- 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 13.16.17 of the Development Plan deals with the matter of entrances and sightlines.
- 5.1.9. 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.
- 5.1.10. 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  $\leq 10$ ), 2021.

5.3.4. The **Development Management Guidelines for Planning Authorities**, June, 2007.

#### 5.4. **Natural Heritage Designations**

5.4.1. Not relevant. The nearest Natura 2000 site is the River Boyne and River Blackwater SAC (Site Code: 002299) which at its nearest point is c8.km to the south of the site.

5.4.2. In addition, of note the land bounding the opposite side of the N2 forms part of a larger parcel of land that is a proposed Natural Heritage Area, i.e., pNHA Mellifont Abbey Woods (Site Code: 001464).

#### 5.5. **EIA Screening**

5.5.1. Having regard to nature, scale, and extent of the proposed development, which essentially consists of the construction of a dwelling, an access lane, wastewater treatment system and associated site works of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### 6.0 **The Appeal**

#### 6.1. **Grounds of Appeal**

6.1.1. The Appellants grounds of appeal can be summarised as follows:

- The applicant wishes to construct a house on the family lands adjacent to her family and friends.



- Her brothers and sisters have all been granted planning permission on adjacent lands and on the Mollyrue Road.
- She is the last member of the generation to apply for permission on these lands.
- She is a Senior Respiratory physiotherapist in Drogheda Hospital and the location is convenient to her employment. It is indicated that this work requires her to be on-call and out of hours. Therefore, to live at this location would reduce her commute.
- The Roads Engineer recommended that permission be granted subject to standard conditions which the appellant contend they have no objection in complying with.
- The Planning Officer overruled the Roads Engineer and refused the application which in the appellants view was not in the interest of proper planning and development as it was contrary to the expert's advice.
- A number of similar applications have been permitted on this road in the last three to four years.
- The Class 3 roadway is narrow, and the Council have failed to upkeep it.
- A previous planner's report in relation to this application recommended a grant of permission.
- The applicant and her family do not own the junction onto the national road and any issues with regards to visibility or otherwise is the responsibility of the Council. This junction was deemed acceptable for other recent developments permitted on this local road.
- The appellant contends that they wish to help out of the family farm which stretches from Belpatrick to Mollyrue.

## **6.2. Planning Authority Response**

6.2.1. The Planning Authority's response can be summarised as follows:

- Planning permission was refused for reasons of traffic safety and in the interest of the proper planning and sustainable development of the area.

- It is acknowledged that development has been granted permission that is accessed by the same local road and junction off a national route. However, it is considered that further intensification of the use of a narrow, un-surfaced local road and the junction with the national route, as proposed, would endanger public safety. It would also set an undesirable precedent for further such development in the area.
- Planning permission under P.A. Ref. No. 21/1158 for a further one-off dwelling was refused for the same reasons on the 4<sup>th</sup> day of November, 2021.
- An application under the Local Improvement Scheme for funding for works to this public road would not meet the parameters of this scheme.
- The proposed development is not in compliance with the Development Plan nor is it consistent with the proper planning and sustainable development of the area.
- The Board is requested to uphold its decision.

## 7.0 Assessment

7.1.1. Having regard to the nature of the proposed development sought under this application, relevant planning policy provisions and the issues raised on file, I consider the key planning issues relating to the assessment of this appeal case relate primarily to the Planning Authority's given reasons for refusal. I propose to consider these in the context of my assessment under the following broad headings:

- Procedural Matters
- Access

7.1.2. The matter of 'Appropriate Assessment' also requires examination.

7.1.3. Having examined all the documentation on file and having regard to the local through to national planning provisions I raise a substantive concern that the applicant does not meet the criteria for a dwelling house at this locality. This is a **new issue** but is in my view a substantive issue that in my considered opinion requires examination by the Board in their *de novo* determination of this appeal case. With this consideration based on local through to national planning provisions and guidance which requires applicants for such developments to demonstrate that they meet the relevant criteria for a rural dwelling house at the location for which it is sought. This is further added

to the fact that the site occupies a high point in this rural landscape setting. A landscape that is specifically recognised as being of significant landscape value. In my view this is also a principal consideration in assessing the merits of the proposed development on whether or not the principle of the proposed development is acceptable. I therefore propose to deal with this matter also in my main assessment below.

- 7.1.4. Of further concern, based on the information provided I am not satisfied that it is adequate to decide on whether or not at this location where potable water supply would be dependent upon a private well on site that this proposed development could be served by a sustainable, safe, and qualitative water supply. This concern is based on the proliferation of one-off dwellings and the areas intensive nature of agricultural activities in this rural locality. I also note that the Site Characterisation Form indicates that the aquifer category as being locally important and of moderate vulnerability.
- 7.1.5. Moreover, I note that the documentation relating to the provision of a waste water treatment system is not based on compliance with the EPA Code of Practice Domestic Waste Water Treatment Systems, Population  $\leq 10$  (2021). Which I note is a requirement under policy objective IU 18 of the Development Plan and particularly given that there are multiple dwellings within the vicinity of the site appearing to derive their potable water supply from bored wells.
- 7.1.6. I note to the Board that this EPA Code of Practice was superseded in 2021 post this application being made to the Planning Authority, i.e., 10<sup>th</sup> day of September, 2021.
- 7.1.7. I further note that the EPA Code of Practice, 2021, applies to site assessments and their associated installations carried out on or after the 7<sup>th</sup> day of June, 2021, and that the EPA Code of Practice for Waste Water Treatment and Disposal System Serving Single Houses (i.e.,  $\leq 10$ ) may be used where planning permission has been applied for before that date. This is not the case with this application.
- 7.1.8. With policy objective IU 18 of the Development Plan, in relation to such applications, requiring that: *“private wastewater treatment systems for individual houses where permitted, comply with the recommendations contained within the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent  $\leq 10$  (2021)”*. And given that the information on file fails to demonstrate this requirement, I consider that the applicant has not demonstrated satisfactory that the proposed

development, if permitted, would not be prejudicial to public health or be of detriment to the local environment by way of resulting contamination.

7.1.9. This I consider is an additional **new issue** in this appeal case for the Board to consider.

## 7.2. Procedural Matters

7.2.1. The appellant in their grounds of appeal raise concern that the recommendations of their Transportation Engineer and the conclusions of their Executive Planner were both overridden in a manner that was contrary to proper planning and sustainable development. In their view as both parties raised no objection to the proposed development that it was not appropriate that the proposed development was refused.

7.2.2. Whilst the Board does not have an ombudsman's role on such matters and is considering this appeal case *de novo*, based on the proper planning and sustainable development of the area. Notwithstanding, I note that the Transportation Engineer was tasked to make comment on the proposed development from a road safety perspective and the Executive Planner was tasked to make recommendations in relation to the proposed development based on the proper planning and sustainable development of the area.

7.2.3. The Planning Officers reports within Planning Authorities are subject to peer reviews by other more senior professionals working in the same field. This is provided for within the methodology of a Planning Authority making a determination of a planning application that Planning Officers recommendations are scrutinised prior to being signed of and a final decision is made by the Planning Authority.

7.2.4. Further as discussed in the following sections of this report it was reasonable and appropriate, in my view, given the fundamental planning concerns of the Senior Executive Planner in relation to public safety and traffic hazard concerns the proposed development would give rise to their additional scrutiny to this application is not without basis.

## 7.3. Principle of the Proposed Development

7.3.1. The Development Plan has a presumption against one-off rural housing at rural locations identified as being under strong urban influence and in landscapes deemed to be of high scenic quality except in cases where the applicant can demonstrate they meet the qualifying criteria. The documents accompanying this application indicates

that the applicant seeks the rural dwelling house under Category 1 and 2 of the previous Development Plans rural settlement strategy. These categories have not been carried through into the Louth County Development Plan, 2021-2027, and the applicant in this case is subject to demonstrate that they meet the one of the qualifying criteria set out under Table 3.5 of the Development Plan. This is based on the fact that the site is situated on land zoned '*Rural Policy Zone 1 Area under strong urban influence and of significant landscape*'.

- 7.3.2. In addition, I note Map 3.1 of the Development further reiterates that the site is located in a rural area under strong urban influence.
- 7.3.3. Section 3.17.4 of the Development Plan sets out the policy for rural housing in the open countryside. Which it indicates relates to all areas outside of the development boundary of settlements and indicates that there are specific qualifying criteria set out in Tables 3.4 and 3.5 which applicants will be required to demonstrate to the Planning Authority with one of the criteria in the relevant Rural Policy Zone.
- 7.3.4. Of note to this application as it would appear that the family parcel of land in Mollyrue and Belpatrick all are located on Rural Policy Zone 1 lands it also provides for any person native to this area and have demonstrated a rural housing need but are not engaged in full time agricultural activities will be deemed to qualify to build on a suitably located site in Rural Policy Zone 2. But that the distance of not normally more than 6kms from the qualifying family residence would apply in such circumstances.
- 7.3.5. The applicant in this case has not provided any alternative locations outside of Rural Policy Zone 1 where the introduction of a one-off dwelling house nor have they sought to locate on less elevated land within the family home. In this regard I note that policy objective HOU 45 of the Development Plan states that the Council will seek: "*to apply a presumption against granting planning permission for a rural one off dwelling in Rural Policy Zone 1 where there is an alternative site available on family lands in Rural Policy Zone 2*".
- 7.3.6. This section of the Development Plan also defines 'local rural area' as 6km from the qualifying family residence. The applicant's family home in Belpatrick appears to be in this 6km radius.
- 7.3.7. Table 3.4 of the Development Plan which sets out the Local Housing Need Qualifying Criteria in Rural Policy Zone 1 is applicable.

- 7.3.8. The first criterion relates to persons engaged in full-time agriculture. This is not the applicant's circumstance as presented in the documentation provided and therefore the applicant does not qualify for a rural dwelling house under this criterion.
- 7.3.9. The second criterion relates to a son of daughter of a landowner who are seeking to build a first home for permanent occupation. The documentation provided with this application appears to support that they are the daughter of the landowner of a landholding exceeds the 1.5ha for more than 15 years.
- 7.3.10. Notwithstanding, the applicant must demonstrate a rural housing need and have a demonstratable social or an economic need to live in the area as well as shall not have previously owned a dwelling. In this regard, the applicant submits a letter indicating that they have not previously owned a dwelling. This is not in the form of an affidavit. They also indicate that they are the less in their generation to apply for a dwelling house and wish to live on family-owned land where they could help out in the farm as well as move closer to their place of employment in Drogheda. With this site being more accessible to their work than the family home which they have provided limited recent connectivity in terms of providing their residence at the family home in Belpatrick.
- 7.3.11. I note that Belpatrick by road depending on which route one takes is c5km from the site and that the place of work depending on which route is taken is between 14km and 15km from the site.
- 7.3.12. The documentation does not in my opinion provide any demonstratable robust social or economic need to live in this particular rural locality.
- 7.3.13. This criterion also states that: *"no more than three houses (exclusive of the family home) shall be permitted on the landholding"* and that: *"any application will be subject to the appropriate siting and consideration of proper planning and sustainable development"*.
- 7.3.14. I therefore raise concern that in the immediate vicinity it would appear that three grants of planning permission for one-off rural dwellings have been permitted to what would appear to be members of the applicant's family, i.e., P.A. Ref. No.s 18431, 20339 and 20545. These were permitted between 2018 to 2021. In addition, examination of the one-off rural dwellings at this locality indicate that the family landholding has been encroached and made smaller by other similar applications by other parties. In

addition, a dwelling house appears to have been permitted on the family landholding in Belpatrick under P.A. Ref. No. 82329. Similarly, it is unclear the number of one-off rural housing that may relate to the applicant's family's landholding in Belpatrick, and examination of this area shows a strong proliferation of one-off dwelling houses. It is unclear the extent of housing on the landowner's landholding. But it would appear to be highly probable, based on examination of the planning history, that no more than three houses exclusive of the family home have already been permitted thereon.

- 7.3.15. In relation to siting and other planning considerations there are a plethora of concerns ranging from the substandard access to serve this development and the existing development dependent upon the cul-de-sac Class 3 road this proposed development is dependent upon for access onto and from the public road network, the inadequate sightlines and arrangement of this Class 3 roads entrance onto a National Road where maximum posted speed limits apply and the road has a curving alignment, the failure to demonstrate compliance with relevant EPA Code of Practice for the proposed waste water treatment, the location on a high point in a landscape identified as high scenic value through to the design failing to have regard to this in terms of the proposed built form, design, positioning and layout put forward under this application for a rural one-off dwelling.
- 7.3.16. Based on these considerations the applicant has not demonstrated compliance with this criterion.
- 7.3.17. The applicant is not a person who has an established business which is intrinsically reliant upon being located in Rural Policy Zone 1 and therefore the applicant does not comply with the third criterion set out in Table 3.4.
- 7.3.18. The applicant is not a person who is required to live in the rural area of '*Rural Policy Zone 1*', for exceptional health reasons and therefore the applicant does not comply with the fourth criterion set out in Table 3.4.
- 7.3.19. The applicant does not have a demonstrable social ties to the area and are providing care for an elderly person(s) or a person(s) with a disability who lives in an isolated rural area and who does not have any able bodied person residing with them and therefore the applicant does not comply with the fifth criterion set out in Table 3.4.
- 7.3.20. The applicant is not a person who is in the circumstance of no longer in possession of a previously owned home with this having been disposed of following legal

separation/divorce/repossession and have demonstrated a social or economic need for a new home in the rural area. Therefore, they do not comply with the sixth criterion set out in Table 3.4.

- 7.3.21. Based on an examination of the six criteria set out under Table 3.4 of the Development Plan which an applicant for a rural dwelling house on Rural Policy Zone 1 land must demonstrate one of it is clear that the applicant does not meet any one of the six criteria. Therefore, to permit a proposed rural dwelling house for the applicant where an applicant has not demonstrated a genuine rural based local need would be contrary to the local settlement strategy as provided for under the Development Plan.
- 7.3.22. I also note to the Board that it is a policy objective of the Development Plan under HOU 36 to discourage urban generated housing in rural areas as well as direct such proposal to towns and settlements. In addition, Policy Objective HOU 41 of the Development Plan sets out that the Planning Authority will seek to manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with the local needs qualifying criteria relative to the rural policy zone, which in this case is Table 3.4.
- 7.3.23. In terms of national planning guidance, the site's identified location in an area under strong urban pressure under the Development Plan is consistent with Sustainable Rural Housing Guidelines for Planning Authorities, 2005, which similar identifies the site and its wider rural setting.
- 7.3.24. In addition, I note that the Regional Spatial Economic Strategy – Eastern & Midland Region, 2019-2031, under RPO 4.80 sets out that Local Authorities shall manage 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.
- 7.3.25. 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.



- 7.3.26. It also indicates that such applications shall be also subject to siting as well as design considerations and as noted above there are significant issues in relation to these matters under this application.
- 7.3.27. Whilst the applicant appears to have a desire as opposed to a need to live in this rural location this in itself does not override the necessity to meet local through to national planning provisions which seek to safeguard such rural locations from the proliferation of urban generated housing.
- 7.3.28. 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.
- 7.3.29. 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. In such locations dwellings are less reliant on use of private vehicles which in turn results in a more climate resilient residential development. Indeed there are settlements closer to the applicants contended place of employment.
- 7.3.30. In addition within the boundaries of such settlements such developments are unlikely to result in significant diminishment of the visual amenities of an area of County Louth whose rural countryside is recognised and provided protection as Areas of High Scenic Quality like this.
- 7.3.31. 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. I therefore consider this to be a substantive new issue in this appeal case and one that on its own would warrant a refusal of the proposed development.

#### 7.4. **Access**

- 7.4.1. The Planning Authority refused planning permission for the proposed development for two reasons.

- 7.4.2. The first considered that the site along a Class 3 Road where the alignment, surface and width are substandard. Under this reason for refusal, it sets out that two vehicles cannot pass one another and that the proposed development would endanger public by reason of a traffic hazard as well as that the proposed development would set an undesirable precedent.
- 7.4.3. The second considered that the intensification of use of the access of this Class 3 road onto the N2 national road (Collon – Ardee) where there is no right-hand turning lane and where visibility is restricted would endanger public safety by reason of a traffic hazard. It also reiterated that it would give rise to an undesirable precedent for further such development.
- 7.4.4. In both reasons it was concluded that the proposed development would be contrary to the proper planning and sustainable development of the area.
- 7.4.5. The site is dependent upon access to the public road network via a substandard in width, surfacing through to alignment cul-de-sac road. This road along its limited length already serves a number of one-off dwellings, agricultural buildings and what appear to be farmsteads. The documentation provided with this application indicate that in the immediate vicinity of the proposed entrance that there is considerable variability in the horizontal and vertical alignment of the road. The road at this point, like is the case for its length is poorly surfaced and the width of the road is restricted with this being further hampered by significant overhanging of mature hedgerows.
- 7.4.6. The bounding hedgerows and trees along either side of this cul-de-sac road add to the sylvan character of the road, the biodiversity of this area and are part of a group of trees as well as hedgerows that due to their elevated nature in comparison to that of the N2 are visible from this heavily trafficked route. As such they contribute positively to the rural landscape as appreciated from this route which at this point runs through a landscape of identified scenic value under local planning provisions. As well as synergies visually with the pNHA of Mellifont Abbey Woods on the opposite side of the N2 from the cul-de-sac's roads entrance onto this national road.
- 7.4.7. Altogether the restricted width of the cul-de-sac road is such that for the majority of its length it is unsafe for two vehicles to pass one another. As such for vehicles to go by one another when travelling this road there is a necessity for one of the vehicles to reverse to a point where it is safe to allow safe passage past one another and with this

to occur in the immediate vicinity of this roads entrance onto the N2. With this roads entrance opening onto a point of the N2 where there are deficient sightlines, where the maximum posted speed limit applies, where there is in close proximity to the north a heavily used turn off for traffic who have journeyed in a northerly direction on the N2 to turn onto the R169 and where there is no right-hand turning lane that would facilitate safer access for vehicles accessing this road onto the N2.

- 7.4.8. In addition, at a point where this route is characterised by a steady stream of traffic through to a steady movement of vehicles off the N2 onto the R169 and leaving the R169 to travel north and south direction on the N2. Alongside the road has a sweeping curving alignment and also has a horizontal alignment that steadily rises from the Collon direction to the north of the junction with the R169.
- 7.4.9. Of note the R169 is identified as a Protected Regional Route in the Development Plan.
- 7.4.10. Albeit the proposed development would give rise to a low generation of traffic the proposed development is one that does not in my view have safe and spare capacity to accommodate additional traffic. Particularly traffic arising from a proposed development that has no demonstratable necessity to be located along it.
- 7.4.11. To permit the proposed development would place undue additional demands on this substandard road and would the additional traffic the proposed development would generate on it would add to its already degraded and substandard condition.
- 7.4.12. Moreover, as set out by the Planning Authority's Senior Executive Planner this road is not one that meets the criteria for Local Improvement Scheme as a non-public road. Of further note it is a road that is bound by the applicant's family's landholding as well as predominantly serving applicants family members properties. Indeed, a number of the land registry maps show that the landowner of the landholding to which this site forms part of ownership overlaps and encroaches sections of this road. Including, these documents shows that the ownership overlaps with the road to the east of the site to where it meets the N2 as well as this situation appears to be the case for the majority of its length to the west to where it terminates.
- 7.4.13. In relation to the entrance of the cul-de-sac road onto the N2 the intensification of use at this point has the potential to give rise to additional road conflicts on a heavily trafficked route given the substandard nature of this entrance which is deficient in sightlines and at a point where there is a significant junction off this national road which

results in a significant additional movements and manoeuvring of vehicles in the vicinity of this entrance where the posted speed limit is 100km.

- 7.4.14. I note that Section 7.8.3 of the Development Plan on the matter of national roads notes the N2 Dublin – Derry Road that travels through the County and that these roads are critical in supporting more balanced regional development as they provide a vital connection to the north-west of the country. Policy Objective MOV 43 of the Development Plan states that the Council will seek to: “*protect the strategic transport function of national roads, including motorways through the implementation of the ‘Spatial Planning and National Roads – Guidelines for Planning Authorities’ and any subsequent guidelines*”.
- 7.4.15. In relation to the Spatial Planning and National Roads – Guidelines for Planning Authorities, I note that it seeks the protection of traffic capacity of national roads, the level of service they deliver and the period over which they continue to perform efficiently by avoiding increased traffic onto them above the 60kph posted speed limit. There is no exceptional circumstance put forward by the applicant for the additional traffic movements their proposed development would generate onto the N2 at a point where the 100kph posted speed limit applies.
- 7.4.16. Further, National Planning Framework under National Strategic Outcome 2 sets out the objective of maintaining the strategic capacity and safety of the national roads network including planning for future capacity enhancements.
- 7.4.17. In relation to precedent, I note that the Board is not bound by the precedent relating to previous decisions by the Planning Authority in relation to development on this cul-de-sac road and its entrance onto the N2 upon which the proposed development is dependent upon. Notwithstanding, I would accept that there is merit to the argument that the proposed development, if permitted, would give rise to an undesirable precedent for other similar developments along this road or in similar situations in the wider locality.
- 7.4.18. Based on the above considerations I concur with the Planning Authority’s first and second reason for refusal.

## 7.5. Other Matters Arising

- 7.5.1. **Design:** I concur with the concerns raised by the Planning Authority's Senior Executive Planner in that the design of the proposed development does not comply with the guidance for this type of rural development as provided for under the Development Plan and in their design guidance.

I also consider that the choice of site through to the choice of a two-storey built form is inappropriate in a landscape setting of high scenic value and would despite the presence of mature boundaries still be potentially visually incongruous man-made insertion in a rural landscape that is sensitive to change.

In addition, in such a visually sensitive location it would be appropriate that a design would be informed by a robust visual impact assessment as well as an application be accompanied by such an assessment as part of the planning application document. The provision of such an assessment for the final design is required under Section 13.9.7 of the Development Plan.

In this case, I consider that the proposed development would add to the further proliferation of one-off dwelling houses and would add to further diminishment of a landscape of a high scenic quality where such developments are subject to ensuring that where such developments are permitted that these have been informed by appropriately minimising their potential for adverse visual impact on this landscape, including the landscape setting of its immediate context as viewed from the N2.

For these reasons I consider that the proposed development would be contrary to policy objective HOU 47 of the said Development Plan which requires applications for one off rural housing to comply with the standards and criteria set out in Section 13.9 of Chapter 13 Development Management Guidelines 'Housing in Open Countryside' which in part includes that sites chosen should be given careful consideration should be given as to how a dwelling in the chosen location would integrate into the surrounding landscape through to the design, scale, and form of a dwelling (and any associated garage or outbuildings) shall be sensitive to the landscape in which it is located. In this regard, it indicates that any building that is a prominent or obtrusive feature in the landscape will not be considered favourably.

- 7.5.2. **Rural Landscapes of High Scenic Quality**

As there is no demonstrable rural local need for a dwelling house at this location and as the applicant has sought a design that does not seek to minimise its impact in its rural setting I consider to permit the proposed development would be contrary to policy objective NBG 37 of the Louth County Development Plan, 2021 to 2027, which requires the protection of rural landscapes of the Areas of High Scenic Quality (AHSQ) which the site forms part of, i.e, Collon Uplands. Moreover, this is added to by the proposed development designs failure to have regard to rural design guidance and by the design that is proposed being one that one have the potential due to its height, built form and prominence in placement on a high point in the landscape be unduly visible and discordant feature within this rural landscape of high scenic quality.

### 7.5.3. **Climate Resilience and Sustainability**

Chapter 12 of the Development on the matter of climate action states that the Council will seek to: *“promote, support and direct effective climate action policies and objectives that seek to improve climate outcomes across the settlement areas and communities of County Louth helping to successfully contribute and deliver on the obligations of the State to transition to low carbon and climate resilient society through the encouragement and integration of appropriate mitigation and adaption consideration and measures into all development”*.

In addition, NSO 8 of the Development Plan seeks sustainable mobility and transition to a climate resilient society with this including compact growth and Policy Objective CA 1 also seeks to improve climate outcomes across the county and deliver on the obligations of the State to transition to a low carbon and climate resilient society through the encouragement and integration of appropriate mitigation and adaption considerations and measures into all development.

I do not consider this proposed development is one that is consistent with this given that it consists of a rural dwelling house on land that has no services, that is remote from public transportation, amenities, and other infrastructure upon which such developments to varying degrees are reliant upon.

Further, it is remote from the applicant’s place of work and there are village settlements in between for example that have capacity to absorb such developments in a more climate resilient and sustainable manner where there is public water supply, drainage, amenities, services through to in some cases access to public transport modes.

I therefore consider that the proposed development would be an example of unsustainable car dependent residential development sprawl that would be contrary to the greater good of ensuring residential development is consistent channelled to appropriate serviced land and where they can be more appropriately accommodated in a manner consistent with the transitioning to a low carbon and climate resilient society.

## 7.6. **Drainage**

- 7.6.1. On the day of my site inspection the access onto the site was completely waterlogged and not possible to safely walk upon. This however is another new in the context of this appeal case and also adds to the concerns that potentially would arise in terms of the provision of further proliferation of proprietary waste water treatment systems in this rural locality.

## 7.7. **Appropriate Assessment**

- 7.7.1. Having regard to the nature and scale of the proposed development, I am satisfied that no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 **Recommendation**

- 8.1. I recommend that planning permission be **refused**.
- 8.2. I note that the first and second reason relates to **new issues**.

## 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 1 – 'Area under strong urban influence and of

significant landscape value' where housing is restricted to persons demonstrating local need in accordance with the Table 3.4, 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.

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 3.4 of the Development Plan.

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

The proposed development, in the absence of any identified locally based need for the house, 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 militate against the preservation of a rural environment that is afforded protection as an area of high scenic quality where inappropriate developments like this are discouraged and directed to where they can be more sustainably accommodated on serviced lands within settlements making more efficient use of provision of public services and infrastructure and giving rise to more climate resilient sustainable forms of residential development.

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

2. The proposed development by reason of its location would constitute an inappropriate form of piecemeal development and would result in a further intrusive encroachment of physical development into an open rural landscape that is



identified as being Area of High Scenic Quality (AHSQ), Collon Uplands, and forms in terms of rural policy zoning is recognised as an area of significant landscape value. The proposed development in itself and in conjunction with other such developments in this area would set an undesirable precedent and would be contrary to policy objective NBG 37 of the Louth County Development Plan, 2021 to 2027, which requires the protection of rural landscapes of the Areas of High Scenic Quality. In addition, it would be contrary to policy objective HOU 47 of the said Development Plan which requires applications for one off rural housing to comply with the standards and criteria set out in Section 13.9 of Chapter 13 Development Management Guidelines 'Housing in Open Countryside'. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to the location of the application site along a substandard in width, alignment and surface cul-de-sac road, the existing level of development along it, the lack of width for two vehicles to safely pass one another, it is considered that the proposed development would endanger public safety by reason of a traffic hazard and would be contrary to the proper planning and sustainable development of the area.
  
4. The proposed development would give rise to the intensification of use of access of a Class 3 road onto the N2, National Road, at a point where the maximum speed limit applies, where the road has a curving horizontal and vertical alignment which results in substandard sightlines for vehicles accessing and egressing from the lane, where is no right-hand turn and in proximity to the heavy trafficked N2 – R169 junction. It is considered that this intensification of traffic would endanger public safety by reason of a traffic hazard and would give rise to additional potential for conflict to arise between traffic arising from this entrance and other users of this national route. The proposed development would be contrary to Policy Objective MOV 43 of the Louth County Development Plan, 2021 to 2027, which seeks to protect the strategic transport function of national roads through the implementation of the 'Spatial Planning and National Roads – Guidelines for

Planning Authorities'. It would also be contrary to the guidance set out in these guidelines that prohibits intensification of such entrances where the posted speed limit exceeds 60kph. The proposed development would therefore be contrary to the proepr planning and sustainable development of the area.

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Patricia-Marie Young  
Planning Inspector - 31<sup>st</sup> February, 2021.