



An
Bord
Pleanála

Inspector's Report

ABP-312174-21

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| Development | House with detached garage, wastewater treatment system, road entrance, and associated site works. |
| Location | Proudstown, Navan, Co. Meath |
| Planning Authority | Meath County Council |
| Planning Authority Reg. Ref. | 21881 |
| Applicant(s) | Leanne Gibney. |
| Type of Application | Permission. |
| Planning Authority Decision | Grant |
| Type of Appeal | Third Party |
| Appellant | Patsy Kerr. |
| Observer(s) | None. |
| Date of Site Inspection | 11 th February 2022. |
| Inspector | Lucy Roche |

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1.0 Site Location and Description

- 1.1. The appeal site has a stated GFA of 0.19ha and is located in the townland of Proudstown, on the eastern side of the R162 regional road, c320m north of the development boundary of Navan. Navan Racecourse is located c450 to the north of the site on the opposite side of the R162.
- 1.2. The site comprises a rectangular plot of land taken from a larger agricultural field. The redline site boundary also incorporates a section of the roadside boundary to the south. The western (roadside) boundary is defined by mature hedgerow. A manicured hedge defines the boundary with the adjoining property to the north while a post and wire fence demarks the eastern and southern boundaries.
- 1.3. There is an existing two storey dwelling to the north of the site. The area is semi-rural in character.

2.0 Proposed Development

- 2.1. The proposed development comprises
 - The construction of a two storey, four-bedroom dwelling with a stated GFA of 283sqm and a ridge height of 8.1m
 - The construction of a detached garage with s stated GFA of 21sqm and a ridge height of 4.2m
 - Road entrance (utilising existing field gate)
 - The installation of a proprietary sewerage treatment system

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority by order dated 19th November 2021 decided to grant permission for the development subject to 18no. conditions. The following conditions are of note:

Condition 2 – Occupancy Clause

Condition 3 – Works relating to the setting back of the roadside boundary and the installation of the new site entrance.

Condition 4 – Drainage

Conditions 16, 17 and 18 – development contributions under Section 48 of the Planning and Development Act 2000 (as amended)

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planner's Report (25/06/2021)

- They noted the location of the site within an Area Under strong Urban Influence and the Planning Policy framework for housing in rural areas which requires a demonstration of a location specific rural housing need.
- They consider, based on the information and documentary evidence submitted, that the applicant is (on balance) a longstanding resident of the area and that she qualifies under Local Needs Qualifying criteria.
- They consider the design and appearance of the dwelling to be acceptable and broadly in line with the Meath Rural Design Guide. It would not impact the visual amenities of the area.
- They consider that there are no concerns in relation to ribbon development along this road frontage
- They consider that the development as proposed has the potential to impact upon the amenities of the adjoining property to the north due to the proximity of the proposed garage to the property boundary (1.6m) and possible overlooking from a first-floor bedroom window.
- They note that the proposed development is located along a protected route where it is the policy of the County Development Plan to restrict new accesses for one-off dwellings where the 80km speed limit applies (subject to some exceptions).
- They note the proposed development is to be served by a new treatment system and percolation area with connection to public mains water supply.

- Following screening they conclude that the proposal would be unlikely to have a significant negative effect on European sites and that a Stage 2 Appropriate Assessment is not required
- Following screening they concluded that EIA/EIAR was not required
- The initial planners report recommends a request for further information in relation to traffic safety and residential amenity

Planners Report Dated 17th November 2021 (following receipt of further information which was deemed to be significant):

- They note that the applicant has provided the total land holding of all family lands shown on land registry as requested and that the applicant is proposing to utilise an existing gated access point onto the Poundtown Road (R162) to serve the development. They note the comments and recommendation of the Transport Section and that there has been no fundamental change to the protected route policies under the new County Development Plan 2021-2027
- They note the submission of revised plans which detail the relocation of the proposed garage to the eastern portion of the site and the re-configuration of the first-floor bedroom window which has been reset at a height that does not overlook and consider these amendments to be satisfactory.
- They recommend that permission be granted.

3.2.2. Other Technical Reports

Transport Department

23rd June 2021

No objection subject to condition

9th November 2021

No objection subject to condition. Recommended conditions include works to remove and setback the roadside boundary to the south of the appeal site.

Water Services Section

1st June 2021 Notes a number of issues relating to surface water drainage that should be addressed in the event planning permission is granted.

3.3. **Prescribed Bodies**

Irish Water

10th May 2021 No objection subject to condition

3.4. **Third Party Observations**

A number of submissions/observations were received by the Planning Authority during the course of their determination of the application.

Issues of concern were raised in the submissions received from adjoining property owner and appellant Patsy Kerr and from Cllr Emer Toibin & TD Peadar Toibin. The following provides a summary of the points raised:

- Potential impact on adjoining residential property – overshadowing and overlooking
- Failure of applicant to demonstrate that adequate sightline distances can be achieved.
- The development would contravene conditions of a previous grant of permission, PRR83/192

Further submissions / representations were received from Norman Dungan and Cllr. Francis Deane in support of the proposed development.

4.0 **Planning History**

PA Ref: 83/192 (1983) Permission granted to Mr. Patrick Kerr for the erection of a dwelling at Proudstown.

| | |
|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Condition 10 | Overlooking of the adjoining property shall be obviated by the provision and maintenance of a screen of evergreen trees which shall be planted along the southern boundary Reason: In the interests of residential amenity |
| Condition 17 | No other development shall be allowed on field on which this site is situated. Reason: In the interests of orderly development |

5.0 Policy Context

5.1. National Planning Framework

The NPF in relation to rural housing includes objective 19-

Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e., within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2. Sustainable Rural Housing Guidelines

The Sustainable Rural Housing Guidelines require planning authorities to differentiate between rural housing demand arising from rural housing need and

housing demand arising from proximity to cities and towns. Additionally, development plans should distinguish rural areas under strong urban influence, stronger rural areas, structurally weak rural areas and areas with clustered settlement patterns. Development management policy should be tailored to manage housing demand appropriately within these areas.

Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

5.3. Development Plan

5.3.1. The application was assessed by Meath County Council in accordance with the policies and objectives of the Meath County Development Plan 2013-2019. The Meath County Development Plan 2021-2027 was adopted by Meath County Council on the 22nd of September 2021 and came into effect on the 3rd of November 2021. I have assessed the proposal under the provisions of the operative Development Plan, namely the Meath County Development Plan 2021-2027

5.3.2. Meath County Development Plan 2021-2027.

5.3.3. The goal of the Meath Rural Settlement Strategy as set out in the CDP is to ensure that rural generated housing needs are accommodated in the areas they arise, subject to satisfying good practice in relation to site location, access, drainage and design requirements and that urban generated rural housing needs should be accommodated within built-up areas or land identified, through the development plan process

5.3.4. The appeal site is situated within a Rural Area under Strong Urban Influence. The Following Policies are relevant:

RD POL 1 To ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural

community in which they are proposed, subject to compliance with normal planning criteria.

- RD POL 2 To facilitate the housing requirements of the rural community as identified while directing urban generated housing to areas zoned for new housing development in towns and villages in the area of the development plan.
- RD POL 3 To protect areas falling within the environs of urban centres in this Area Type from urban generated and unsightly ribbon development and to maintain the identity of these urban centres

5.3.5. Section 9.4 - Persons who are an Intrinsic Part of the Rural Community

The Sustainable Rural Housing Guidelines outline that Planning Authorities in formulating policies recognise the importance to rural people of family ties and ties to a local area such as parish, townland or the catchment of local schools and sporting clubs. It also delivers positive benefits for rural areas and sustains rural communities by allowing people to build in their local areas on suitable sites.

The Planning Authority will support proposals for individual dwellings on suitable sites in rural areas relating to natural resources related employment where the applicant can:

- Clearly demonstrate a genuine need for a dwelling on the basis that the applicant is significantly involved in agriculture. In these cases, it will be required that the applicant satisfy the Planning Authority with supporting documentation that the nature of the agricultural activity, by reference to the area of land and/or the intensity of its usage, is sufficient to support full time or significant part time occupation. It is also considered that persons taking over the ownership and running of family farms and/or the sons and daughters of farmers would be considered within this category of local need. The applicant shall satisfy the Planning Authority as to the significance of their employment. Where persons are employed in a part time capacity, the predominant occupation shall be farming / natural resource related. It should be noted, that

where an applicant is also a local of the area, the onus of proof with regard to demonstrating the predominance of the agricultural or rural resource employment shall not normally be required.

- Clearly demonstrate their significant employment is in the bloodstock and equine industry, forestry, agri-tourism or horticulture sectors and who can demonstrate a need to live in a rural area in the immediate vicinity of their employment in order to carry out their employment. In these cases, it will be required that the applicant satisfy the Planning Authority with supporting documentation that the nature of the activity, by reference to the area of land and/or the intensity of its usage, is sufficient to support full time or significant part time occupation. The applicant shall satisfy the Planning Authority as to the significance of their employment. Where persons are employed in a part time capacity, the predominant occupation shall be bloodstock and equine industry, forestry, agri-tourism or horticulture related. It should be noted, that where an applicant is also a local of the area, the onus of proof with regard to demonstrating the predominance of the agricultural or rural resource employment shall not normally be required.

The Planning Authority recognises the interest of persons local to or linked to a rural area, who are not engaged in significant agricultural or rural resource related occupation, to live in rural areas. For the purposes of this policy section, persons local to an area are considered to include:

- Persons who have spent substantial periods of their lives, living in rural areas as members of the established rural community for a period in excess of five years and who do not possess a dwelling or who have not possessed a dwelling in the past in which they have resided or who possess a dwelling in which they do not currently reside

5.3.6. Section 9.5.2 Ribbon Development

Ribbon development is considered to be a high density of almost continuous road frontage type development, for example where 5 or more houses exist on any one side of a given 250 metres of road frontage. (Please note that in all instances where

ribbon development is referred to in this Development Plan, the example contained in Appendix 4 of the Sustainable Rural Housing Guidelines for Planning Authorities as published by the DoEHLG in April 2005 shall apply). Whether a given proposal will exacerbate such ribbon development or could be considered will depend on:

- The type of rural area and circumstances of the applicant.
- The degree to which the proposal might be considered infill development, and.
- The degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development.

Meath County Council will endeavor to arrive at a balanced and reasonable view in the interpretation of the above criteria taking account of local circumstances, including the planning history of the area and development pressures.

5.3.7. Section 9.15.2 - Regional and County Roads

It is vitally important that new housing in rural areas that is located along non-national routes is located in such a manner as to avoid endangering public safety by way of a traffic hazard. There are a number of regionally and locally important functions of certain regional and county road type routes that act as particularly important transport links that traverse Co. Meath.

RD POL 38 To ensure that all development accessing off the county's road network is at a location and carried out in a manner which would not endanger public safety by way of a traffic hazard.

RD POL 39 To identify and protect those non-national roads of regional or local importance from unnecessary and excessive individual access/egress points, which would prejudice the carrying capacity and ultimately the function of the road.

RD POL 40 To restrict new accesses for one-off dwellings where the 80km per hour speed limit currently applies in order to safeguard the specific functions and to avoid the premature obsolescence of identified

regional and important county link roads (see Map No 9.2.) through the creation of excessive levels of individual entrances and to secure the investment in non-national roads.

Exceptions to the above policies relating to regional and county roads will be considered on their merits in the following circumstances:

- For those who have a location specific rural housing need on family-owned lands and cannot provide access onto any other non-identified regional or county road and therefore need to access one of the regional or county roads identified on Map No. 9.2. In this circumstance, the applicant will be encouraged to maximise the potential of an existing entrance. The onus shall be on the applicant to demonstrate that they have no other access or suitable sites within their landholding, and.
- Where an existing dwelling with a vehicular entrance that is not considered to constitute a traffic hazard, is to be demolished and replaced with a new dwelling.

New development proposals onto certain regionally and locally important county road type routes that act as particularly important transport links that traverse Co. Meath shall be assessed having regard to:

- Avoiding unnecessary new accesses, for example where access could be provided off a nearby county road.
- Ensuring that necessary new entrances are located in such a manner as to provide effective visibility for both users of the entrance and users of the public roads so that opportunities for conflicting movements are avoided.
- Avoiding the premature obsolescence of regional roads in particular, through creating excessive levels of individual entrances.

RD POL 43 To ensure that the required standards for sight distances and stopping sight distances are in compliance with current road geometry standards as outlined in the NRA document Design Manual for Roads and

Bridges (DMRB) specifically Section TD 41-42/09 when assessing individual planning applications for individual houses in the countryside.

5.4. Natural Heritage Designations

The site is not located within or directly adjacent to a Natura 2000 site. the River Boyne and River Blackwater SAC and SPA are located c1.4km and 1.5km (respectively) to the southeast of the appeal site.

5.5. EIA Screening

Having regard to the nature and scale of the proposed development comprising a single dwelling house, domestic garage and associated works, and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can therefore be excluded at preliminary examination and as screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was submitted on behalf of Patsy Kerr. The following provides a summary of the grounds of appeal:

Sightlines and Associated Issues

- The applicant cannot comply with the required sightline proposals as submitted and conditioned
- The applicant does not have the consent of the appellant to interfere with the grass verge, bank, hedge and / or entrance fronting his site
- The applicant only has the consent of the landowners to the south of her site to trim back the hedge fronting their lands (as per e-mails on file) and not to

interfere with the bank fronting their land to the south and / or remove their hedge

- Adequate sightlines cannot be achieved without impacting both the properties to the north and south

Traffic Hazard

- The proposed entrance would be a traffic hazard as the applicant cannot comply with the required standard set by the Council in Condition 3 of the grant of permission.
- The proposal would not comply with CDP Policy RD POL 40
- The appellant and his wife have both been involved in serious road accidents on the R162 outside their entrance – resulting in serious injury and damage. the bend 100m north of the appellants entrance was a contributory factor

Ribbon Development

- The appellant contends that the proposed development would add to ribbon development that exist on the R162 between the Racecourse and the town boundary

Local Need

- The appellant accepts that the applicant has links with the Proudstown area and that she resided in the area for much of her life but understands that she now works and resides in Navan and as such would not now have a “local” need as required under the Meath County Development Plan.

Hedgerow Removal

- The proposed development requires the removal of some 110m of hedgerow which would be contrary to County Development Plan Policy RD POL 41.
- Reference made to previous decision of Meath County council where this issue was cited as a refusal reason

Conflict with a previous decision of Meath County Council

- The appellant was granted planning permission by Meath County Council (Plan.Reg.Ref:83/192) for the erection of his dwelling at Proudstown. Condition 7 of this permission stated that “No other development shall be allowed on field on which the site is located”
- It is understood that this condition was included to prevent ribbon development along this then main road and that there was potential over development of one-off housing sites on the lands owned by the late Mr. James Flood

Validity of Application

- The architect for the applicant included lands not in the ownership of the applicant in the application in order to provide for the necessary / required sightlines without the consent of the landowners both to the north and to the south.
- Consider that the PA erred both in validating the application; in granting permission and in conditioning the applicant to undertake works on lands not in their ownership.
- Ask the Board to deem the application invalid

6.2. Applicant Response

- They note that both the application site and appellants site were partitioned from the same a land holding and they contend that a sightline would be required by all sites from the partitioned land holding in order to avoid potential criminal liability. the submission references the Road Traffic Act 1961 and Non-Fatal Offences Against Person Act 1997 as well as case Law.
- They consider that the appellant must assert and enjoy an uninterrupted sightline over the applicant’s property (the application site) in order to ingress and egress from his own property safely – it is not clear if the appellant asserts sightline easement rights over the applicants lands while denying reciprocating rights over his own site.

- They do not accept the contention that a sightline cannot be established primarily because the appellant does not consent to improvement of sightlines – They consider that the applicant has sufficient interest by way of an Implied Easement or an Easement of Necessity over the appellants property and adjoining properties to effect sightlines.
- They note that the vegetation at the front of the appellants property impairs sightlines to that property and considers that it is entirely foreseeable that the appellant and his family have been involved in collisions. They consider that there is a very urgent requirement for the existing dwellings to have their sightlines upgraded.
- Reference is made to the conditions attached to the grant of permission, Planning Register Reference 83/192 and the appellants failure to comply with same – in particular reference is made to the construction of a conservatory to the side of the dwelling and failure of the appellant to provide a screen of evergreen trees along the south boundary.
- Considers, with reference to condition 10 of PRR83/192 (screening planting) that condition 17 (restriction on further development) prohibited other exempted development on the appellants site without first obtaining planning permission.
- The applicant does not own other alternative lands to accommodate a rural dwelling.
- The applicant would accept a condition requiring that a 4.5mx 160mx1.05m sightline be provided to the north and south of the proposed access before construction work on the dwelling commenced – However they accept that it might be necessary to apply to the courts to obtain an order either to register an easement or to facilitate the construction work
- With regard to ribbon development, it is noted in the submission that in this scenario the proposed development would result in are 3 dwellings constructed over a frontage of 206m – Ribbon Development is not engaged
- The removal of hedges for traffic safety reasons is exempted under section 19 of the Forestry Act 2014. potential criminal liability might arise from a failure

on the part of a landowner to keep hedges trimmed back that would impair a sightline

Local Need

- The applicant has resided at Proudstown, Navan all her life. she has family connections to the area
- The site was gifted to the applicant by her grandfather in 2020
- The applicant has worked locally in the equine sector and has handled and ridden thoroughbreds from an early age.
- She works in childcare which is effectively a part time job. She also works in the equine sector gaining experience and knowledge to ground a career in the sector
- Documentation submitted in support of the application:
 - Letter from Hazel Smith stating that the applicant has helped out in her yard with a mixture of disciplines in the equine sector. the applicant attended blockstock sales
 - Letter from Aiden McSharry of Navan Racecourse stating that the applicant has had a long-standing association with the racecourse – as a racegoer and assisted the team on race days
 - Letter from Bernadette McAteer stating that the applicant has worked at Woodstown Stud for the last number of years
 - Extract from register of electors (2021-2022)
 - Car insurance details (2021)
 - A copy of the applicant's driver's licence

6.3. Planning Authority Response

Notes the correspondence and contents of the third-party appeal and considers that all matters raised within have been addressed in the Executive Planners report dated

17th November 2021 and wishes to rely on the content of same in response to this third-party appeal. Requests that the Board uphold the decision of the PA to grant planning permission.

6.4. **Observations**

None

7.0 **Assessment**

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

- Principle of Development - Compliance with Rural Housing Policy
- Access and the provision of adequate Sightline Distances
- Wastewater Treatment
- Other
- Appropriate Assessment

7.2. Principle of Development Compliance with Rural Housing Policy

7.2.1. The applicant is seeking permission for the construction of a new dwelling in the rural area of County Meath. I note that the application was originally assessed by the planning authority under the Meath County Development Plan 2013-2019, which has since been superseded by the Meath County Development Plan 2021-2027 (MCDP 2021-2027), however rural housing policy is substantially unchanged in terms of its structure and criteria.

7.2.2. The appeal site is located within a “Rural Area Under Urban Influence” as designated within the Meath County Development Plan 2021-2027 and the Sustainable Rural Housing Guidelines 2005. Policy RD POL 2 of the Meath County Development Plan

seeks to facilitate the housing requirements of the rural community, as identified, while directing urban generated housing to areas zoned for new housing development in towns and villages in the area of the development plan.

- 7.2.3. Policy RD POL 1 of the Development Plan states that it is policy of Meath County Council to ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed. Section 9.4 of the Development Plan refers to 'persons who are an intrinsic part of the rural community' and sets out specific criteria whereby the Planning Authority will support proposals for individual dwellings on suitable sites in rural areas, as summarised in Section 5.3 above. I note that the planning authority in their assessment deemed the applicant eligible for rural housing on the basis that she is a long-standing resident of the area.
- 7.2.4. In accordance with the details submitted in support of the proposed development, the applicant has resided in the rural area of Proudstown all her life and has been gifted the application site from her grandfather. While I note the applicant's connections / family linkages to the area and the provisions of the development plan I am not satisfied that the applicant comes within the scope of the housing need criteria as set out in overarching National Guidelines in particular I am not satisfied that the applicants has demonstrated a social or economic need to live in the rural area or that her housing need could not be met within designated settlements such as Navan which is located less than 1km to the south of the application site.
- 7.2.5. In accordance with the details submitted the applicant works in childcare which is not an occupation that would necessitate residency in the rural area. While I note the information / documentation submitted in response to the grounds of appeal relating to the applicant's involvement in the equine sector I am not satisfied based on the information provided, that the applicant has demonstrated that the nature and scale of her activity in the sector would necessitate that she resides in the rural area.
- 7.2.6. The proposed development, in absence of any identified local based need for the house at this location, would result in a haphazard and unsustainable form of development in this rural area, would contribute to the encroachment of random rural

development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and undermine the settlement strategy set out in the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

7.3. Access

- 7.3.1. The proposed development is to be served by a new domestic entrance onto the Proudstown Road (R162). The proposed entrance will replace an existing gated field access and is located at a point where the 80km speed limit applies. The R162 at the location of the appeal site is a high trafficked, high speed Regional Road with no pedestrian facilities and a solid white line. Having reviewed the documentation on file and having inspected the site I am of the opinion that the additional traffic movements generated by the proposed development would endanger public safety by reason of traffic hazard and I recommend that planning permission be refused on this basis.
- 7.3.2. The R162 regional road is identified as a strategic corridor on Map 9.2 of the Meath County Development Plan 2021-2027. Policy RD POL 40 of the Development Plan seeks *to restrict new accesses for one-off dwellings where the 80km per hour speed limit currently applies in order to safeguard the specific functions and to avoid the premature obsolescence of identified regional and important county link roads through the creation of excessive levels of individual entrances and to secure the investment in non-national roads*. Section 9.15.3 of the CDP provides an exception to the above policy for those who have a location specific rural housing need on family-owned lands and cannot provide access onto any other non-identified regional or county roads. In such circumstances the applicant will be encouraged to maximise the potential of an existing entrance. As it is considered that the applicant has failed to demonstrate a location specific rural housing need for the proposed development, this exception cannot be relied upon in this instance. The proposed development would therefore be contrary to MCDP Policy RD POL 40.

- 7.3.3. The plans submitted in support of the application (I note Gaffney & Cullivan Architects drawing 02 Rev 2 received by the Planning Authority on the 8th October 2021) indicate that sightline distance of 160m are achievable in both directions from a set- back of 3m. Such proposals were deemed to be acceptable by the planning authority subject to compliance with a number of requirements as set out under Condition 3 attached to the grant of planning permission. It would appear from site inspection that the applicant would be required to carry out works on lands outside of her control in order to comply with the requirements of Condition 3 and to achieve the necessary sightline distances.
- 7.3.4. The appellant, as set out in the grounds of appeal, is not satisfied that the applicant can provide the required sightline distances or comply with the requirements of Condition 3. In this regard, the appellant states that he does not consent to works being carried out on his property (which is located to the north of the appeal site) and notes that the applicant has only been given the consent of the landowners to the south of the appeal site to trim back the hedge and not to remove and set back the hedge as per the requirements of Condition 3(b).
- 7.3.5. The applicant's response to the issues raised in the grounds of appeal contends, with reference to Road Traffic Act 1961, Non-Fatal Offences Against Person Act 1997 and case law, that the applicant has sufficient legal interest by way of Implied Easement and / or Easement of necessity over adjoining properties (including the appellants property) to effect sightlines (to an extent that every reasonable precaution is in place to provide for the safety of the Public Road Users) however they accept and it may be necessary to apply to the courts to obtain an order either to register the easement or to facilitate the construction work. In accordance with the details proposed the applicant is willing to accept a condition requiring that a 4.5mx 160mx1.05m sightline be provided to the north and south of the proposed access before construction work on the dwelling commences.
- 7.3.6. While I note the legal position of the applicant, the Board must be satisfied, based on the information currently available to it, that a safe and suitable means of access can be provided to serve the development. I consider that the proposal presented for

consideration fails in this regard and I recommend that planning permission be refused on this basis.

7.4. Wastewater Treatment and Disposal

- 7.4.1. The proposed development is to be served by a new wastewater treatment system and soil polishing filter to the east of the site. Water supply is proposed via a new connection to the existing watermain
- 7.4.2. A site characterisation and assessment report prepared by Robert Meehan was submitted in conjunction with the application. In accordance with the details provided in this report the Site Characterisation Form was downloaded in 2009 from the Meath County Council website and modified to include 3no percolation tests as per EPA Code of Practice 2009.
- 7.4.3. The applicants Site Suitability Assessment Report records the underlying aquifer as poor, with the groundwater having high vulnerability. The ground protection response for the area has been identified as R1. The EPA CoP indicates that for site which fall within the R1 response category, an on-site system is acceptable subject to normal good practice (i.e. system selection, construction, operation and maintenance in accordance with this CoP).
- 7.4.4. The site is identified as having a shallow slope (1:5-1:20). the soil type is characterised as well drained grey, brown podzolic. Ground conditions were firm on site inspection with no surface water ponding evident. The site characterisation form submitted states that a trial hole, with a depth of 2.05m encountered the water table at a depth of 1.05m, bedrock was not encountered.
- 7.4.5. The Site Suitability Assessment recorded a T-Value of 16.2 and P-Value of 16.6. the report concludes that the site is suitable for discharge to ground as there exists 1.05m depth of permeable subsoil above the water table (and bedrock) on site throughout the year and that all minimum separation distances can be met on the site once the proposed soil polishing filter area is installed exactly as proposed in the report

7.4.6. On the basis of the information submitted in relation to foul water drainage I am satisfied that the proposed development would not be prejudicial to public health.

7.5. Other

7.5.1. Validity of application

The grounds of appeal suggest that this planning application should have been invalidated by the planning authority on grounds that the architect for the applicant included lands not in the ownership of the applicant in the application in order to provide for the necessary / required sightlines without the consent of the landowners. I note that the redline boundary as detailed on the plans submitted includes lands to the south of the application site that are outside of the applicant's ownership /control. I also note that a letter from the adjoining lands owners (dated 10/11/2020) was submitted with the application. While this letter does state directly that consent is given to the inclusion of the lands within the within the redline application site boundary it does refer to the lands in question and indicates that consent has been given to the trimming of hedges etc thereon. I consider this letter sufficient to permit, at least, a valid planning application.

7.5.2. Removal of Hedgerow:

The appellant has raised concerns regarding the extent of hedgerow removal required to facilitate the proposed development. I note that Condition 3 as attached to the planning authority's grant of permission requires that the applicant remove and set back both the entire roadside boundary fronting the site along with a further 80m of roadside boundary to the south of the proposed entrance. Compliance with the requirements of this condition would result in the removal of c110m of the existing roadside boundary (including a number of mature trees) which I consider would significantly and unnecessarily alter the character of this rural area.

Following site inspection however, I am of the opinion that while it would be necessary to set back the roadside boundary fronting the appeal site, that the extent of roadside boundary removal required to the south of the site could be substantially

reduced while still achieving adequate sightline distances. It is likely however that some of the existing boundary to the south of the entrance would have to be removed and set back and as previously established, it would not appear that the applicant has sufficient control over the necessary lands to the south of the proposed entrance to carry out such works.

7.5.3. Ribbon Development

The appellant contends that the proposed development would add to ribbon development that exists on the R162 between the Racecourse and the town boundary. While I note that there is an established pattern of linear / ribbon development along the R162 and surrounding road network, the development as proposed does not comply with the definition of ribbon development as per the Sustainable Rural Housing Guidelines and therefore would not directly contribute to or exacerbate ribbon development.

7.5.4. Conflict with a previous decision of Meath County Council

The appellant was granted planning permission by Meath County Council under Plan. Reg. Ref:83/192 for the erection of his dwelling at Proudstown to the north of the appeal site. The appellant in the grounds of appeal refers to Condition 17 of this permission which states that “*No other development shall be allowed on field on which the site is located*”. The appellant is of the opinion that this condition was included to prevent ribbon development along the R162 Regional Road and to prevent over development of one-off housing sites on the landholding (then owned by the late Mr. James Flood). The applicant however, as set out in the response to the grounds of appeal, is of the opinion that this condition only restricts further development within the development site associated within PRR83/192.

While I consider the wording and intention of condition 17 as attached to PRR83/192 to be unclear, I do not think that it would have been reasonable or appropriate for the planning authority to attach a condition to a grant of planning permission that would

restrict the use / development of land outside of the application site and outside of the applicant's control. Any such condition would not be enforceable. Therefore, irrespective of the planning authority's intention with respect to condition 17 of PRR83/192 I do not think that it would be reasonable to recommend that permission be refused for the development of the appeal site on the grounds that it would contravene condition 17 of PRR83/192.

7.6. Appropriate Assessment

7.6.1. Having regard to the nature and scale of the development involving the construction of a single dwelling house in the rural area, the nature of the receiving environment and the location of the development relative to European sites, I consider it is reasonable to conclude on the basis of the information on file, 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.

8.0 **Recommendation**

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

9.0 **Reasons and Considerations**

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| 1. | <p>Having regard to:</p> <ul style="list-style-type: none">a) the location of the proposed development on a highly trafficked Regional Road where the maximum speed limit appliesb) The failure of the applicant to demonstrate that a safe access in terms of sightline distance can be provided to serve this development, <p>It is considered that the additional traffic movements generated by the proposed development would endanger public safety by reason of traffic</p> |
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| | <p>hazard and would therefore be contrary to proper planning and sustainable development of the area.</p> |
| 2. | <p>Having regard to the nature of the proposed development as indicated on the plans and particulars submitted which includes the construction of a domestic entrance located on a regional road which is identified as a strategic corridor on Map 9.2 of the Meath County Development Plan 2021-2027, the requirements of County Development Plan policy RD POL 40 which seeks to restrict new access for one-off dwellings where the 80km speed limit applies and the failure of the applicant to demonstrate a location specific rural housing need in accordance with the Development Assessment Criteria under Section 9.15.3 of the Development Plan it is considered that the proposed development by itself or by the precedent which the grant of permission would represent, lead to a proliferation of similar type developments, would reduce the capacity of the road, and would interfere with the safety and free flowing nature of traffic on the road, and would adversely affect the use of the strategic corridor. The proposed development would therefore be contrary to the above policy in the Meath County Development Plan 2021-2027 and contrary to the proper planning and sustainable development of the area.</p> |
| 3. | <p>Having regard to the location of the site within an Area Under Strong Urban Influence in accordance with the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government 2005, National Policy Objective 19 of the National Planning Framework (February 2018) which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements, the Board could not be satisfied on the basis of the information on the file that the applicant comes within the scope of</p> |

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| | <p>either economic or social housing need criteria as set out in the overarching National Guidelines.</p> <p>The proposed development, in absence of any identified local based need for the house at this location, would result in a haphazard and unsustainable form of development in the area, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and undermine the settlement strategy set out in the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area</p> |
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Lucy Roche
Planning Inspector

31st May 2022