



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312237-21

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<b>Development</b>	Construction of dwelling house, domestic garage, wastewater treatment system and associated works
<b>Location</b>	Killineer, Drogheda, Co. Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	211213
<b>Applicant(s)</b>	Eamon Briscoe
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Eamon Briscoe
<b>Observer(s)</b>	Daniel Gunning
<b>Date of Site Inspection</b>	31 <sup>st</sup> of March 2022
<b>Inspector</b>	Karen Hamilton

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## 1.0 Site Location and Description

- 1.1. The subject site comprises of a field along the south of Kearney's Lane, Killineer, Drogheda, Co. Louth. Killineer is located to the south of Monasterboice and north of Drogheda town. Barnattin Reservoir is located c. 100m to the west of the site.
- 1.2. Kearney's Lane is a rural road which links the R132 and the R168 and crosses the M1 c. 500 m to the west of the site. There is a large number of one-off dwellings along Kearney's Lane, mostly towards the east towards the R132. There are no dwellings to the immediate east or west of the site although c. 4 no dwellings on the opposite side of the road, to the north.
- 1.3. The road, along the north of the site, is elevated in comparison to the site. There is an agricultural access into the site although no agricultural use was evident upon a site inspection. The subject site forms part of a wider site which is bounded by mature trees and hedgerows.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
  - Construction of a one-off dwelling (179m<sup>2</sup>), garage (35m<sup>2</sup>) wastewater treatment system and associated site development works.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to refuse permission for one reason as detailed below:

1. The proposed site, by reason of its location in an area under significant pressure from one-off rural housing, evident by the high number of one-off dwellings in the vicinity of the application site, would result in the rural character of this scenic landscape being further eroded, would militate against the preservation of the rural environment, and would set an undesirable precedent for other similar inappropriate development in the vicinity. The development would be contrary to section 13.9.4 of the Development Plan

“Site Selection” which requires applications to consider the existing number of one-off dwellings in the area and the ability of the landscape to absorb further development of one-off dwellings without further eroding the rural character of the area. The development by reason of its open and exposed nature which would have a negative, scarring and injurious impact on this rural landscape would also be contrary to policy objective HOU 47 of the Louth County Development Plan 2021-2027 which requires applications for rural dwellings to comply with the standards and criteria for Housing in the Open Countryside set out in Section 13.9 of Chapter 13 “Development Management Guidelines” and policy objective HOU 42 which seeks to manage the development of rural housing in the open countryside by requiring any new dwelling to be appropriately designed and located so it integrates into the local landscape and does not erode the rural character of the area in which it would be located.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The report of the area reflects the decision to refuse permission and is summarised below:

#### Principle of Development

- The applicant has submitted a list of information necessary to comply with Criterion 1 and 3 for Rural Policy Zone 2.
- The applicant has a local need.
- The applicant is working in the horse industry as a farrier and there is a need to live in the local area.
- The applicant’s family are located in Silloge, some distance from the site.

#### Layout and Design

- The dwelling is set back from the road.
- The design of the dwelling is standard and is acceptable subject to site suitability (HOU 47).

### Site Suitability

- The site has views over Drogheda and the Boyne Valley, and the location of the dwelling would have an injurious impact and set an undesirable precedent for similar developments in the vicinity.
- The area is under significant pressure and there is a high number of dwellings in the vicinity. An additional dwelling would impact the rural character of this scenic landscape.

### Family Holding

- The submitted land registry and folio maps indicate an extensive landholding at several locations in Monasterboice.
- There would be a more suitable site for the applicant.
- There are a number of current applications on the family holding (21/1119 and 21/1238).

#### 3.2.2. Other Technical Reports

Environment Section: No objection to proposal subject to conditions (note of report to state the site was not inspected).

Infrastructure Directorate: Further Information requested on the available entrances to access the paddocks (Drwg no EB-PA-002A) and compliance with the minimum visibility splays in the development plan.

#### 3.3. **Prescribed Bodies**

None received.

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

One third party observation was received from a resident from the surrounding area (Killineer). An observation to the grounds of appeal has also been received from the same person and the issues raised are similar and summarised below in Section 6.

## 4.0 Planning History

### 4.1. In the vicinity of the site

#### **ABP 309178-21 (Reg Ref 20/894)**

Permission refused for a one-off dwelling c. 400 south (as the crow flies) for Alan Cassidy for reasons of impact on the surrounding rural area, inappropriate back land development and inadequate visibility splays.

#### **Reg Ref 21/893**

Planning permission refused for a dwelling, further east along Kearney's Lane (Applicant: Thomas Sullivan) for reasons of open/exposed nature of the site and ribbon development to the east of the proposed site.

#### **Reg Ref 21/1238**

Louth County Council Planning Finder<sup>1</sup> includes a record for a current application to the west of the site for a two-storey dwelling (Applicant: Conor Byrne). No decision has been made.

### 4.2. On the family land holding

#### **Reg Ref 20/902**

Permission refused for outline permission for a proposed one and a half storey dwelling house, horse stables and courtyard and associated site works for Ciaran Briscoe based on impact on the character of the rural area and inadequate sightlines.

## 5.0 Policy Context

### 5.1. **Project Ireland 2040, National Planning Framework (NPF)**

NPO19 seeks to

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<sup>1</sup> [LCC Planning Finder \(arcgis.com\)](https://arcgis.com) (accessed 01<sup>st</sup> of April 2021)

‘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’

## 5.2. **Section 28 Guidelines**

### **Sustainable Rural Housing Guidelines for Planning Authorities (2005)**

- A distinction to be made between ‘Urban Generated’ and ‘Rural Generated’ housing need.
- Section 3.2: A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those within proximity to the immediate environs or close commuting catchment of large cities and towns.
- Section 4.3: Accessing Housing Circumstances
- Appendix 3 sets out that in areas under strong urban influence, urban generated development should be directed to areas zoned for new housing development in cities, towns and villages in the area of the Development Plan.

## 5.3. **EPA Code of Practice for Domestic Wastewater Treatment Systems 2009 & 2021**

## 5.4. **Louth County Development Plan 2021-2027**

### Rural Policy Zone

The site is located within an area designated as Rural Policy Zone 2 “Area under strong urban Influence”

### Rural Generated Housing Need Criteria

Table 3.5: Local Housing Need Qualifying Criteria in Rural Policy Zone 2

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

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

Or

A person whose business requires them to reside in the rural area. The nature of the operations of the business shall be specific to the rural area. Any application shall demonstrate the viability of the business and clearly set out the nature of activities associated with the business and why it requires the owner to reside in the vicinity.

Or

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

Or



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

Or

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

Or

Persons who are required to live in a rural area, for exceptional health reasons. Any application shall be accompanied by a medical consultant's report and recommendation outlining the reasons why it is necessary for the applicant to live in a rural area. The application shall also demonstrate why the existing home of the family member cannot be adapted to meet the needs of the applicant.

Or

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

Or

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

### Housing Policy for rural dwellings

**HOU 42:** To manage the development of rural housing in the open countryside by requiring that any new or replacement dwelling is appropriately designed and located so it integrates into the local landscape and does not negatively impact or erode the rural character of the area in which it would be located.

**HOU 45:** 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.

**HOU 47:** To require applications for one off rural housing to comply with the standards and criteria set out in Section 13.9 of Chapter 13 Development Management Guidelines 'Housing in the Open Countryside' or Section 13.19.9 if the site is located within the Brú na Bóinne UNESCO World Heritage Site, the Tentative World Heritage Site of Monasterboice, or the Battle of the Boyne Sites.

- Section 13.9: Housing in the Open Countryside

## 5.5. Natural Heritage Designations

The site is located;

- c.2.2km to the northeast of Kings William's Glen p NHA (001804),
- c. 2.2km to the northeast of the River Boyne and River Blackwater SAC (002299),
- c. 3km to the north of the River Boyne and River Blackwater SPA (004232),
- c. 3km to the north of the Boyne River Islands p NHA (001862).

## 5.6. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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 a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal are submitted by an agent on behalf of the applicant in relation to the refusal of permission by the PA and the issues raised are summarised below:

#### 6.1.1. Background

- The location of the site and reason for refusal are included.

#### 6.1.2. Principle of Development

- The site is located in Rural Policy Zone 2, under strong urban influence.
- Policy Objective HOU 36 encourages rural generated housing need.
- The National Planning Objective (NPO 19) states that single housing in the countryside should be based on demonstrable economic or social need.
- The appellant has set out his justification for needing to live rurally with a substantial amount of documentation linking him to his employment as a farrier and involvement in the equine industry.
- The Council was satisfied with the appellants credentials and qualifications.
- The appellant can meet Criteria 1 and 3 for Rural Policy Zone 2, policies of the development plan (HOU 36, CS 20 & SO 13) and complies with the provisions of NPO 19.

#### 6.1.3. Visual Impact

- The council describes the area as a “scenic landscape” and suggests the proposal would further erode the existing rural character.
- The high number of one-off dwellings is also referenced in the refusal. Permission was recently granted (Reg Ref 20795) for residential development close to the site.
- Kearney’s lane has two different set of housing clusters, the eastern end with c. 19 dwellings and the less concentrated western end.

- The submitted 3D images, clearly demonstrate there would be a negligible impact upon the received landscape.
- The photomontages are representative of the impact on the surrounding area and considering planting after 3, 5 and 10 years.
- A location of the photomontage locations is provided which illustrate the impact of the proposed development.
- There is sufficient evidence to establish that the new dwelling and garage will sit well below the southern horizon and not interfere with any views.
- The proposal is fully compliant with HOU 42.

#### 6.1.4. Site Selection

- The Council referenced Objective HOU 47 in the reason for refusal (criteria for Housing in the Open Countryside).
- These standards were not applicable at the time of making of application 21/1213.
- The applicant is satisfied the development complies with the relevant elements of Section 13.9 of the County development plan.
- A table is included in the appeal statement detailing each of the section requirements (13.9.1 to 13.9.20) and indicating how the proposed development can comply with each of these sections.
- In relation to the site selection, the appeal statement details that the site is appropriate for rural housing as it:
  - is not located within an area of outstanding beauty,
  - not linked to any historic/ valued sites,
  - can absorb into the surrounding landscape,
  - does not add to the proliferation of one-off houses,
  - there is no ribbon or backland development,
  - includes a traditional form of housing which is appropriate to the site,

- has a safe access,
- retains appropriate boundary treatments,
- has a detailed landscaping scheme,
- includes appropriate wastewater treatment system and surface water treatment,
- The appellant has a genuine and demonstrable rural generated housing need.

#### 6.1.5. Consideration of Alternative Sites

- The PA report refers to the appellants family home located some 1.7km to the north-east of the site (within the 6 km radius of the local rural area in Section 13.7.4 of the development plan).
- It is suggested that there is a more suitable site to accommodate the proposed dwelling.
- The appellant needs to find a location where he can operate his broodmare breeding programme. Evidence submitted indicates best practice allows the herd to be on one farm.
- The applicant's spatial requirements are larger than the location of the dwelling and would require living near a suckler herd.
- The current family farm is not a suitable base to expand the applicant's breeding programme.
- Appendix 3 includes an assessment of the unsuitability of the current parcels of land within the family holding as alternative sites.
- The PA report highlights two applications (Reg Ref 21/1119 and Reg Ref 21/1238) as evidence that the family holding can accommodate additional dwellings. These sites cannot accommodate the applicant's requirements and are not suitable.

#### 6.1.6. Precedent

- Each development should be assessed on its own merits and therefore a grant of permission should be unrelated to other sites or other applicants.

#### 6.1.7. Appendix 1

- The Planning Policy Objectives CS 20, HOU 36, HOU 42, MOV 56 and SO 13 are listed.

#### 6.1.8. Appendix 2

- A letter from Mullingar Equestrian Horse Sales Ltd note the Briscoe family as breeders and producers of high-performance ponies.

#### 6.1.9. Appendix 3

- An overview of 4 areas within the applicant's landholding are included.
- An analysis of each field within the separate land holdings is included.
- Each assessment concludes that there are no suitable sites for the applicants.

6.1.10. A landscaping proposal is included.

6.1.11. Photomontages and Visuals.

### 6.2. **Applicant Response**

The applicant is the appellant.

### 6.3. **Planning Authority Response (PA)**

The PA submitted a response to the grounds of appeal as summarised below:

- The grounds of appeal are summarised.
- The refusal reason is highlighted.
- The proposed development is only for a dwelling and not for a commercial horse breeding business.
- The PA accepted the applicant had sufficient evidence to satisfy Criteria 1 & 3 of the Rural Policy Zone 2.
- The additional movement of cars along Kearney's Lane could lead to congestion.

- The original opinion remains, and it is contested that the proposed development would be visible from long and short views and have an injurious impact on the landscape at this location.
- The proposed development does not comply with HOU 42.
- The submitted landscaping and photomontage drawings do not fully represent the development in the landscape.
- Permission for Reg Ref 20/795 was within the current built up ribbon of development and not at this scenic location (map submitted).
- The proposal would set an undesirable precedent for other similar inappropriate development in the vicinity.

#### 6.4. Observations

One observation was received from a resident in the vicinity of the site and is summarised below:

- The reason for refusal is noted
- The objective for Rural Policy Zone 2 is noted.
- Planning reference 20/894, some 550m away was refused for two reasons. The proposed application is of greater scenic importance.
- In application 21/1213 the PA noted more lands within the land holding which were more appropriate and suitable.
- The location of the photomontage's points is advantageous for the applicant.
- Extensive tree planting and landscaping in the photomontages are unrealistic.
- The applicant's request to grant permission to relocate the horses would require additional planning permissions.
- The location of sables etc would further mitigate against the impact on the scenic area.
- The motive for applying for permission is unclear. Any applicant needs to meet local needs although the site is up for sale.

- The sightlines can only be achieved by removing the hedging. The proposed planting and tree hedging will further impact on the site line.
- The site is sloping, and the wastewater will drain away and may impact the local reservoirs.
- The proposal will lead to overdevelopment of the area and militate against the preservation of the rural area.

## 7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:

- Principle of Rural Housing Need
- Impact on Visual Amenity
- Other
- Appropriate Assessment.

### **Principle of Rural Housing Need.**

#### Background

- 7.2. The proposed development is for a one-off rural dwelling on a site within the open countryside to the north of Drogheda Town. The subject site is located to the south of a local road, Kearney's Lane, a rural road which radiates west off the R132 and connects west into the R168, traversing the M1.
- 7.3. The site is located on lands designated as Rural Policy Zone 2 (area under strong urban influence) in the recently adopted Louth County Development Plan 2021-2027 (LCDP). Section 3.17.4 of the LCPD sets out the policy for housing in Zone 2 and Table 3.5 includes the Local Housing Need Qualifying Criteria.
- 7.4. The applicant has applied for a one-off house based on qualifying for Criteria 1 and 3. The documentation submitted within the planning application included reference to a potential horse business on the fields around the site for the dwelling. The PA noted the documentation submitted and considered that having regard to the applicant's employment as a farrier in the horse industry, they had a need to live in the local



area. However, the area planner's report raised concern in relation to other lands available within the family holding.

- 7.5. The grounds of appeal of appeal make reference to the acceptance of the PA and the applicant's compliance with the Local Needs Criteria. An analysis of sites in the family land holding has been submitted with the grounds of appeal in response to the PA reason for refusal. I have dealt with the site selection issues in detail below with particular reference in the impact on visual amenity.
- 7.6. In relation to the local need, an observation from a 3<sup>rd</sup> party raised concern in relation to the proposal for a horse breeding business, beside the proposed dwelling. It was noted that further permission would be required for this business. In addition, it was considered the site would be unsuitable having regard to the distance from the family home (c.1.7km) and the sloping nature.
- 7.7. I consider the observation submitted to the grounds of appeal has raised some viable concerns in relation to the applicants need to live at this location and compliance with that criterion in Table 3.5. I have addressed each of these separately in detail below.

#### Criteria 1

- 7.8. Criteria 1 of Table 3.5 of the LCDP includes information on the local needs criteria for persons engaged in agricultural activities, as stated below:
1. Persons engaged in full time agriculture. This includes livestock, poultry, dairy, and tillage farming, bloodstock and equine related activities, forestry, and horticulture. The nature of the agriculture activity shall, by reference to the landholding, livestock numbers, or intensity of the use of the land, be sufficient to support full time or significant part time occupation. Depending on the activity the documentation available will vary however the onus will be on the applicant to demonstrate the viability of the enterprise. Information to be provided shall include:
    - The size of the landholding
    - The nature of the operations
    - Buildings and storage associated with the operations

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

7.9. For the purposes of compliance with these local needs criterion the applicant has submitted, *inter alia*,

- Letter from Mullingar Equestrian Horse Sales Ltd (reference to jumping ponies)
- Letter from Teagasc (applicants' membership of the Equine Knowledge Transfer group, overall farming activity of the Briscoe family)
- Letter from Tullibards Stud (general reference to breeding horses and ponies)
- Letter from Department of Agriculture, Food and the Marine (linking applicant's relatives to a GLAS contract.
- Letter from Show jumping Ireland (stating the applicant is a member)
- Letter from Connemara Pony Breeders Society (stating that the applicant is a breeder).
- Letter from Irish Farmers Associated (stating the applicant is a member).
- Article from Country Living (applicant's involvement in horse breeding).
- Letter from Macra na Feirme (stating the applicant's membership),
- Letter from bank/accountant stating the applicant's involvement in the equine related activit,
- Letter from the Veterinary Hospital lining the need to live near equine breeding sites.
- Letter from the Rockmount Equine Clinic (stating the applicants use of AI services).

- 7.10. I note the information submitted and whilst the applicant has submitted information demonstrating links and connections to the equine industry, I have concerns that this information does not fully demonstrate the viability of the equine industry/ business (as required in Criteria 1 of the LCDP). In this regard Table 3.5 of the LCDP requires the submission of the equine operation, none of which has been included in the documentation or with the information in the grounds of appeal. The information submitted does not provide any clarity on the full-time or part time status of the applicant's involvement in the equine business, (i.e. landholding, livestock numbers, or intensity of the use of land).
- 7.11. An indicative paddock layout (DRWG no EB-PA-002A) was included with the planning application. In addition, the grounds of appeal include reference to the Sillogue Farm Strategic Development Plan and the need to locate an equine breeding business at this location beside the proposed dwelling. The Board will note that these lands are not included in the proposed development. Folio maps submitted with the applicant indicate ownership of the site by a separate family member. There was no agricultural activity on the lands during site inspection.
- 7.12. Having regard to the information submitted with the application, it is my opinion that the information submitted is insufficient to comply with Criteria 1 of the local needs criteria. To this end, the applicant has not adequately demonstrated economic ties to this site. I consider this is relevant when considering the site section further below.

### Criteria 3

- 7.13. Criteria 3 of Table 3.5 of the LCDP includes information on the local needs criteria for persons engaged in agricultural activities, as stated below:
- Landowners including their sons and daughters who have demonstrable social or economic ties to the area where they are seeking to build their home. Demonstrable social or economic ties will normally be someone who has resided in the rural area of Louth for at least 18 years prior to any application for planning permission. Any applicant under this category must demonstrate a rural housing need and shall not own or have sold a residential property in the County for a minimum of 10 years prior to making an application.
- 7.14. For the purposes of compliance with the local needs criteria, the applicant has submitted, inter alia:

- Birth and Baptismal certificate
- School records (linking to the local community)
- Voting card 2022 (including address)
- Letter from the Local GAA club
- Letter from the local councillor
- Bank Statement (dated 2012)
- Credit Union Statement (dated 2021)
- Letter from accountant (dated 2021)
- Revenue Letter (dated 2012)
- The applicant's statement that they do not own or have sold a residential property for a minimum of 10 years prior to the making of an applicant.

7.15. I note the information submitted in relation to the compliance with Criteria 3 is considered evidence that the applicant has links to the family home in Silloge, Monasterboice. The Board will note that there has been no recent bank account or revenue details submitted (dates of letters 2012). The most recent documentation relates to registration to vote and a Credit Union statement. This aside, criteria no 3 states that the *“Landowners including their sons and daughters who have demonstrable social or economic ties to the area where they are seeking to build their home..... who has resided in the rural area of Louth for at least 18 years prior to any application for planning permission”*. In this regard, it is my opinion that the applicant has submitted substantial evidence relating to compliance with the qualifying criteria for the links to the family home at Silloge. The Board will note my assessment above in relation to specific economic links with the subject site. In this regard, I have concerns that the applicant as not demonstrated a genuine need to live at the chosen site rather than other sites on the family land holding. This is discussed in further detail below.

#### Conclusion

7.16. Having regard to the applicant's links to the family home at Silloge and the absence of any evidence of current property ownership, it is my opinion that the applicant complies with Criteria 3 and has demonstrated social ties to the area.

## **Impact on Visual Amenity**

### Background

- 7.17. The site is located along the south of Kearney's Lane, a local rural road which provides access in the most part to one-off rural dwellings. The road is elevated along the north of the site and the site slopes downwards to the south. Views of Drogheda and the surrounding landscape are available along this section of Kearney's Lane. The proposed dwelling is a single storey bungalow set c. 50 from the edge of the lane.
- 7.18. The PA reason for refusal relates in the most part to the impact of the proposed development on the visual amenity of the site and the surrounding area. The PA considered that the proposal, in conjunction with the current one-off dwellings in the vicinity of the site, would have a negative impact on the character of the scenic landscape and would, in addition to setting an undesirable precedent, militate against the preservation of the rural environment. The proposal would be contrary to Policy Objective HOU 47, the site selection criteria in Section 13.9 and Policy Objective HOU 42.
- 7.19. Policy Objective HOU 47 requires all applications for one off rural housing to comply with the standards and criteria set out in Section 13.9 of Chapter 13 Development Management Guidelines 'Housing in the Open Countryside'. The grounds of appeal note the characteristics of the site, the submitted visual impact assessment and the number of one-off dwellings in the vicinity of the site and consider there is sufficient evidence to illustrate that the proposed dwelling will not be visually conspicuous, scarring or injurious. An analysis of the criteria in Section 13.9 (site selection) of the LCDP has been provided. The grounds of appeal consider the proposal complies with the site selection criteria and therefore Policy Objective HOU 47.

### Site Selection

- 7.20. Chapter 13 of the LCDP includes Development Management Guidelines. Section 13.9.4 provides the criteria for the appropriate site selection for a rural dwelling. The grounds of appeal include a table indicating compliance with the relevant criteria as summarised below:

- There is sufficient information to detail the applicants rural generated housing need.
- The site is not located in an area of high amenity value or culturally/historically important.
- The site has little biodiversity value.
- Submitted photomontages demonstrate the dwelling is not visually incongruous.
- Sufficient planting and landscaping are included, and native planting is included.
- There is no proliferation of dwellings on this western end of Kearney's Lane.
- The proposal does not constitute ribbon development or back land development.
- The design of the dwelling is appropriate and is a simple and the garage is of a subservient scale.
- There is no proliferation of vehicular access along this section of Kearney's Lane
- The surface water and wastewater can be treated on the site.

7.21. The PA response to the grounds of appeal reiterates the original reason for refusal. In relation to the photomontages, the PA are of the opinion that they do not fully represent the development in the landscape.

7.22. I note the characteristics of development along Kearney's Lane. The western section, closest to the R132 includes a row of one-off rural dwellings along both sides (north and south). Further along Kearney's Lane, closer to this site, there is only one dwelling along the south of the site and a row of dwellings to the north. The lands to the north are elevated slightly above the road, whilst the lands along the south slope downwards away from the road. The topography of the lands along Kearney's Lane provide this site and the immediate surrounding sites with vantage points and scenic views to the south, towards Drogheda and the environs.

7.23. The PA report notes these characteristics and the reason for refusal is linked to the impact of the dwelling on the rural landscape. Whilst I note the proliferation of one-off

dwellings are currently retained to the western side of along Kearney's Lane and to the north of this site, I consider the absence of dwellings in the immediate vicinity of this area has ensured the retention of landscape in its present scenic form.

- 7.24. The grounds of appeal state that the area does not benefit from any formal national landscape protection. Map 8.15 of the LCDP includes those Area of High Scenic Quality (AHSQ) in County Louth. I note Kearney's Lane bounds the south of Monasterboice (AHSQ 2). The subject site is located within the Uplands of Collon and Monasterboice Landscape Character Area which is classified as being of regional importance of the area. Having regard to the located of the site along the southern boundary of an AHSQ, within the Uplands of Collon and Monasterboice Landscape Character Area and from site inspection, it is my opinion that the site and the immediate surrounding area have a high scenic value. I consider the absence of any existing one-off rural dwellings along this section of the road has enabled the preservation of this scenic quality.
- 7.25. The application included photomontages to illustrate the proposed dwelling set to the south, on the lower section, south of the site. The subject site is located in the centre of a wider agricultural field. A landscaping plan accompanied the documentation and the photomontage drawings have integrated the proposed landscaping plan with a series of progressive images over 3-, 5- and 10-year periods. The grounds of appeal consider the new dwelling will be adequately screened and the development will not have a negative impact on the scenic quality of the landscape.
- 7.26. I have had regard to the visual impact assessment and photomontages submitted with the grounds of appeal. The Board will note short (along Kearney's Lane) and long range (M1 and Drogheda) locations have been included to illustrate the visual impact. I note the topography of the site, which gradually slopes south away from the road, and whilst I note the dwelling is proposed on the lower end of the site, I consider it will remain visible from Kearney's Lane. I do not consider the inclusion of the landscaping plan significantly alters the impact of the proposed dwelling on the immediate surrounding area.

- 7.27. In relation to the site selection, it is my opinion that the site does contain a high scenic quality and the submitted photomontage do not adequately illustrate that the proposed dwelling will not be incongruous to immediate surrounding environment.
- 7.28. The Board will note Appendix 3 of the grounds of appeal include an “Assessment of Alternative Sites/ Locations in Family Landholding”. The remaining site is within the family landholding have been discounted as they cannot accommodate an equine business. I note the proposed developmetn relates only to a rural dwelling and not for a broodmare breeding programme. The Board will note the applicant has not submitted any details of equine activity on this site or need to live at this specific location.
- 7.29. The PA reason for refusal makes specific refence to Policy Objective HOU 42 of the LCDP. Policy Objective HOU 42 requires new rural dwellings to be appropriately designed and located so it integrates into the local landscape and does not erode the rural character of the area in which it would be located. Having regard to the site’s location adjoining an area of high scenic quality and the characteristics of the site and the immediate surrounding area, which has limited one-of housing, I have concerns in relation to the section of this site. To this end, I do not consider the proposed development can comply with Policy Objective 42 of the LCDP.
- 7.30. Overall, it is my opinion that the construction of a dwelling at this location will further erode the rural landscape. I have serious concerns that the dwelling will have anegative visual impact on an area which has one-ff rural dwellings. Having regard to its location adjoining a high amenity area and the characteristic of the site, it is my pinon that the proposed should be refused.

### **Other**

- 7.31. Should the Board be minded granting permission for the proposed development, the following information may be relevant for their decision making.

#### Precedence for future development

- 7.32. The PA reason for refusal considers the proposed development at this location would lead to an undesirable precedence for future similar developments and the report of the area planner notes a number of current applicants on the family holding. The grounds of appeal consider each proposal should be assessed on its merits.



- 7.33. I note Louth Online Planning Enquiry refers to a new application on a site to the west of the site (Reg Ref 211238) although this is not related to the proposed development before the Board.
- 7.34. I consider the planning merits have been assessed above and it is my opinion that other proposed developments have no bearing on the proposed development.

#### Water and Wastewater Treatment

- 7.35. The proposed development includes a secondary treatment system and soil polishing filter and percolation area designed for 6 persons the applicant has not proposed any secondary treatment. The applicant proposes to connect to private well/borehole.
- 7.36. The ground water direction is south. There is a reservoir to the east of the site. The site was dry upon site inspection. A site characterisation form was submitted with the application which states that the soil type is Till derived from Lower palaeozoic sandstones & shales. The aquifer category is *poor*, and the vulnerability is *high*. The groundwater protection response is 'R1', i.e. the soils are acceptable subject to normal good working practice.
- 7.37. The trail hole assessment submitted by the applicant encountered no bedrock/ water table at a depth of 2m. The submitted site characterisation records a T-test value of 34.36 min/25mm. The Board will note the trail holes were closed on my site inspection and the report of the Environment Section notes the site was not inspected. Section 5.4.2 of the EPA CoP 2021 requires that trail holes are to a depth of 2.1m.
- 7.38. I note Table 5.2 of these updated guidelines require a percolation value of between 5 to 18 minutes per 25mm for sand, which not been met. This issue has not been raised in either the grounds of appeal or by the PA. The submission from the observer raised the impact of the wastewater on the reservoir. I note the location of reservoir in the opposite direction from the groundwater flow. This aside, having regard to the substantive reason for refusal above I do not consider it necessary to request additional information on this matter.

### 7.39. Appropriate Assessment

The site is located c. 2.2km to the northeast of the River Boyne and River Blackwater SAC (002299) and c. 3km to the north of the River Boyne and River Blackwater SPA (004232) conservation objective of each of these areas are listed below:

European Site	Qualifying Interest	Conservation Objectives
River Boyne and River Blackwater SAC (002299)	[7230] Alkaline Fens [91E0] Alluvial Forests* [1099] River Lamprey (Lampetra fluviatilis) [1106] Atlantic Salmon (Salmo salar) [1355] Otter (Lutra lutra)	To maintain the favourable conservation condition of Alkaline fens and Otter (Lutra lutra) in River Boyne and River Blackwater SAC,  To restore the favourable conservation condition of Atlantic Salmon (Salmo salar), River Lamprey (Lampetra fluviatilis) and Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)*in River Boyne and River Blackwater SAC,
(004232)	Kingfisher (Alcedo atthis) [A229]	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

The River Boyne is located c. 2.2km to the south of the site and is separated by the urban area of Drogheda. A potential pathway could be via groundwater, although having regard to the distance of the SAC and the location of Drogheda town, I do not consider any contamination from groundwater would have any effect on the River Boyne and Rice Blackwater conservation objectives.

In relation to the SPA's, I note the Kingfisher is listed as the species of qualifying interest and there is no direct connection to the site. The site is used as agricultural, and no habitats are identified which are necessary to support those species of interest in the River Boyne and River Blackwater SPA.

Having regard to the nature and scale of the proposed development, the information on the file and the nature of the receiving environment, no appropriate assessment

issues arise. It is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on any European Site.

## 8.0 Recommendation

8.1. I recommend that planning permission should be **refused** for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

1. The site is located along the south of an area designated in the current Louth County Development Plan 2021-2027 as an Area of High Scenic Quality (AHSQ) by reason of its landscape quality. The site is also in an area under significant pressure from one-off rural housing, evident by the high number of one-off dwellings along Kearney's Lane. It is considered that this section of the rural environment, along the south of Kearney's Lane, has retained its scenic landscape. The policies and objectives of the Louth County Development Plan 2021-2027, namely Policy Objective HOU 42, require rural dwellings to integrate into the local landscape and not erode the rural character of the area in which it would be located. It is considered that the construction of a house on the site would be visible from the AHSQ, the surrounding area, and would result in the creation of a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape and would, therefore, be contrary to the proper planning and sustainable development of the area

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Karen Hamilton  
Senior Planning Inspector

04<sup>th</sup> of April 2022