



An
Bord
Pleanála

Inspector's Report

ABP-312460-22.

Development

Construction of a detached dwelling with a detached garage; a new vehicular entrance to site; new site boundaries; a waste wastewater treatment system; percolation area; and all associated site development works and services.

*Significant Further Information Submitted.

Location

Killincoole, Readypenny, Dundalk, Co. Louth.

Planning Authority

Louth County Council.

Planning Authority Reg. Ref.

21528.

Applicant

Emily Kerr.

Type of Application

Planning Permission.

Planning Authority Decision

Grant with conditions.

Type of Appeal

Third Party.

Appellant

Martin Halpenny.

Observer(s)

None.

Date of Site Inspection

16th day of April, 2022.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The appeal site has a stated site area of 0.224ha and it consists of part of an agricultural field that is located at its south westernmost end with part of its eastern boundary adjoining a substandard in width and alignment lane (L-11781-0) that at this point is poorly surfaced. The site at its nearest point is c86m back from this lanes entrance onto the Darver Road (L-1178). This lane serves six dwellings and the aforementioned agricultural field that appears historically to have been used for grazing. The site is 850m, by road, from the centre of Darver village which lies to the south east. The site is also located c440m, by road, to the south east of the Darver Road's intersection with the Dundalk Ardee Road (N52) which lies to the west of the site. The site is located c10km to the north east of the centre of Ardee and c9.5km to the south west of Dundalk, in the rolling drumlin landscape of County Louth.

2.0 Proposed Development

- 2.1. Planning permission for development that will consist of a two-storey dwelling (Note: 230m²) with a detached garage (Note: 24m²), a new vehicular entrance to site, onto an existing lane, new site boundaries, a waste wastewater treatment system, percolation area together with all associated site development works and services.
- 2.2. Significant Further Information was received by the Planning Authority on the 23rd day of November, 2021. This included a revised design of the proposed dwelling which included a reduction in its ridge height from 8.65m to 7m; a landscaping plan; a Traffic Survey; SuDS Water Drainage Report; additional foul water drainage details and measures; and, relocation of the site entrance to the south of its previously proposed position on the lane-side boundary.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 15th day of December, 2021, the Planning Authority decided to grant planning permission subject to 8 no. conditions including:

Condition No. 2: Occupancy restriction.

Condition No. 6: Transportation requirements.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **final Planning Officer's report**, dated the 10th day of December, 2021, is the basis of the Planning Authority's decision. This report considered that the applicant had satisfactorily addressed the further information request and that all outstanding matters could be dealt with by way of condition. The Planning Officer considered that the redesigned dwelling house and the improved landscaping scheme to be acceptable. They also considered that the overall proposed development, as revised, raised no undue amenity, traffic safety and public health concerns. This report concludes with a recommendation to grant permission subject to conditions.

The **initial Planning Officers report**, dated 16th day of June, 2021, concluded with a further information request. The items to be addressed under this recommended request are summarised as follows:

- Item No. 1: Sought a revised dwelling design.
- Item No. 2(a): Requires a comprehensive landscaping scheme.
- Item No. 2(b): Requires demonstration by way of traffic surveys that a relaxation of sightlines may be possible on this private laneway.
- Item No. 2(c): Seeks a number of drainage details.
- Item No. 3: Requires the applicant to address the additional information request of the Environmental Compliance Section.
- Item No. 4(a): Seeks improved sightlines on the junction of the public road and private laneway.
- Item No. 4(b): Proof of permission from landowners to make the required modifications to achieve sightlines.
- Item No. 4(c): Requires a revised site layout.
- Item No. 4(d): Relates to previous subsection and the provision of proof of consent of any landowners affected by these works.
- Item No. 5: Revised public notices.

3.3. Other Technical Reports

Infrastructure: Final Report (25/11/2021) raised no objection, subject to inclusion of recommended conditions.

Environment: Final Report (6/12/2021) raised no objection, subject to inclusion of recommended conditions.

3.4. Prescribed Bodies

3.4.1. None.

3.5. Third Party Observations

3.5.1. A number of Third-Party Observation were received during the course of the Planning Authority's determination of this application including further observations made on foot of the applicant's further information submission. These raise several concerns ranging from over development of the lane, the applicants failure to redesign the proposed dwelling to two-storey as requested, the capacity of the lane to safely accommodate the additional traffic this proposed dwelling would give rise to and the additional issues of intensification of this lane onto the public road where sightlines are restricted in both directions and the maximum speed limit applies, the visual overbearance of the design, the diminishment of established residential amenities of properties in the vicinity, drainage and public health relates issues.

4.0 Planning History

4.1. Site – Recent & Relevant

4.1.1. None.

4.2. Setting – Recent & Relevant

4.2.1. No recent and/or relevant Board decisions in the visual context of the site setting.

5.0 Policy & Context

5.1. Development Plan

- 5.1.1. The Louth County Development Plan, 2021-2027, came into effect on the 11th day of November, 2021. Under Map 3.1 of the said plan the site is located in a rural area under urban influence (Rural Category 1) and under Map 3.2 the site is located within Rural Policy Zone 2 land, i.e., an 'Area Under Strong Urban influence'. Under Map 3.1 the site forms part of a rural area identified as under urban influence.
- 5.1.2. Applicants for one-off dwellings in Rural Policy Zone 2 are required to meet the qualifying criteria set out in Table 3.5 of the said Plan.
- 5.1.3. 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"*.
- 5.1.4. 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"*.
- 5.1.5. Section 13.9.5 of the Development Plan deals with the matter of ribbon development.
- 5.1.6. 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'"*.
- 5.1.7. Section 13.20.3 of the Development Plan deals with domestic wastewater treatment systems 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"*.

- 5.1.8. 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”.
- 5.1.9. Section 13.16.17 of the Development Plan deals with the matter of entrances and sightlines.
- 5.1.10. Table 13.13 of the Development Plan sets out the requirements for entrances onto various categories of roads and for local roads requires a sightline of 75m from a 3m setback from the edge of the carriageway.
- 5.1.11. Section 13.19 of the Development Plan deals with the matter of Heritage.

5.2. Regional Spatial Economic Strategy – Eastern & Midland Region, 2019-2031.

- 5.2.1. RPO 4.80 sets out that Local Authorities shall manage urban growth in rural areas under strong urban influence by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstratable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.3. National

- 5.3.1. **National Planning Framework – Project Ireland 2040, Department of Housing, Planning and Local Government, (2018):** Of relevance to this appeal case is National Policy Objective 19. This national policy objective refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence i.e., commute catchment of cities and large towns and centres of employment. This will be subject to siting and design considerations. In all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitely demonstrate that the proposed development will not have an adverse impact on water quality and requirements set out in EU and national legislation and guidance documents.
- 5.3.2. **Sustainable Rural Housing Guidelines, (2005):** The overarching aim of the Guidelines is to ensure that people who are part of rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures. To ensure that the needs of rural communities are identified in the

development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated. Of relevance to this appeal case is that the site is located in an area classified as an under **Strong Urban Pressure**. Section 3.3.3 of these guidelines deals with 'Siting and Design'.

5.3.3. **Code of Practice** – Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021.

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

5.4. **Natural Heritage Designations**

5.4.1. None within the zone of influence of the project sought under this application. However, of note c384m to the south west of the site is pNHA: Darver Castle Woods (Site Code: 001461).

5.5. **EIA Screening**

5.5.1. The proposed development is of a class but substantially under the threshold of 500 units to trigger the requirement for submission of an EIAR and carrying out of EIA. Having regard to nature, scale, and extent of the proposed development, which consists of the construction of a dwelling, garage, entrance, wastewater treatment system, well and associated site works of significant effects on the environment arising from the proposed development. In addition, there are no features of ecological importance nor does the site have any hydrological connectivity to any Natura 2000 site. Based on these considerations, the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

5.6. **Built Heritage**

5.6.1. The site is located within the vicinity of several Recorded Monuments including the following which I note are situated c380 to 470m to the south of the site:

- LH02734 (Classification: 'GATH').
- LH02733 (Classification: 'BAWN').
- LH01053 (Classification: 'TOHO').

- LH01054 (Classification: 'SOUT').
- LH01055 (Classification: 'CHUR').
- LH02283 (Classification: 'GRAV').

5.6.2. The site is located with the vicinity of several Protected Structures/NIAH Sites including the following which are situated c570/580m to the south east:

- Darver National School.
- Saint Michael's Catholic Church.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The Third Party's grounds of appeal submission can be summarised as follows:

- The lane serving this site has been subject to significant applications for similar developments in recent times.
- The scale of the house is out of character with the existing houses on the lane.
- The granting of permission on the lane would intensify an already unsafe junction onto the Darver Road. The applicant was requested to improve sightlines at this junction by way of further information and did not do this.
- The applicant has been unable to secure permission to improve sightlines at this junction.
- Sightlines onto the L1178 are inadequate at less than 20m. This junction is not suitable to accommodate any further intensification.
- The L1178 is subject to the operational posted speed limit and sightlines required for this speed limit has not been demonstrated.
- A speed survey of the L1178 should have been carried out.
- Drainage concerns are raised.
- The expert who carried out the percolation tests on site did not know the correct EPA Code of Practice in place.

- All items of the applicant's further information were not addressed.

6.2. Planning Authority's Response

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

- The concerns raised in this appeal submission have already been considered in the Planning Officers reports.
- There was sufficient information provided by the applicant in their further information response to make an informed decision.
- It is acknowledged that incorrect reference was made to the EPA Code of Practice, 2009, in the Environmental Sections referral report; however, Condition No. 5 of the Planning Authority's notification to grant permission correctly refers to the updated EPA Code of Practice, 2021.
- The Board is requested to uphold its decision.

6.3. Applicants Response

6.3.1. The First Party's response can be summarised as follows:

- The appellant's appeal is without substance and does not raise any significant objection to the proposed development that was not comprehensively considered and dismissed by the Planning Authority.
- The proposed development is compliant with local through to national planning provisions.
- The applicant meets the qualifications for a dwelling house under 'Category 2' of the previous Development Plan. The equivalent to this category under the recently adopted Development Plan is 'Category 4' which it is contended they meet the qualifications criteria of.
- The applicant has a rural generated housing need not an urban generated one.
- The applicant's family has deep historical ties to the surrounding townland and rural area with extended family living in close proximity to one another.

- The applicant has lived and grown up in the Killincoole area and the appeal site is located approximately 600m from their family home.
- The applicants' parents have become increasingly more reliant on her for practical, physical and social support whilst facilitating their independent living for as long as possible.
- The applicant contributes to local community life.
- The applicant has no desire to live in a settlement.
- This development supports and sustains vibrant rural communities.
- The appellant has not supported their traffic claims and concerns by data or evidence.
- It is inaccurate of the appellant to consider that they have disregarded Item No. 4(a) of the Further Information Request. The applicant engaged with the Planning Authority's Senior Roads Engineer in their preparation of their response.
- Recent works have been carried out on the lane by the Council and this gives a reasonable indication that the lane is not a private lane as these works were not paid for by the residents along it.
- A Road Safety Audit or Speed Survey is not required in this context.
- The appellant has not made similar traffic objections for other recent proposed dwellings on this lane.
- The domestic traffic increase would be excessive or dangerous in its volumes. The proposed development, therefore, would not adversely impact upon the safety of other road users or create a hazard along the lane or Darver Road.
- Without the consent of land or property owners it is often difficult to prepare accurate site surveys and layout maps showing the precise location of wells or septic tanks.
- It is unclear where the appellants septic tank is located within their property boundary, but the proposed percolation area is located in excess of the 10m requirement of the western boundary and therefore is compliant with the EPA's minimum requirement.

- This development would be compliant with the EPA Code of Practice, 2021, and the requirements set out under Condition No. 5 of the Planning Authority's notification to grant permission.
- The proposed infrastructure is not in position of a type that could threaten or diminish the quality of water available to the appellants or other properties.
- The appeal site is not located within a visually sensitive landscape and the proposed dwelling would sit within a well-defined small cluster of contrasting in style and built form dwellings.
- This development would not give rise to undue adverse residential amenities due to the separation distance between the proposed dwelling and properties on adjoining and neighbouring land.
- The height of the dwelling is modest and would not be physically excessive or visually conspicuous in its context.
- The revised landscaping includes site appropriate boundary treatments.
- It is requested that the Board uphold the Planning Authority's decision.

6.4. Observations

6.4.1. None.

7.0 Assessment

7.1. Overview

- 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 those raised by the appellant in their appeal submission to the Board. I also consider it prudent that consideration is also given to whether the applicant has demonstrated that they qualify for a rural dwelling house at this rural location as is contended that they do in their response to the grounds of appeal.
- 7.1.2. I therefore do not consider this to be a new issue in this appeal case and such examination is the principal matter that requires applications for such developments

to demonstrate so should form part of the Boards *de novo* consideration of the proposed development sought under this planning application now subject to a Third-Party Appeal on a number of planning grounds.

7.1.3. I propose to consider these in the context of my assessment under the following broad headings:

- Principle of the Proposed Development
- Traffic
- Amenity Impact
- Drainage
- Other Matters Arising

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

7.1.5. For clarity the applicable Development Plan in place at the time the Board is carrying out its *de novo* assessment of the proposed development sought under this application is the Louth County Development Plan, 2021-2027, and there is no legislative provision that would allow the Board to consider the proposed development under local planning provisions that have expired.

7.1.6. I also consider it appropriate to make comment on the applicant's contention that the Third Party's appeal submission to the Board is without substance. On this note having examined this submission I consider that the appeal submission raises valid planning concerns, and the Board should determine it as a valid appeal.

7.2. Principle of the Proposed Development

7.2.1. The Louth County Development Plan, 2021-2027, 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.

7.2.2. The applicant's response to this Third-Party Appeal together with the additional documentation accompanying this response contends that they qualify for a rural dwelling house on this Rural Policy Zone 2 zoned land under Criteria 4 of Table 3.5 of the Development Plan. This table sets out the qualifying criteria for Rural Policy Zone 2 land and in relation to Criteria 4 states:

“a person who is seeking to build their first house in the area and has a demonstratable 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”.

- 7.2.3. The documentation provided with this application and on appeal whilst demonstrating that the applicant has social ties and a desire for a one-off dwelling in this rural locality as opposed to need for a dwelling in this location crucially does not robustly demonstrate that in recent years there is sufficient information to tie her residence to this rural locality and with this going back the required 18 years. It is not uncommon for bank accounts to be maintained for security reasons to the family home through to the statement provided in relation to the matter of owning or sold a residential property is not in the form of an affidavit.
- 7.2.4. It is unclear where the applicants and her spouse place of employment and there is no evidence to suggest that it is within this rural area.
- 7.2.5. There is no specific, quantifiable and/or robust social need justification provided by the applicant to have a dwelling at this particular rural location, on speculative land, that cannot be met more sustainably elsewhere provided on file. Including in nearby settlements including villages and towns that can more absorb such developments in a manner that is consistent with local, regional and national planning provisions. At such locations this type of proposed development has less potential for adverse visual, environment to arise. Through to less unsustainable economic demands on public infrastructure and services. Including on what I observed to be the heavily trafficked network of public roads in the vicinity of the site, including Darver Road, upon which this site would be dependent.
- 7.2.6. A road network where it is evident in my view that the proliferation of this type of development diminishes its safe operational efficiency through to the cumulative wear and tear from traffic that arises from such developments which gives rise to additional maintenance costs, particularly given that the substandard in width and surface lane serving the site opens onto the Darver Road. At a point where the road has a curving

meandering alignment, where the sightlines are limited, and where the maximum posted speed limit applies.

- 7.2.7. Based on an examination of the eight criteria set out under Table 3.5 of the Development Plan and the documentation provided by the applicant on file to demonstrate that they qualify for a rural dwelling house at this rural location. The applicant has not demonstrated by way of robust evidence that they satisfy any of these criteria, including Criteria 4, to qualify for a rural dwelling on land zoned Rural Policy Zone 2.
- 7.2.8. I draw the Boards attention to policy objective HOU 41 of the Development Plan which 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 3.5.
- 7.2.9. 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.
- 7.2.10. 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.
- 7.2.11. 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.
- 7.2.12. In relation to locations identified as being under strong urban influence the National Planning Framework, National Policy Objective 19, requires developments like this to demonstrate a functional economic or social requirement for housing need in areas under urban influence. With this being stated as a necessity.

- 7.2.13. It also indicates that such applications shall be also subject to siting as well as design considerations and as considered in the assessment below there are other significant issues in relation to the proposed development sought under this application. Including further proliferation of car dependent residential developments on un-serviced land remote from services, amenities and other land uses synergistic to residential development.
- 7.2.14. Whilst the applicant appears to have a desire as opposed to a need to live in this rural and sets out that they are opposed to living in a settlement this in itself does not override the public good necessity for such applications to meet local through to national planning provisions. These provisions seek to safeguard such rural locations from the proliferation of what is essentially a type of development that planning provisions seek to channel to appropriate serviced land within settlements where they can be more sustainably absorbed whilst safeguarding the rural environment from further diminishment of its character and predominant rural land use based function, i.e. agriculture.
- 7.2.15. In keeping with this I note that 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. In addition, National Policy Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development as well as at an appropriate scale of provision relative to location.
- 7.2.16. 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. This includes but is not limited to Darver, Castlebellingham, Dromskin, Ardee through to the larger settlement of Dundalk. These settlements may arguably be closer to the applicant and their spouses places of employment. At such locations dwellings are less reliant on use of private vehicles which in turn results in a more climate resilient residential development.
- 7.2.17. In addition within the boundaries of such settlements such developments are unlikely to result in significant diminishment. Whereas this proposal seeks to exacerbate a type of development that is not supported by the Development Plan, i.e. one-off rural dwellings where there is no demonstratable social and/or economic need, in an area

that is significantly overdeveloped with one-off dwellings that is in a rural location under strong urban influence.

- 7.2.18. Therefore, to permit the proposed development sought under this application where a genuine demonstratable economic and/or social reason for such a development has not been demonstrated would be contrary to Policy HOU 41 of the Development Plan. It would also result in a haphazard and unsustainable form of development in an unserved area, it would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment that is sensitive to change, and it would give rise to inefficient and unsustainable provision of public services and infrastructure at remote from settlement locations. Further, it would also undermine the settlement strategy set out in the Development Plan that seeks to direct this type of development to appropriately zoned land within settlements. For these reasons the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area. This is reason in itself for the development sought under this application to be refused.

7.3. Traffic

- 7.3.1. The appellant considers that the proposed development would give rise to road traffic and safety issues, particularly in terms of intensification of the access from the L-11781-0 Lane onto the Darver Road (L1178-0). An access where the required sightlines are inadequate to cater for the safe turning movements of vehicles entering and exiting this lane from the Darver Road at a point where the Darver Road is subject to the maximum posted speed limit and has a curving alignment.
- 7.3.2. I am cognisant that as part of the further information the Planning Authority sought improvements to the proposed access serving the proposed development onto the lane and improvements to the sightlines from the lane onto the Darver Road.
- 7.3.3. Notwithstanding, the documentation on file including the applicants further information response and their response to the grounds of appeal indicate that the private land upon which improvements could be made to achieve improved sightlines from the lane onto Darver Road are outside of the applicants legal interest and it would appear that there is no consent forthcoming from the landowners on either side of this junction for the needed modifications.

- 7.3.4. I am not convinced that the lane junction is one that can safely accommodate additional traffic movements associated with its intensification of use particularly in the case where maximum posted speed limit of 80kmph applies and also where the applicant has demonstrated failed to demonstrate compliance with the rural settlement strategy for a one-off dwelling at this location. This I observed to be the case for the existing users of the lane during my inspection of the site and its setting. I also observed that traffic on the adjoining stretch of the Darver Road at the point as well as in the vicinity of the lane's entrance onto it were at speed and many vehicles were journeying in a dangerous manner by centrally positioning their vehicles journey path. There are no central road markings in the vicinity of the entrance.
- 7.3.5. Of particular concern is the sightlines in a westerly direction. These are practically non-existent and I observed users of the lane positioning their vehicles towards the entrance side to exit onto the Darver Road.
- 7.3.6. This position is the opposite side of the entrance where they should position their vehicle to exit onto the Darver Road, but the entrance is unsafe to do otherwise. Inevitably at some point in time this would result in conflict with road users entering into the lane, in addition to the potential conflict that already exists from the lack of adequate sightlines, for road users from vehicles entering and leaving the lane.
- 7.3.7. In addition, as previously noted in this assessment the lane itself is substandard in its width and surface. Along its length it already serves several one-off dwellings and a vernacular single storey semi-detached cottage. This proposal puts forward no improvements to the section of lane immediately adjoining it which is extremely poor surfaced.
- 7.3.8. Based on the above consideration and in the absence of any improvements of the lane and its access onto the Darver Road, despite the low additional volume of traffic that the proposed development would give rise to, I am not satisfied that cumulative increased use of this lane and its junction with the Darver Road would not be contrary to the proper planning and sustainable development of the area due to the road safety and traffic hazard concerns raised above as well as the additional potential for conflict to arise for existing road users. I therefore do not concur with the Planning Authority in its conclusions on this matter.

7.4. Amenity Impact – Visual & Residential

- 7.4.1. In terms of visual impact, I consider that the redesigned dwelling and improved landscaping is generally acceptable and would not be out of character with the variety of dwellings present along this lane or in the vicinity. Standard conditions could achieve a level of improvements to both in terms of quality of materials through to some reinforced tree planting in the proximity of the boundaries given the rolling drumlin character of this landscape. The visibility of a 7m ridge height dwelling would at this point have from the N52 and from the Darver Road.
- 7.4.2. In terms of residential amenity there is ample separation distance from the dwelling and properties in its vicinity. In particular, neighbouring and adjoining properties on this lane.
- 7.4.3. Overall, I consider that there is no substantive reason to refuse the proposed development sought on visual and residential amenity grounds.

7.5. Drainage

- 7.5.1. In relation to the drainage concerns raised by the appellant in their appeal I note that Policy IU 18 of the Development Plan is an overarching policy objective that seeks that private waste water treatment systems comply with the recommendations contained within the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent ≤ 10 (2021) and it is set down under Section 10.2.3 of the Development Plan which deals with the matter of on-site waste water treatment systems.
- 7.5.2. In addition to Policy Objective IU 18, Section 10.2.3 of the Development Plan under Policy Objective IU 16 states: *“to require that proper supervision, installation and commissioning of on-site wastewater treatment systems by requiring site characterisation procedures and geotechnical assessment be carried out by competent professionally indemnified and suitably qualified persons”* and Policy Objective IU 17 states: *“to require that the construction and installation of all wastewater treatment systems are supervised and certified by a suitably qualified competent person as fit for the intended purpose and comply with the Councils requirements”*.
- 7.5.3. The Planning Authority’s Environmental Section report, though referring to an EPA Code of Practice that has now been superseded raised no concerns and there is a

standard but nonetheless robust drainage condition provided in the Planning Authority's notification to grant permission under Condition No. 5 which clearly sets out that compliance with the EPA Code of Practice: Wastewater Treatment and Disposal Systems serving Single Houses, 2021, is required. This is the applicable Code of Practice for this type of development.

- 7.5.4. This application is not accompanied by any demonstration that a safe and sustainable water supply can be provided to serve the proposed dwelling sought under this application and its future occupants. Nor is there sufficient information that show if the proposed development were to be permitted that allays concerns that there would be no potential risk of it being prejudicial to public health or that it would not give rise to diminishment of ground water quality in this area with the dwellings in the vicinity appearing to be dependent upon bored wells.
- 7.5.5. The Site Characterisation Form clearly sets out a number of concerns with regards to ground water in this area. This is particularly evident in Section 2 which sets out the Aquifer Category as Poor; the Vulnerability as being High through to the Ground Protection Response being 'R1'. With Section 3 indicating that there are 7 dwellings and the Louth GAA Centre of Excellence within 250m of the site. There are also drainage ditches present in the vicinity of the site with Section 3 indicating that there is one within 50m.
- 7.5.6. This I note lies alongside the easternmost boundary of the residential property directly opposite the site served by the same lane.
- 7.5.7. This section of the Site Characterisation Form also indicates that potential targets are groundwater, wells and surface water if separation distances are not met. The trial holes met the water table at 2m, and this was evident at the time of my site inspection as these were upon and there was water within them despite the relatively dry winter and weather in the weeks prior to my inspection of the site. An average T-test result of 15 and an average P-test of 74.67 is indicated. This report concludes that the site is suitable for a secondary treatment system based on Table 6.3 of the EPA Code of Practice 2009.
- 7.5.8. I note that as part of the Further Information Response that it is indicated that the wastewater treatment system will comply with the 2021 Code of Practice with this work to be carried out under the supervision of installer with the required professional skills

and experience. Indication of this installer is provided as is their QQ1 Award and Professional Insurance Indemnity.

7.5.9. In addition to the high-water table observed on site I note that the watercourse referred to in the Site Characterisation Report adjoins the recently constructed dwelling to the south east of the site that is served by entrance onto the end of the cul-de-sac lane and that it wraps around the eastern and southern perimeters of this neighbouring property and runs along the southern boundary of the field this site forms part of and along this route appears to occupy lower ground levels to that of the site. There is also a recently constructed dwelling house also constructed on this field. With this situated to the south east of the site itself.

7.5.10. I note that the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of Environment, Heritage and Local Government 2005 which recommend, in un-serviced rural areas, advocates avoidance of sites where it is inherently difficult to provide and maintain wastewater treatment and disposal facilities.

7.5.11. I am not satisfied on the basis of the information on file, having visited the site and the absence of any groundwater risk assessment, that the impact of the proposed development when taken in conjunction with existing wastewater treatment systems in the area, would not give rise to a risk of groundwater pollution in an area highly dependent on private wells for their potable water supply. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

7.6. Other Matters

7.6.1. **Archaeology:** Given the presence of several Recorded Monuments within the vicinity of this site and within the wider setting and based on the precautionary principle should the Board be minded to grant permission I recommend that a standard archaeological condition is imposed to safeguard any potential below surface archaeological features of potential interest and merit.

7.6.2. **Noise:** The site is within close proximity to the N52 which lies to the west of the site and given this proximity together with the landform the site is one that is unfortunately one that there is an elevated level of noise which has the potential to give rise to nuisance for future occupants. The Board should it be minded to grant permission

may wish to consider a condition that ensures that the proposed dwelling is built in a manner that suitably abates such noise from within the interior spaces of the dwelling so as to ensure qualitative amenity for future occupants.

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 permission be **refused** for the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the location of the site within an 'Area Under Strong Urban Influence' as identified in the Sustainable Rural Housing Guidelines for Planning Authorities, issued by the Department of the Environment, Heritage and Local Government in April 2005, and in the Louth County Development Plan, 2021-2027, by way of its Rural Policy Zone 2 – 'Area Under Strong Urban influence' where housing is restricted to persons demonstrating local need in accordance with the Table 3.5, it is considered that the applicant does not come within the scope of the housing need qualifying criteria for a rural one-off dwelling house at this location.

For this reason, the proposed development is inconsistent with Policy Objective HOU 41 of the said Development Plan which seeks to manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with the local needs qualifying criteria for the rural policy zone applicable to the site in which the rural dwelling house is proposed.

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.

It is therefore considered that 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, and it would also militate against the preservation of the rural environment of this locality.

In such rural settings where there is no demonstratable economic or social need demonstrated such residential developments are 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. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a substandard in width, surface cul-de-sac lane and its substandard entrance onto the Darver Road (L1178) at a point of this road where sightlines are restricted in both directions.
3. Notwithstanding the proposal to use a proprietary wastewater treatment system on site, the Board had regard to the presence of the water table within the trial hole at a shallow level on site, to the proliferation of domestic wastewater treatment systems in this rural area, the fact that that groundwater in the area is classified as highly vulnerable and that the proposed and existing dwellings in the area are highly dependent on groundwater as a source of water supply, and to the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of Environment, Heritage and Local Government 2005 which recommend, in un-sewered rural areas, avoiding sites where it is inherently difficult to provide and maintain wastewater treatment and disposal facilities. The Board could not be satisfied, on the basis of the information on the file, that the impact of

the proposed development in conjunction with existing wastewater treatment systems in the area would not give rise to a risk of groundwater pollution. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

19th day of April, 2022.