



An  
Bord  
Pleanála

## Inspector's Report ABP-312470-22

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<b>Development</b>	House with detached garage, wastewater treatment system and associated site works.
<b>Location</b>	Clonturk (Mason), Carrickmacross, Co. Monaghan.
<b>Planning Authority</b>	Monaghan County Council
<b>Planning Authority Reg. Ref.</b>	21500
<b>Applicant(s)</b>	Eamon Kirk and Martina Baldwin.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Eddie and Laura Walsh and Shane Coyle and Sarah Poucher.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	16 <sup>th</sup> May 2022.
<b>Inspector</b>	Barry O'Donnell

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.3ha and is located in the townland of Clonturk, approx. 3.5km south of Carrickmacross. The site forms part of a larger agricultural field and consists of a parcel at its north-east corner. The field falls from south to north and also from east to west, to a low point at the north-west corner. It is accessed from the L4922.
- 1.2. The site is located in area that has a rural character, containing a mix of primarily rural houses and agricultural land. There is a detached farmhouse to the east and its associated farmyard is approx. 200m to the south, accessed by a stone track that routes adjacent to the east site boundary. There is a further detached house to the west, approx. 80m from the site.
- 1.3. The site is bounded by a mix of mature hedgerows and trees along the east and north site boundaries and is currently open along the south and west boundaries.

## 2.0 Proposed Development

- 2.1. The proposed development entailed within the public notices comprises the construction of a single storey house, detached garage, wastewater treatment plant and percolation area, boundary fencing, new entrance and associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority granted permission on 23<sup>rd</sup> December 2021, subject to 10 No. conditions.
  - Condition 2a required payment of a financial contribution of €1,825 in accordance with the S48 Development Contribution Scheme.
  - Condition 3a required submission of revised drawing to indicate the exact location of a proposed retaining wall, for agreement with the planning authority.
  - Condition 4a required the provision of visibility splays of 2.4m x 90m in both directions from the site entrance, measured to the nearside road edge.

- Condition 7(a) required implementation of planting proposal prior to occupancy of the house
- Condition 7(c) required retention of reinforcement of trees and hedgerows on the site, save for those required to be lowered or removed as part of visibility sightlines.

## 3.2. Planning Authority Reports

3.2.1. An undated planning report and a report dated 17<sup>th</sup> December 2021 have been provided. The first report states that the site is located in a Category 1 Area Under Strong Urban Influence, where housing proposals must comply with criteria outlined in policy RSP 2 of the development plan. Having considered compliance documentation submitted with the application, the report expresses satisfaction that compliance with RSP2 has been demonstrated. Concerns are expressed regarding the proposed layout, with respect to the level of the house above the adjacent public road and the location of the garage. The report also notes that part of the site entrance falls outside the application site red line boundary. Additional information is recommended in relation to the following: -

- Applicant to submit revised site layout with all of the proposed site entrance contained within the application site.
- Applicant to submit revised site layout drawing, indicating the house relocated a minimum 10m north-east.
- Applicant to submit a revised site layout drawing, indicating the garage relocated a minimum of 5m from the eastern boundary and to provide details of any retaining structures required in this area.
- Applicant to submit a cross section drawing, showing section details in a north-south direction.
- Applicant to submit revised elevation drawings, depicting an alternative front elevation to reduce the width of the gable/apex projection.
- Applicant to submit revised landscaping proposals, providing additional landscaping along the east/north-east boundary to supplement the existing hedge.

3.2.2. The second report followed the additional information response and followed a further period of public consultation, following the submission of significant additional information. The report summarises and responds to the AI response and submissions received and recommends that permission be granted subject to 10 No. conditions, which are consistent with the Planning Authority's decision.

### 3.2.3. Other Technical Reports

An **Environmental Health Officer** report dated 23<sup>rd</sup> September 2021 has been provided, which expresses no objection subject to recommended conditions.

A **Municipal District Engineer** report dated 12th October 2021 has been provided, which expresses no objection subject to recommended conditions. Of note, recommended conditions include a requirement for sightlines of 2.4m x 90m in both directions and a request for a contribution of €2,250 which is intended to ensure satisfactory completion of all surface water drainage/boundary work, to prevent surface water draining onto the roadway or damage to the roadway.

## 3.3. Prescribed Bodies

3.3.1. The Planning Report indicates no prescribed bodies were consulted on the application.

## 3.4. Third Party Observations

3.4.1. A number of third-party submissions were received, the issues raised within which can be summarised as follows: -

- Traffic and road safety
- Site prone to waterlogging
- Flooding
- Impact on adjacent lands including farm access
- Overlooking of neighbouring property
- Noise nuisance
- Site planning history

- Impact on landscape and biodiversity

3.4.2. A number of additional submissions were received during a further period of public consultation, following the submission of significant additional information. New issues raised within these submissions can be summarised as follows: -

- Lack of information regarding proposed retaining structures
- Proposals that would restrict sunlight to neighbouring property, arising from landscaping on the site, are objected to.
- Revised location for proposed house would further reduce privacy for neighbouring occupiers
- Concerns regarding the pattern of development in the area, which is leading to urbanisation.

## 4.0 Planning History

**96/152** – Outline permission refused to Patrick Mackin for the construction of a house.

### Relevant nearby planning history

**07/731** - *Lands to the west within field*: Permission refused on 1<sup>st</sup> June 2007 to Ken Mackin for the construction of a two-storey house, garage, WWTP and associated site works.

**06/2039** - *Lands to the west within field*: Permission refused on 2<sup>nd</sup> February 2007 to Ken Mackin for the construction of a two-storey house, garage, WWTP and associated site works.

**06/1026** – *Lands to the west adjacent to field*: Permission granted on 13<sup>th</sup> December 2006 to Ken Mackin for the construction of a two-storey house, garage, WWTP and associated site works. Permission was subsequently granted for amendments to the development, under Reg. Ref.08/26, to Laura Morgan and Edmond Walsh.

## 5.0 Policy Context

### 5.1. Monaghan County Development Plan 2019-2025

5.1.1. The site is in a rural, unzoned part of County Monaghan.

5.1.2. The Core Strategy Map, Map 2.1, identifies that the site is in an 'area under strong urban influence.' Section 2.8.1 states that these areas under strong urban influence exist around the towns of Monaghan, Carrickmacross, Castleblayney and Clones. Planning applications for single dwellings in these areas must comply with the criteria outlined in Policy RSP 2 and should be accompanied by a completed Rural Housing Application Form (Appendix 15). Policy RSP 2 states: -

**RSP 2:** Applications for single dwellings in these areas will only be permitted where the development complies with one of the following;

- a) The applicant is a landowner, or where the dwelling is for a member of his / her immediate family.
- b) The dwelling is for an individual who has lived in the local rural area for a minimum period of 5 years prior to the date of submission of a planning application.
- c) The dwelling is required to meet the needs of a person working in an established rural based agricultural, commercial, industrial or other enterprise in the local area, where the person derives his/her main income from that activity, or by a member of his / her immediate family. Such circumstances may also include other persons whose work is intrinsically linked to the local rural area (such as teachers in rural schools).
- d) The dwelling is to facilitate a retiring farmer, where the applicant last worked principally as a farmer in the local area, or by a widow or widower of someone who last worked principally as a farmer in the local area.
- e) The dwelling is required to facilitate site-specific and compelling special domestic or personal circumstances, where genuine hardship would result if planning permission were refused. In these circumstances the onus will be placed on the applicant to justify why other alternative solutions, such as a house extension, granny flat or mobile home, cannot be considered.

- f) The dwelling is to replace an existing dwelling, where the dwelling to be replaced; was in use or last used as a dwelling; has not been changed to a dwelling from another use without planning permission; has not been vacant for a period in excess of 10 years prior to the date of submission of a planning application; exhibits all the essential characteristics of a habitable dwelling house and is reasonably intact.
- g) The sympathetic change of use of a protected structure or a non-protected vernacular building (where the building is an important element in the landscape or of local architectural or historic merit) into residential use, where this secures its upkeep and survival, and the character and architectural or historic interest of the building would be preserved or enhanced. Proposals for a change of use should incorporate details of all intended alterations to the building and its curtilage to demonstrate their effect on its appearance, character and setting. Improvements to protected structures will comply with policies as set out in Development Management Chapter 15 of the Monaghan County Development Plan 2019-2025.
- h) The dwelling is for an emigrant who is returning to the local area, where he/she had previously lived for a minimum period of five continuous years.

5.1.3. Other relevant rural housing policies include: -

**HSP15:** To require all applications for rural housing to comply with the guidance set out in Development Management Chapter.

**HSP16:** To ensure that rural housing applications employ site specific design solutions to provide proposals that integrate into the landscape and that respect their location in terms of siting, design, materials, finishes and landscaping.

**HSP17:** To require that new houses in the rural areas ensure the protection of water quality in the arrangements for on-site waste water disposal, ensure provision of a safe means of access in relation to road and public safety and ensure the conservation of sensitive areas such as natural habitats, the environs of protected structures and other aspects of heritage.

**HSP18:** Apply a presumption against extensive urban generated rural development, ribbon development, unsustainable, speculative driven residential units in order to

safeguard the potential for incremental growth of the towns and their potential beyond the plan period, to utilise existing physical and social infrastructure and to avoid demand for the uneconomic provision of new infrastructure.

- 5.1.4. Chapter 15 Development Management Standards contains standards and requirements that are relevant to rural housing proposals.

## 5.2. National Planning Policy Framework

- 5.2.1. National Policy Objective 19 is of relevance to the proposed development. It requires the following:

*'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'.*

## 5.3. Sustainable Rural Housing Guidelines for Planning Authorities

- 5.3.1. The Guidelines identify a number of rural area typologies and accompanying Map 1 provides an indicative outline of these area typologies. According to this indicative map, the subject site is in a 'stronger rural area'. It is noted from the Guidelines that this map is an indicative guide to the rural area types only and that the development plan process should be used to identify different types of rural area.
- 5.3.2. For stronger rural areas, the Guidelines outline that the development plan should strike an appropriate balance between development activity in smaller towns and villages and wider rural areas. The development plan should aim to strike a



reasonable balance between: (1) Accommodating proposals for individual houses in rural areas subject to good practice in relation to matters such as siting and design as outlined elsewhere in these guidelines, (2) Actively stimulating and facilitating new housing development in smaller towns and villages to provide for balanced urban and rural choices in the new housing market and (3) Carefully monitoring development trends to avoid areas becoming overdeveloped in terms of leading, for example, to extensive ribbon development.

- 5.3.3. The Guidelines require a distinction to be made between urban and rural generated housing needs, in the different rural area types. In relation to the identification of people with rural generated housing needs, the Guidelines refer to ‘Persons who are an intrinsic part of the rural community’ and ‘Persons working full-time or part-time in rural areas. Of relevance to this appeal, ‘Persons who are an intrinsic part of the rural community’ are identified as having “*spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes.*”

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

- 5.4.1. The site is not located within a European site. The closest such site is Dundalk Bay SPA (Site Code 004026) which is approx 19km east. There are a number of Proposed Natural Heritage Areas (pNHA), including: -

- Monalty Lough pNHA Ref. 001608, approx. 1.75km north,
- Lough Naglack pNHA Ref. 000561, approx. 2.1km north,
- Lough Fea Demesne pNHA Ref. 000560, approx 3.3km west,
- Spring And Corcrin Loughs pNHA Ref. 001671, approx. 3km north.

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

- 5.5.1. An Environmental Impact Assessment Screening report was not submitted with the application.

5.5.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

5.5.3. The subject development comprises a proposed house with detached garage, wastewater treatment system and associated site works, on a site of 0.3ha. It falls well below both of the applicable thresholds for mandatory EIA, as set out above.

5.5.4. In respect of sub-threshold EIA, having regard to the limited nature and scale of the proposed development, it is considered that there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

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

6.1.1. Third-party appeals have been submitted by Eddie and Laura Walsh and Shane Coyle and Sarah Poucher. The individual grounds of appeal are summarised separately as follows: -

#### Appeal by Eddie and Laura Walsh

- The field which the subject site forms part of does not have natural drainage and after heavy rain areas of surface water lie for extended periods on the lower sections
- Inadequate consideration has been given to the impact of additional buildings on the site on surrounding lands, in particular the appellants' garden which has previously experienced surface water flooding following heavy rain.
- Copies of submissions made to the Planning Authority by the appellants are provided which, in addition to flooding, express the following concerns: -

- Permission has been refused previously for development of this site and it is questioned what conditions have changed, to allow for development
- The field of which the site forms part has been sub-divided for the purposes of rural housing. This will lead to urbanisation of the area, exacerbating climate change and drainage problems in the area.
- Traffic from the site exits onto a dangerous bend.
- Development of the site will lead to noise nuisance for adjacent occupiers.

Appeal by Shane Coyle and Sarah Poucher

- Retaining wall
  - Conditions 3a, 3b and 3c of the Planning Authority's decision are open to interpretation by the applicant. The reason for the appellants' objections on the issue of the adjacent laneway was related to a need to maintain access at all times. The Planning Authority's decision, which does not require measures to be in place before construction commences on the proposed house, leaves no protection to the appellants, in the event that the retaining wall is either not installed or is defective.
- Septic tank and percolation area
  - The percolation area is at a natural low point on the site, 10.9m from the shared boundary line. The area is prone to surface water flooding in times of heavy rainfall. Locating the septic tank in this area will pose an environmental hazard. Surface water has also been observed leeching onto the L4992, which will cause a public safety concern.
  - Condition 5e of the Planning Authority's is an acknowledgement that there may be an issue with the location of the percolation area, by calling for an inspection 2 months after installation.
- Impact on appellants' home
  - Concerns were expressed in submissions to the Planning Authority regarding the visual impact of the development, given it is located on elevated ground. The revised proposed location for the house provides for overlooking of

farmlands and outbuildings and will reduce privacy and amenity for the appellants.

- Conditions 7a, 7b and 7c of the Planning Authority's decision will impact on views from the appellants' house. The hedge outside the appellants front door has been maintained at a minimal height, to allow the view be retained. Infill planting along site boundaries will enclose the appellants' property.
- The proposed house will cast a shadow over the appellants' home in evening times and, along with additional tree planting, will diminish sunlight levels within the house. This was not adequately considered by the Planning Authority.
- The subject site is part of a larger field and there are alternative locations for the house within it, which would have less impact on adjoining property.
- Permission has been refused on a number of occasions for development of the site.
- There are grounds for the Board to overturn the Planning Authority's decision to grant permission.

## 6.2. Applicant Response

6.2.1. A first party submission on the appeal was made on behalf of the applicant, by Finegan Jackson Building Surveyors. Its contents can be summarised as follows: -

- Appeal by Shane Coyle and Sarah Poucher
  - Concerns regarding the integrity of the appellants' farm access have been addressed by the application. The garage has been relocated 5m from the boundary and details of the retaining wall have been provided. The applicants are willing to further relocate the garage away from the boundary, if required.
  - The separation distance between the percolation area and the appellants' property exceeds the minimum requirements of the EPA Code of Practice and it should be noted that the percolation tests were carried out by Horizontal Environmental and a suitable underground system has been proposed and accepted by the Planning Authority. Condition No. 5 of the Planning

Authority's decision is a standard condition and is not an acknowledgement of an issue with the site.

- The site is not located within a flood zone.
- Regarding overlooking concerns, a proposed gable window at first floor level was removed, in order to improve the relationship of the development to the appellants' property. Rooflights on the rear roof plane will not overlook. Farm buildings are set away from the subject site by over 270m and are on higher ground, so there will be no loss of privacy.
- The proposed will be set behind the kitchen window of the appellants' house. Also, there is no entitlement to a view and it is noted that the existing hedge along the appellants property boundary block midday and afternoon sun.
- The proposed house is not in conflict with the Monaghan County Development Plan and there will be no loss of privacy by the proposal.
- Appeal by Eddie and Laura Walsh
  - The applicant questions the validity of the appellants' submission to the Planning Authority as there is no receipt of payment having been made at the time of submission.
  - Regarding flooding concerns, the subject site is self-contained, with its own percolation area and surface water soakaway. Percolation tests have been carried out to the satisfaction of the Planning Authority, which approved the development. Flooding identified by the appellants is only at the location surrounding their site, which appears to have been filled/raised and which incorporates a tarmac driveway, all of which impedes the natural flow of water around their house.
  - Due consideration was given to the site by the Planning Authority and its decision to grant permission was in accordance with the proper planning and development of the area.

### **6.3. Planning Authority Response**

#### **6.3.1. None received.**

## 6.4. Observations

6.4.1. None received.

## 7.0 Assessment

7.1. Having inspected the site and considered the contents of the appeal in detail, I consider the main planning issues to be considered are:

- Compliance with the rural housing strategy,
- Residential amenity,
- Access,
- Drainage,
- Retaining wall,
- Appropriate assessment.

### 7.2. Compliance with the Rural Housing Strategy

7.2.1. The subject site is located approx. 3.5km south of the Carrickmacross, in an area identified by the development plan as an 'area under strong urban influence'. Development plan policy RSP 2 is applicable and it states rural housing in areas under strong urban influence will only be permitted in specified circumstances, items a-h of the policy.

7.2.2. In this instance a supplementary rural housing form has been provided, within which the applicant identifies that they are applying on the basis that they have lived in the local rural area for at least 5 years prior to the application, item (b) of policy RSP 2. The form indicates that the following documentation was provided as part of the rural housing application:

- Details of places of residence over the preceding 10 years
- Proof of residence in the local area for a five-year period
- Map showing current/previous local residence.

7.2.3. The Board will note that this documentation has not been provided as part of the appeal documentation, however, I note from the Planning Authority's report that the

applicant's family home is approx. 2km south of the site in the townland of Tullyallen and that documentation including birth certificate, driving licence, letters from primary and secondary school confirming home address and official letters confirming residence in the area for the minimum period were submitted with the application. The Planning Authority report states that the applicant demonstrated compliance with policy RSP 2 and this has not been questioned by the appellants. I therefore have no reason to question the applicant's compliance with the aforementioned policy.

- 7.2.4. National Policy Objective (NPO) 19 of the National Planning Framework is also pertinent to the appeal and it states that in areas under strong urban influence the provision of single housing in the countryside will be facilitated based on the core consideration of demonstrable economic or social need to live in the 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.
- 7.2.5. Whilst compliance with development plan policy may have been demonstrated, I am concerned that compliance with NPO 19 has not been demonstrated. NPO 19 clearly requires that a rural housing need should be demonstrated and it also includes the important proviso that in these rural areas under strong urban influence, regard should be had to the viability of smaller towns and rural settlements. In this instance the applicant has indicated a social and family connection to the area but I do not consider this alone is sufficient to require a house in a rural area under strong urban influence.
- 7.2.6. Carrickmacross is a Tier 2 settlement under the development plan Core Strategy and it has an important role in the development of the county, providing important retail, residential, service and amenity functions for the town's urban population and rural hinterland. From my observations on site and review of Planning Authority records, the area displays pressure for rural housing in the area and, in my view, the development of further rural housing, without adequate justification, serves to undermine this role and may jeopardise its ability to act as a driver of population and economic growth.
- 7.2.7. In conclusion, I consider that no demonstrable economic or social need to live in the rural area has been outlined. To permit the development would therefore contravene

national and regional policy in relation to rural housing and would have a detrimental impact on the viability of smaller towns, villages and rural settlements and I consider permission should be refused on this basis.

### 7.3. Residential Amenity

#### Proposed house

- 7.3.1. The proposed house has an effective bungalow design, with a ridge height of 7.3m, and incorporates projecting gable elements to both the front and rear. The site layout was amended at the additional information stage, whereby the proposed house design was revised and the house and garage were resited further forward within the site.
- 7.3.2. Table 15.4 of the development plan contains design guidelines for rural housing proposals. Having considered the advice and requirements of this table, I am satisfied that the proposed scale, design and form of the house are acceptable. In my opinion it will have no material impact on the visual amenities of the area. I also note that the Planning Authority did not express any concern regarding this aspect of the development.
- 7.3.3. The development plan does not specify any minimum size requirement for rural housing but I have nevertheless given consideration to the internal layout, in the context of *Quality Housing for Sustainable Communities* (2007) and I am satisfied that it is adequately sized internally, with a stated gross floor area of 187sqm.

#### Adjacent housing

- 7.3.4. The appellants Shane Coyle and Sarah Poucher express concern regarding overlooking, overshadowing and noise at their home and also express concern that the requirements of condition No. 7 of the Planning Authority's decision will restrict views from their home.
- 7.3.5. The proposed house is single storey and incorporates a single en-suite window at its east end. I am satisfied that no overlooking of the appellants' home and garden will arise, in view of this. The appellants' farmyard is in excess of 200m south of the proposed house and is on higher ground, such that there is unlikely to be any view of the yard from the development. With reference to it and the appellants' farmland more generally, I see no reason to object to views of adjacent fields and farm



activities from proposed housing and consider it would be unjustified to refuse permission on this basis.

- 7.3.6. I am also satisfied that no overshadowing of the appellants' house will arise, in view of the low ridge height proposed and the level of separation from the appellants' property.
- 7.3.7. Some noise is inevitable during construction, but it will not be of an order that would have a significant or unacceptable impact on the appellants. Subject to controlling the hours of construction (the Board has a standard condition in this regard), I do not consider the development would have a material noise impact on the adjacent property.
- 7.3.8. Regarding condition No. 7 of the Planning Authority's decision, this requires implementation of the landscaping proposals incorporated by the proposed development and there is also a reference to reinforcement of existing trees and hedgerows, with additional planting.
- 7.3.9. The site layout drawing identifies that a hedgerow and timber fence will be provided along the south and west site boundaries, together with a small number of trees and, of relevance to the appeal, additional tree planting is proposed along the east boundary to supplement the existing field boundary. There is an open/lowered section of hedge in the area immediately opposite the appellants' home and the landscaping proposals do not propose to infill or raise the hedge in this area. I accept the applicant's submission that there is no legal entitlement to a view, but in any case, the Board will note that the proposed house and landscaping are contained behind the open/low section of hedge and are in an area where there will be little or no visibility from the appellants' home. I am satisfied that the development will a minor, if any, impact on the appellants' residential amenity.

#### **7.4. Access**

- 7.4.1. Access is proposed from the L4922, via an existing agricultural access that would be upgraded to become a shared access to the subject site and the remaining part of the field. The access from the L4922 is itself identified on the site layout as being unaltered, with a splayed access to the subject site and an agricultural access provided inside it. Visibility splays of 2.4m x 90m are identified in both directions, to the near edge of the road.

- 7.4.2. The proposed access was revised as part of the AI response, where it was relocated further west, to the point of the existing agricultural access.
- 7.4.3. The appellants Eddie and Laura Walsh express concern regarding access proposals, stating that the site exits onto a dangerous bend.
- 7.4.4. I note that the Municipal District Engineer report on the application requests that a bellmouth entrance be provided, of sufficient dimensions to accommodate a stationary vehicle off the public road. The report also identified a requirement for sightlines of 90m x 2.4m.
- 7.4.5. I am satisfied that adequate visibility is demonstrated along the L4922, in accordance with the Planning Authority's requirements, but I am inclined to agree with the Municipal District Engineer, that the access from the L4922 requires reconsideration, to ensure that there is space to accommodate a stationary vehicle off the public road. Should the Board decide to grant permission, I recommend a condition be attached requiring the applicant to agree the layout of the site access with the Planning Authority.

## 7.5. **Drainage**

### Foul Drainage

- 7.5.1. The development includes the provision of a tertiary treatment system and infiltration area.
- 7.5.2. The appellants Shane Coyle and Sarah Poucher express concern that the percolation area is located at a natural low point on the site, which is prone to surface water flooding during heavy rainfall.
- 7.5.3. The Site Suitability Assessment Report submitted with the application identifies the category of aquifer as 'regionally important', with a vulnerability classification of 'high'. Table E1 (Response Matrix for DWWTSs) of the EPA Code of Practice Domestic Wastewater Treatment Systems identifies an 'R2<sup>1</sup>' response category i.e., acceptable subject to normal good practice.
- 7.5.4. The Report indicates that a trial hole with a depth of 2m recorded 300mm of clay and 1500mm of silt/clay. The form states that the winter water table was encountered at a depth of 1.8m below ground level and that bedrock was not encountered. In relation to the percolation characteristics of the soil, a sub-surface percolation test

result of 7.67min/25mm was returned. A surface percolation test result of 9.39min/25mm was returned. The report concludes that the site is suitable for the installation of a primary, secondary or tertiary treatment system and proposes that a tertiary system be installed.

- 7.5.5. Regarding the appellants concerns, I do not agree that the location of the percolation area is at a low point. The field in which the site is located falls from south to north and also from east to west, to a low point at the north-west corner. The percolation area is elevated above the level of the public road and is on an incline. Having regard to the site percolation test results, I consider it has been demonstrated that the site can accommodate a wastewater treatment system. I also note the Planning Authority's Environmental Health Officer did not express any concern regarding this aspect of the development.
- 7.5.6. Should the Board decide to grant permission, I recommend a condition be attached requiring the applicant to agree the detailed specification of the on-site wastewater treatment system with the Planning Authority.

#### Surface Water Drainage

- 7.5.7. Surface water is identified on the site layout drawing as draining to a soakaway within the site, adjacent to the roadside boundary.
- 7.5.8. The appellants Eddie and Laura Walsh have expressed concern regarding drainage patterns on the site, with particular reference to surface water flooding at the north-western corner of the site. A number of pictures of flood events in this area have been provided.
- 7.5.9. In responding to the appeal, the applicants question whether the appellants' property has been raised and whether this is impeding the natural flow of surface waters in the area.
- 7.5.10. Details of the proposed surface water drainage system have not been provided as part of the application however I note that only a small proportion of the overall site area is proposed to be built over. The appellants' property is adjacent to the low point of the field, approx. 80m west of the application site, and there has evidently been ponding in this corner of the field during heavy rain. Notwithstanding this, the site has been shown by percolation tests to have good drainage characteristics and I

am satisfied that, subject to ensuring that the proposed soakaway is adequately sized to accommodate run-off from the site, the development will not increase the risk of surface water flooding elsewhere.

## **7.6. Retaining Wall**

- 7.6.1. The appellants Shane Coyle and Sarah Poucher submit that condition Nos. 3(a), (b) and (c) are open to interpretation by the applicant and may result in their farmyard becoming inaccessible in the event that the access track were to become blocked due to a collapse of the raised bank on the shared boundary with the subject site, during construction. The appellants request that a retaining structure should be constructed before any other development takes place, in the event that permission is granted.
- 7.6.2. In responding to the appeal, the applicant states that a retaining wall is proposed and also acknowledges that it is their responsibility to ensure no damage is caused to third party lands during construction. The applicant further states that they are willing to locate the garage further away from the shared boundary with the appellants, should the Board consider this necessary.
- 7.6.3. I note that the site layout drawing submitted as part of the AI provides a section drawing of a proposed retaining structure, but the proposed location of the structure is not identified. Given the topography of the land, in order to be effective, the retaining structure would need to be constructed at the east site boundary. In my view this would be an inappropriate and unnecessary approach to the development of the site, requiring removal of the trees and hedgerow along the boundary in this area. In my view the proposed garage is set adequately from the shared boundary and, subject to adequate consideration during construction, the risk of the raised bank collapsing is low. I would also note, as the applicant states, that it is their responsibility to ensure that no damage is caused to third party lands as a result of the proposed development.
- 7.6.4. In the event that the Board agrees with the appellants' concerns, I would recommend that the garage be required to be relocated within the site, rather than requiring the construction of a retaining structure.

## **7.7. Appropriate Assessment**

## Appropriate Assessment Screening

### *Compliance with Article 6(3) of the Habitats Directive*

- 7.7.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

### *Background on the Application*

- 7.7.2. A screening report for Appropriate Assessment was not submitted with this appeal case. Therefore, this screening assessment has been carried de-novo.

### *Screening for Appropriate Assessment- Test of likely significant effects*

- 7.7.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

- 7.7.4. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

### *Brief description of the development*

- 7.7.5. The development is described at Section 2 of this Report. In summary, permission is sought for the construction of a single storey house, detached garage, wastewater treatment plant and associated site works. The site has a stated area of 0.3ha and is located in the townland of Clonturk, south of Carrickmacross. Foul drainage is proposed to drain to a WWTP and infiltration system to the front of the house and surface water is proposed to drain to a soakaway to the front of the house.

## European Sites

- 7.7.6. There are no designated European sites within a 15km search zone of the subject site. The closest such site is Dundalk Bay SPA (Site Code 004026), which is approx 19km east. There are a number of pNHA in the vicinity, as I have outlined in Section 5.4.

## Potential impacts on European Sites

7.7.7. There are no open watercourses or drains within or adjacent to the site. Taken together with the considerable separation distance from the nearest European site, I am satisfied that there is no possibility of significant effects on the integrity of a European site, in view of its conservation objectives.

#### *Screening Determination*

7.7.8. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

7.7.9. This determination is based on the following:

- The considerable separation distance between the subject site and any European site.

## **8.0 Recommendation**

8.1. I recommend that permission be refused for the following reason.

## **9.0 Reasons and Considerations**

1. Having regard to:

- The location of the site within an area under strong urban influence, as identified by the Monaghan County Development Plan 2019-2025,
- The provisions of the Monaghan County Development Plan 2019-2025, which facilitates rural housing proposals in areas under strong urban influence where applicants demonstrate compliance with all relevant policies of the plan and in particular RSP 2,
- National Policy Objective 19 of the National Planning Framework which, for rural areas outside of those under urban influence seeks to 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, and

- The documentation on file provided as part of the application and appeal

The Board considers that, in the absence of a demonstrated housing need at this location, the proposed development would result in a haphazard and unsustainable form of development, 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. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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Barry O'Donnell  
Planning Inspector

25<sup>th</sup> May 2022.