



An
Bord
Pleanála

Inspector's Report

ABP-312513-22.

Development

Construction of a dwelling house, garage, waste water treatment system and associated site works.

Location

Brownstown, Monasterboice, Co. Louth.

Planning Authority

Louth County Council.

Planning Authority Reg. Ref.

211353.

Applicant

Kellie Winters.

Type of Application

Planning Permission.

Planning Authority Decision

Refusal.

Type of Appeal

First-Party.

Appellant

Kellie Winters.

Observer(s)

None.

Date of Site Inspection

16th April, 2022.

Inspector

P.M. Young

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1.0 Site Location and Description

- 1.1. The L-shaped appeal site has a stated site area of 0.5160ha and it is located in the townland of 'Brownstown', in County Louth. The site is located c650m to the north of the L-6303-2 Class 2 Local Road from its junction with the R132 and from this junction by road it is c2.5km to Junction 11 of the M1 Motorway, by road. The site forms part of a rural area with a strong proliferation of one-off dwellings. It is situated within 40minutes commuting distance to Dublin and there are a number of settlements within its immediate and wider vicinity including Monasterboice which lies c3.7km to the north west; Tullyallen which lies c3.8km to the south west; Drogheda which lies c5.8km to the south; Collon which lies c6.7km to the west; and, Termonfeckin which lies c7.6km to the east, all as the bird would fly to these settlements centres.
- 1.2. The site forms part of a larger agricultural field which opens onto the L-6302-0 on its north easternmost corner. This agricultural field appears to have been used historically for grazing. The site extends from a proposed shared entrance with a concurrent application which is not demarcated and overlaps with a concurrent appeal case before the Board under ABP-312514-22.
- 1.3. Behind the proposed shared entrance layout, the just over 15m back from the existing road edge the site extends to include a linear strip of land that averages c10m in width. This also is not demarcated and from the existing roadside carriage together with the shared entrance where the main portion of the site commences at c86m setback from the roadside carriage edge. As such the subject site wraps around the western and northern portion of the ABP-312514-22 site and excludes a linear strip of land of c18 to 20m in its width to where it adjoins another parcel of grazing land.
- 1.4. The main roadside boundary consists of a mature but low hedgerow with a grass verge running between it and the roadside carriage. The western most boundary and part of the northern boundary of the site also contains a low mature hedgerow. A rolling drumlin landscape characterises this rural area.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a 2-storey 4-bedroom dwelling house (Note: 231.54m²) domestic garage (Note: 42m²), proprietary waste water

treatment system, a long linear driveway with shared access onto the public road and all associated site works.

- 2.2. The proposed detached dwelling would be setback c117m and the proposed detached garage would be setback c123m from the roadside edge of the local road which is situated to the east of the site, respectively. The proposed detached garage would have a finished floor level of 142 whereas the proposed detached dwelling would have a slightly more raised finished floor level of 143.36. The proposed detached dwelling would mainly consist of a two-storey element addressing the road with this having a maximum stated ridge height of 8.35m and the single storey element to the rear having a maximum ridge height of 4.4m. The width of the two-storey element is 13.8m and the dwelling has a depth of 16.85m at its northern elevation. The proposed detached garage has a stated maximum ridge height of 4.4m. Proposed new boundary treatments to define the driveway and the main eastern boundary separating the main area of the site from a concurrent application ABP-312514-22 (P.A. Ref. No. 211354) mainly consisting of hedgerow planted of native species and a number of native single native trees. A new setback roadside boundary with the area between the carriage and the new roadside boundary surfaced in stone is also proposed.
- 2.3. In addition, the drawings show a soil polishing filter bed and waste water treatment plant positioned in the setback area between the principal façade and the main eastern setback boundary. A bored well is also proposed.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 15th day of December, 2021, the Planning Authority decided to refuse planning permission for the proposed development subject to the following stated three reasons:

“1. The site of the proposed development is located within Rural Policy Zone 1 of the Louth County Development Plan 2021-2027 where it is the policy of the Plan that applicants demonstrate compliance with one of the qualifying criteria outlined within Table 3.4 of the Plan. Based on the documentary evidence submitted the applicant has failed to clearly demonstrate that they fulfil the

qualifying criteria for Rural Policy Zone 1. As such, the proposed development would contravene rural housing policy objective HOU 41 of the Louth County Development Plan 2021-2027 would be contrary to the proper planning and sustainable development of this area.

- 2. The proposed site, by reason of its elevated location some 115m back from the public road in an area under significant pressure for one-off rural housing, evidence by the excessive density and inappropriate pattern of one-off dwellings in the vicinity, together with the proposed access driveway c.110m long would constitute an inappropriate form of piecemeal, backland development and 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 proposed development would, therefore 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; Policy HOU 42 of the Louth County Development Plan 2021-2027 which seeks to manage development of rural housing the open countryside by requiring any new dwelling to be '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', and Policy Objective HOU 47 which requires applications for one-off rural housing to comply with the standards and criteria set out in Section 13.9 of Chapter 13 "Development Management Guidelines', namely Section 13.9.6 of the Development Plan relating to 'Backland Development'. Such development would be contrary to the proper planning and sustainable development of this area.*
- 3. The applicant has failed to demonstrate that the ground conditions are adequately suitable to accommodate the required secondary waste water treatment system and polishing filter or compliance with the EPA Code of Practice 2021. Accordingly, in its current form, the proposed development is contrary to Policy Objective IU18 of the Louth County Development Plan 2021-2027. The proposed development would, therefore, be prejudicial to public*

health and would be contrary to the proper planning and sustainable development of this area.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report dated the 14th day of December, 2021, is the basis of the Planning Authority's decision. It included the following comments:

- Since this application was submitted that a new Development Plan has come into effect.
- The applicant is not the son of a qualifying landowner and is instead purchasing the site from the landowner. They do not qualify for a dwelling house under Criteria 1 or otherwise. As such the proposed development, if permitted would contravene the housing policy objective HOU 41 of the Development Plan.
- The finished floor ground levels are 1m or higher above the ground levels of the public road.
- There is an excessive number of dwellings in this immediate area, including some granted yet to be constructed.
- When taken with the proposed dwelling to the rear it is considered that the proposed development would represent overdevelopment of one-off dwellings and would represent ad hoc as well as piecemeal development at this rural location which would in turn result in further unacceptable diminishment of the visual amenities of this rural area.
- The c110m driveway serving the development is not acceptable.
- No adverse residential amenity impacts would arise to properties in the vicinity including the neighbouring dwelling to the south.
- The site is not identified as being in an area at flooding risk.
- Having regard to the high vulnerability of the soil at this location a reason for refusal should be added as the applicant has failed to demonstrate that the site can cater for a waste water treatment system and polishing filter.
- Development Contributions are applicable.

- No EIA or AA issues arise.
- Concludes with a recommendation of refusal.

3.2.2. **Other Technical Reports**

Infrastructure: No objection, subject to safeguards.

Environment: Additional Information Sought.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. One Third Party Observation was received during the course of the Planning Authority's determination of this application. This raised concerns that the applicant had not demonstrated local needs; proposal did not conform with the pattern of development in the area including it did not conform with the established building line and would establish a new building line; and, concern is raised that the boundary leaves a strip of 15m to the north of its for future potential similar development.

4.0 **Planning History**

4.1. **Site – Recent & Relevant**

4.1.1. None.

4.2. **Setting – Recent & Relevant**

4.2.1. **ABP-312514-22 (P.A. Ref. No. 211354):**

Concurrently by way of a First Party Appeal to the Board is the decision of the Planning Authority to refuse planning permission for a rural one off-dwelling house, garage, waste water treatment system and shared entrance onto the public road. This proposal would share the same new modified entrance onto the public road as also sought under this application.

4.3. **Other**

4.3.1. There are no recent and/or relevant Board decisions within the visual 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 1 land, i.e., an area under strong urban influence and of significant landscape value. Applicants for one-off dwellings in Rural Policy Zone 1 are required to meet the qualifying criteria set out in Table 3.4 of the said Plan. In addition, under Map 3.1 the site forms part of a rural area identified as under urban influence.
- 5.1.2. Section 13.9 of the Development Plan deals with the matter of housing in the open countryside. With Section 13.9.1 setting out that countryside is a valuable resource that provides a scenic landscape enjoyed by residents and visitors, and farmland that delivers high quality produce. It also sets out that *“whilst this Plan acknowledges the desire of local residents to live in the rural area, the provision of one-off housing in the open countryside must be carefully managed in order to protect the landscape and countryside for future generations to work in and enjoy”*.
- 5.1.3. Section 13.9.10 of the Development Plan deals with Garages and Outbuildings in the Countryside. It sets out that: *“garage will normally be positioned to side or rear of the dwelling and will be designed and finished in materials that match the dwelling. The design and scale of any garage shall be proportionate to the dwelling”*.
- 5.1.4. Section 13.9.5 of the Development Plan deals with the matter of ribbon development.
- 5.1.5. Section 13.9.19 of the Development Plan states: *“applicants for one-off rural housing will be required to demonstrate compliance with the criteria relevant to the specific Rural Policy Zone in which the application site is to be located. The qualifying criteria for each policy zone is outlined in Section 3.17.4 of Chapter 3 ‘Housing’*”.
- 5.1.6. Section 13.20.3 of the Development Plan deals with domestic 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”*.

- 5.1.7. Section 13.16.17 of the Development Plan deals with Entrances and Sightlines. It states that: “a well-designed access is important for safety and convenience of all road users”.
- 5.1.8. Section 13.16.17 of the Development Plan deals with the matter of entrances and sightlines.
- 5.1.9. Table 13.13 of the Development Plan sets out the requirements for entrances onto various categories of roads and for local roads requires a sightline of 75m from a 3m setback from the edge of the carriageway.
- 5.1.10. Section 13.19 of the Development Plan deals with the matter of Heritage.

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

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

5.3. National

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

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

5.3.3. **Code of Practice** – Domestic Waste Water Treatment Systems (Population Equivalent ≤ 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 with the nearest Natura 2000 site is the River Boyne & River Blackwater SAC (Site Code: 002299) which is located c3.7km to the south west at its nearest point.

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 essentially consists of the construction of a dwelling, garage, driveway/shared access onto the public road, wastewater treatment system and associated site works of significant effects on the environment arising from the proposed development. There are no features of ecological importance nor does the site have any hydrological connectivity to any Natura 2000 site.

5.5.2. 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 c0.4km to the south west of the following Recorded Monuments:

- LH01729 (Classification 'SOUT').
- LH01728 (Classification; 'BUGR').

6.0 The Appeal

6.1. Grounds of Appeal

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

- The appellant is a native of the parish of Monasterboice and was raised as well as resides approximately 1.9km from the application site.
- The appellant's family are long established members of the local farming community, with four generations of immediate family living and farming land in the immediate vicinity of the proposed site.
- The appellant wishes to build a home and raise his family in the community where he has grown up, attended school and now works from, like generations of his immediate family.
- There is a long history of residential settlement in this area and the site is accessed off what was historically a main thoroughfare known as the Old Mail Coach Road from Dundalk to Drogheda.
- There is a recent history of other local people being granted permission for family homes in this area including immediately surrounding the application site.
- There are no housing developments in this area so there is no opportunity for the appellant to purchase a house. Even if he could the current house prices are inflated, and second-hand homes rarely come onto the market as well as are sold at a premium out of reach of the first-time buyer.
- The appellant's father and a number of his family members are skilled trades persons in the building industry. This affords the appellant the ability and opportunity to build his family home at an affordable price.
- Reference is made to the local planning provisions, and it is contended that the appellant qualifies for a dwelling under Qualifying Criteria Number 2 under the previous Development Plan. This application was lodged on the 8th day of November, 2021, and the new Development Plan on the 11th day of November, 2021. It is therefore argued that as the application was submitted prior to the Louth

County Development Plan, 2021-2027, came into force that the proposal was compliant with the Development Plan on the date of its submission.

- There is a pattern of one-off rural dwellings in the vicinity of the proposed site. This has developed over time and has been added to by recent grants of permission including under P.A. Ref. No. 02/1403 almost opposite the site entrance. It is contended that since 2019 five dwellings have been permitted with these deemed to be in compliance with the Development Plan. The pattern and density of development in this area is a direct result of the local planning policy as well as has been reinforced by local planning policy since the 1970s.
- It is unfair to single out the applicant who is a long-standing resident of the area with a rural housing need.
- The design of the dwelling house is an appropriately designed one that is in keeping with the design patterns already permitted and constructed in the immediate vicinity.
- Comprehensive landscaping is proposed to mitigate visual impact of the proposed development.
- The Planning Officer's report fail to clarify what the ground risk concerns are. It is not unusual for further information to be sought for rural based planning applications for such matters.
- Without being afforded the opportunity to provide a response to the requested Further Information it is factually incorrect for the Planning Authority to consider the proposed development to be contrary to policy objective IU18 of the Development Plan.
- The Planning Authority have granted a number of dwelling houses in the vicinity of the site with similar ground conditions.

6.2. Planning Authority Response

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

- While it is accepted that the applicant has a housing need there is an excessive number of houses in the immediate vicinity of the site and the proposed

development represents ribbon development as well as would exacerbate the existing pattern of overdevelopment in this area. As such the proposed development is considered to be contrary to Policy HOU 42 and HOU 47 of the Development Plan.

- As per Article 30 of the Planning & Development Regulations: “*a Planning Authority shall not determine an application for permission until after a period of 5 weeks, beginning on the date of the receipt of an application, has elapsed*”. Accordingly, the application could not be determined until after the 12th day of December, 2021, a point in time where the Louth County Development Plan, 2021-2027, was in effect and under which this application was determined.
- The site is located within Rural Policy Zone 1 and having regard to the information provided and the relevant qualifying criteria for this zone, the Planning Authority determined that the application did not meet the qualifying criteria for a dwelling at this location. To permit the proposed development would contravene the rural housing policy objective HOU 41 of the Development Plan.
- The Environmental Section requested further information and that the applicant has not been afforded the opportunity to provide a response to the Further information requested. However, given that the Planning Authority considers that the proposed development represents ribbon development and would exacerbate the existing pattern of ribbon development it was not considered appropriate to request that the applicant address this item of concern given the associated financial costs of the same.
- The Planning Authority remain of the opinion that the proposed development is contrary to the proper planning and sustainable development as provided for under its Development Plan and therefore should be refused.

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 the Planning Authority's given reasons for refusal. I propose to consider these in the context of my assessment under the following broad headings:

- Principle of the Proposed Development
- Drainage

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

7.1.3. 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.

7.2. 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 documents accompanying this application indicates that the applicant seeks the rural dwelling house under 2 of the previous Development Plans rural settlement strategy which they contend they are in compliance with. These categories have not been carried through into the Louth County Development Plan, 2021-2027, and rural area of Louth County has been zoned either Rural Policy Zone 1 or Rural Policy Zone 2 with the entirety of rural County Louth identified as being under strong urban influence (Note: Map 3.1 of the Development Plan). Therefore, the applicant in this case is subject to demonstrate that they meet the one of the qualifying criteria set out under Table 3.5 of the Development Plan due to the fact that the subject site forms part of a larger parcel of rural land zoned: '*Rural Policy Zone 1*'. These are identified as being rural areas under strong urban influence and of significant landscape value.

7.2.3. Section 3.17.4 of the Development Plan sets out the policy for rural housing in the open countryside. Which it indicates relates to all areas outside of the development boundary of settlements and indicates that there are specific qualifying criteria set out in Tables 3.4 and 3.5 which applicants will be required to demonstrate to the Planning Authority with one of the criteria in the relevant Rural Policy Zone.

- 7.2.4. Table 3.4 of the Development Plan which sets out the Local Housing Need Qualifying Criteria in Rural Policy Zone 1 is applicable.
- 7.2.5. The documentation provided with this application does not support that the appellants circumstance meets any of the qualifying criteria set out under Table 3.4 under which a dwelling house may be considered. The appellant appears to contend that they qualify for a rural dwelling on the basis of having residential connection with this area and a desire as opposed to need for a dwelling in this location. The land on which they seek to build is not in the ownership of their parents and is effectively a speculative site within the rural locality of their family home. The various documentation does not in my opinion provide any demonstratable robust social or economic need to live in this particular rural locality nor is the letter setting out that they have not owned a dwelling house or otherwise in the form of a legal affidavit.
- 7.2.6. Based on an examination of the six criteria set out under Table 3.4 of the Development Plan and the documentation provided by the appellant to demonstrate that they qualify for a rural dwelling house at this rural location they have not demonstrated by way of robust evidence that they satisfy any of the separate criteria to qualify for a rural dwelling on land zoned Rural Policy Zone 1.
- 7.2.7. 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 3.4.
- 7.2.8. 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.
- 7.2.9. 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.
- 7.2.10. 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.

- 7.2.11. 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.
- 7.2.12. 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 exacerbation of ribbon development through to further proliferation of car dependent residential developments on un-serviced land remote from services, amenities and other land uses synergistic to residential development.
- 7.2.13. Whilst the applicant appears to have a desire as opposed to a need to live in this rural location this in itself does not override the necessity to meet local through to national planning provisions which seek to safeguard such rural locations from the proliferation of what is essentially a type of development that local, regional, and national planning provisions seek to channel to appropriate land within settlements where they can be more sustainably absorbed.
- 7.2.14. 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 and National Policy Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development as well as at an appropriate scale of provision relative to location.
- 7.2.15. 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. Section 1.1 of this report sets out the site's proximity to a wide variety of settlement types. At such locations dwellings are less reliant on use of private vehicles which in turn results in a more climate resilient residential development.

- 7.2.16. In addition within the boundaries of such settlements such developments are unlikely to result in significant diminishment of the visual amenities of an area of County Louth whose rural countryside is recognised and provided protection as forming part of a rural landscape of significant landscape value. With this particular areas capacity to absorb any further similar developments arguably being significantly exceeded.
- 7.2.17. Whereas this proposal seeks to exacerbate a type of development that is not supported by the Development Plan, i.e. backland development, in an area that is significantly overdeveloped with one-off dwellings to the detriment of the visual amenities as well as the function of precious rural land upon which we all depend.
- 7.2.18. In this regard I note that Section 13.9.6 of the Development Plan on the matter of backland development states: *“the Planning Authority will not generally favour proposals which involve development located to the rear of established buildings, located along a private lane off public roads and which introduce a piecemeal form of backland development”*. It further states: *“this type of development results in a scattered arrangement of housing or clusters to the rear of existing properties and often long laneways to reach the properties”* ... *“it is not respectful of the traditional settlement pattern, creates a built-up appearance thereby eroding the rural character and further fragmenting agricultural lands, reduces residential amenity standards and can have an impact on traffic safety.”*
- 7.2.19. Moreover, it indicates that: *“Backland Development will only be permitted in Rural Policy Zones 1 and 2 where the applicants side has been owned by the family for at least 15 years and the landholding is at least 1.5 hectares”*; that *“only one dwelling will be permitted per landowner”* and that such applications be: *“accompanied by a deed of right of way to the proposed dwelling and must not have a negative impact on traffic safety”*.
- 7.2.20. In relation to where Backland Developments the appellant has not demonstrated by way of the documentation provided that they meet the exceptions set out. They are not applying on family owned land that has been owned by their family for at least 15 years, there is no deed of a right of way and having inspected this site I am not convinced even though the necessary sightlines appear to be achievable for the shared entrance that this modest in width local road that already serves a significant number of similar developments has latent capacity to absorb further *ad hoc* and

piecemeal one-off dwellings. Particularly where there is no demonstratable need for the same or does this landscape setting have the capacity to absorb further cumulative diminishment by way of such developments. Particularly where the proposal is occupying a position which has a finished floor level c2m above that of the public road to the east; where the built form, massing, height, volume, scale and palette of materials is not one that seeks to reduce its visual impact on its rural landscape setting through to is a site which already benefits from being well screened or is one that would not be highly visible within its rolling landscape setting.

- 7.2.21. The proposed built forms sought under this application would further reinforce the cumulative damage that has arisen within this landscape by way of the addition of such similar forms, would therefore further diminish the amenity value as well as rural character of this area and the backland site together with the long driveway serving it at a location that would be highly visible within its immediate rural context would give rise to an undesirable precedent.
- 7.2.22. 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 and of a type that exacerbates ribbon development in an already much diminished landscape would be contrary to Policy HOU 41 of the Development Plan.
- 7.2.23. 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.
- 7.2.24. 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.
- 7.2.25. Based on the above considerations I generally concur with the Planning Authority's first and second reasons for refusal. I also note that the suitability of the design is a new issue and arguably it is one that if the proposed development was otherwise deemed to be acceptable and in accordance with the proper planning as well as

sustainable development could be dealt with by way of further information or appropriately worded condition.

7.3. Drainage

- 7.3.1. The third reason given for refusal relates to the Planning Authority considering that the proposed development has failed to demonstrate that the ground conditions are adequately suitable to accommodate the required secondary waste water treatment system and polishing filter in a manner compliant with the EPA Code of Practice, 2021. For this reason, the Planning Authority considered that the proposed development would be contrary to Policy IU 18 of the Development Plan and would be prejudicial to public health.
- 7.3.2. 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.
- 7.3.3. The Planning Authority's Environmental Section report, dated the 24th day of November, 2021, concluded with a request for further information on the following matters:
- 1) It seeks that a description of chemical and microbiological composition of the ground water at this location be provided as well as untreated samples taken within 150m of the proposed percolation.
 - 2) An assessment of impacts of the water discharge on the chemical and microbial quality of the ground water.
- 7.3.4. The Planning Authority due to the substantive issues that could not be overcome by way of further information decided not to request further information seeking clarity on these two matters. In summary, the lack of demonstration of compliance with the rural settlement strategy for a one-rural dwelling at this location and the visual amenity including backland development issues that would arise from the proposed development, if permitted, as it would give rise to unnecessary financial costs to the applicant.

- 7.3.5. Notwithstanding, the appellant argues that they should have been provided with an opportunity to address these concerns. Particularly given that there are numerous dwelling houses in the immediate vicinity of the site with similar site conditions which they contend are successfully served by waste water treatment systems. They therefore contend that the Planning Authority's third reason for refusal is incorrect in the absence of a further information request being made and should not be included.
- 7.3.6. Based on the information provided this application does not provide suitable assurance that the proposed development would not be prejudicial to public health by way of giving rise to contamination of ground water in an area where there is a reliance by its existing as well as permitted private wells for residential and agricultural uses.
- 7.3.7. Alongside where the pattern of development, including in the immediate vicinity is one where there is a significant proliferation of one-off dwellings dependent upon proprietary waste water treatment systems as well as potable water by proprietary wells.
- 7.3.8. Further, the Site Characterisation Form clearly sets out 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'. It is also indicated that the site is within 35m and 80m of two private wells. That the ground flow direction is southerly (Note: it would appear that the neighbouring dwelling to the south is the well that is within 35m of the site).
- 7.3.9. While the P test were carried out with percolation values (standard method) that are within the standards that would be considered acceptable for the operation of a wastewater treatment system set down under the current EPA Code of Practice and the results of the site characterisation tests indicating that soil conditions on site are suitable for wastewater treatment, this does not overcome the fact that the appeal site is in an area classified as having high groundwater vulnerability and, in an area with a proliferation of dwellings reliant on groundwater as their main water supply alongside is a rural landscape that is characteristically intensively farmed.
- 7.3.10. Based on these concerns I also 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. I am not satisfied on the basis of the information on file, that the impact of the proposed development when taken in conjunction with existing wastewater treatment systems in the area, the reliance on proprietary wells for potable water supply, 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.

- 7.3.11. For clarity, I also concur with the Planning Authority in that a request for further information on the items outlined as a concern by their Environmental Section would have conflicted with the Development Management Guidelines for Planning Authorities, June, 2007, as applicants should not have to suffer unnecessary delay or expense if refusal is likely. This was clearly the circumstance in this case.

7.4. Appropriate Assessment

- 7.4.1. 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 1 – 'Area under strong urban influence and of significant landscape value' where housing is restricted to persons demonstrating local need in accordance with the Table 3.4, it is considered that the applicant does not come within the scope of the housing

need qualifying criteria for a rural one-off dwelling house at this location. 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. It would also militate against the preservation of a rural environment that is afforded protection as an area of high scenic quality where developments, including developments that would create or exacerbate ribbon development, are discouraged. In such rural settings where there is no demonstrable 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. 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.