



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312792-22

<b>Development</b>	Construction of a detached house with a single storey porch to front, detached garage and new wastewater treatment system.
<b>Location</b>	Warrenstown, Dunboyne, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	RA201207
<b>Applicant(s)</b>	Paul McGovern.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Dublin Airport Authority. Tom Dermody. Mary Dermody. David Watters. Niamh Watters.
<b>Observer(s)</b>	Susan Maloney & Mark Watters. Kenneth Haughton & Lisa Haughton.

Thomas Watters & Mary Watters.  
Rachel Melia & Jake Carty.

**Date of Site Inspection**

4<sup>th</sup> February 2021.

**Inspector**

Elaine Sullivan

# Contents

1.0 Introduction .....	4
2.0 Proposed Development.....	5
3.0 Submissions Received .....	5
3.2. First Party Appellant.....	5
3.3. Third Party Appellants.....	6
4.0 Assessment.....	8
4.1. Introduction.....	8
4.2. Development Plan.....	10
4.3. Natural Heritage Designations.....	11
4.4. EIA Screening .....	11
5.0 Appropriate Assessment .....	11
6.0 Recommendation.....	12
7.0 Reasons and Considerations .....	12
8.0 Conditions .....	12

## 1.0 Introduction

- 1.1. This is an addendum report relating to an appeal case that follows a High Court Order [2021 No. 416 JR] dated the 18<sup>th</sup> day of January, 2022. The Board's decision on An Bord Pleanála (ABP) file reference (ref.) 308737-20 has been quashed and the file has been remitted back to the Board for a new determination.
- 1.2. A new file has been assigned with ABP ref. 312792-22. This addendum report should be read in conjunction with the original Inspector's report on file, (ABP ref. 308737-20), dated the 11th day of February, 2021. I am the Inspector who undertook the original assessment of this appeal under ABP ref. 308737-20.
- 1.3. Under Section 131 of the Planning and Development Act 2000, as amended, notices were issued to all parties to the appeal to invite further submissions.
- 1.4. Notices were issued to:

- Meath County Council

#### Observers -

- Rachel Melia and Jake Carty
- Susan Maloney and Mark Watters
- Kenneth and Lisa Haughton
- Thomas and Mary Watters
- Tom Dermody and Others

#### Appellants -

- 1<sup>st</sup> Party - Jova Planning Consultants for Paul McGovern
- 3<sup>rd</sup> Party - Dublin Airport Authority, (daa)

#### Submissions were received from

- Meath County Council
- daa
- Paul McGovern (Applicant)
- Susan Watters (nee Maloney) and Mark Watters

- Tom and Mary Watters
- Kenneth and Lisa Haughton
- Tom and Mary Dermody

## 2.0 **Proposed Development**

- 2.1. Planning permission is sought for the construction of a detached, 1 and a half storey dormer style dwelling with 3-4 bedrooms and a gross floor area of 256m<sup>2</sup> on a rural site to the north-west of Dunboyne. It would be set back from the site boundary by approximately 23m and a new vehicular access would be provided in the north-western corner of the site. A single storey detached garage of 33sqm is proposed alongside the eastern elevation of the house.
- 2.2. A new private well would be sunk to the front of the house, and the wastewater from the development would be treated through a new packaged wastewater treatment system and polishing filter.

## 3.0 **Submissions Received**

### 3.1. **Meath County Council**

- 3.1.1. The PA would respectfully refer the Board to the Planner's Report for the original planning application, dated the 21<sup>st</sup> day of October 2020 and the previous Appeal Submission dated the 17<sup>th</sup> day of December 2020.
- 3.1.2. The Board is respectfully requested to uphold the decision of the Planning Authority to grant planning permission subject to the original conditions attached and with the additional of the noise related conditions as suggested by the daa in their appeal submission to ABP.

### 3.2. **First Party Appellant**

#### **Paul McGovern -**

- 3.2.1. We have no objection to an additional condition being inserted concerning a Noise Impact Assessment as requested by the daa.

- 3.2.2. I would like to reiterate that I have met all the necessary planning criteria in this matter as outlined by Meath County Council and in the report of the Planning Inspector.
- 3.2.3. I have demonstrated housing need due to my family situation, the proximity of my family home and ties to the local community. I am in full compliance with the requirements of the Meath County Development Plan, the EPA Code of Practice 2009, the requirements of the Meath County Council Transport section in respect of TII Standards DN GEO-03060.
- 3.2.4. Since submitting the original application two years ago, I have continued to live in the area in my parents' house, along with my partner and daughter.
- 3.2.5. All third-party appellants have benefitted from planning permission in recent years, either for themselves or family members.
- 3.2.6. The third-party appellants concern regarding ribbon development, excessive concentration of septic tanks, contamination of ground water and excessive over development in the area is unsubstantiated and misleading.
- 3.2.7. The report of the Planning Inspector addressed the Sustainable Rural Housing Guidelines for Planning Authorities (2005) and the National Planning Framework. Having considered all the relevant guidance, the recommendation was to grant permission.

### **3.3. Third Party Appellants**

#### **Daa -**

- 3.3.1. The proposed development is located in Zone C of the revised airport noise zones as set out in Variation 1 of the Fingal County Development Plan. Under this variation, noise sensitive development within Zone C will come under assessment for appropriate noise mitigation measures. The Meath County Development Plan 2013-2019 contains objective TRAN POL 1, which seeks to 'strictly control inappropriate development and require noise insulation where appropriate within the Outer Noise Zone.....'.

- 3.3.2. Daa respectfully requests that, in the event of a grant of permission, a condition is attached requiring the noise sensitive uses to be provided with noise insulation to an appropriate standard having regard to the location of the site within Noise Zone C.

**Tom and Mary Dermody -**

- 3.3.3. There are no grounds for the decision of the courts to quash the decision of An Bord Pleanála and to refer back for a new decision.
- 3.3.4. As nothing has changed, it is expected that the original decision of An Bord Pleanála be upheld.
- 3.3.5. The development is referred to as a single storey development. However, it is a two-storey dwelling that will impact on our privacy and quality of life.

**3.4. Observers -**

**Susan Watters (nee Maloney) and Mark Watters**

- 3.4.1. The appellants have been selective about the developments in the surrounding area that they have objected to.
- 3.4.2. One of the grounds of appeal relates to the intensification of ribbon development in the area, yet no objections or appeals were submitted for planning applications that were lodged for one-off houses after the subject application.
- 3.4.3. It is of note that the appellants did not object to an application for a one-off house on the same road which was lodged by a family member seven months after the subject application, (ref. RA201479).
- 3.4.4. It is clear from the High Court decision that the judge does not agree with the Boards reasoning that the applicant has not demonstrated economic or social need to live in the area. The Boards decision is also at odds with Meath County Council, who have granted a considerable number of planning permissions for the same road.
- 3.4.5. Reference numbers for 15 planning applications granted since 2017 for houses on the same road have been included in the submission.
- 3.4.6. Meath County Council were satisfied that the applicant has satisfied the local need criteria.

### **Kenneth and Lisa Haughton**

- 3.4.7. We are residents of Warrenstown and are in the final stages of completing our house across the road from the subject site. We are currently living in a family member's home across from the site and do not share the views of the appellants.
- 3.4.8. The applicant, Paul McGovern, is an upstanding member of the community and his family have generational stature in the Warrenstown townland.
- 3.4.9. The road is experiencing a generational changeover with a high volume of young families moving in. We believe that Paul and his family will be of benefit to the community and support them in their application.

### **Thomas and Mary Watters**

- 3.4.10. We are residents of Warrenstown and live across the road from the proposed site. We wish to make clear that we do not share the opinions expressed by the appellants. The applicant and his family are a pillar of the community and should be afforded the same chance as many other young couples to build a life in the community.

## **4.0 Assessment**

### **4.1 Introduction**

- 4.1.1. I have reviewed the submitted comments and no new matters have been raised that would require a revision to my recommendation. The submissions received do not contain any additional information that would result in a change to the recommendation made in my original report under ABP 308737-20.
- 4.1.2. The Board considered that the initial report had not assessed the appeal in relation to the 'Sustainable Rural Housing Guidelines for Planning Authorities', (April 2005), (the Rural Housing Guidelines) and the National Planning Framework (February 2018), and in particular with National Policy Objective 19, which 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”.

- 4.1.3. Within the ‘Sustainable Rural Housing Guidelines for Planning Authorities’, the subject site is identified as an Area Under Strong Urban Influence. The key Development Plan objective for these areas should be to facilitate the housing requirements of the rural community as identified by the Planning Authority whilst also directing urban generated development to areas zoned for new housing development.
- 4.1.4. At the time of the assessment, the operative Development Plan was the Meath County Development Plan 2013-2019. Section 10.4 of this plan set out the requirements to demonstrate local housing need. I considered the information submitted with the application and was satisfied that local housing need had been demonstrated in accordance with the Development Plan.
- 4.1.5. The Rural Housing Guidelines also recommend against the creation of ribbon development in rural areas. Given the extent of development along the road, as well as extant permissions, I am of the view that the subject site can be considered as an infill site.
- 4.1.6. Within the National Planning Framework – 2040, (NPF), National Policy Objective 19 seeks to, *‘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’.*
- 4.1.7. The NPF does not expand on the details required in order to demonstrate economic or social need to live in a rural area. In the subject case, consideration was given to the county settlement strategy and the Development Plan requirements to demonstrate local need. Within this context, I am satisfied that the applicant had demonstrated local need.

## 4.2. Development Plan

- 4.2.1. The site is located within the administrative boundary of Meath County Council. The operative Development Plan for the area is the Meath County Development Plan, (CDP), 2021-2027, which came into effect on the 3<sup>rd</sup> November 2021.
- 4.2.2. The application was assessed by Meath County Council in accordance with the policies and objectives of the Meath County Development Plan 2013-2019, which was the operative Development Plan at the time.
- 4.2.3. On review of the contents of both plans I note that there are no material changes between the 2013 County Development Plan and the 2021 County Development Plan as they relate to the appeal site and the current proposal. In this regard I consider the proposal in accordance with the guidance and provisions of the operative Development Plan, namely the 2021 – 2027 Meath County Development Plan, (MCDP).
- 4.2.4. Relevant sections of the Development Plan include the following:

### **Section 9.2 – Rural Settlement Strategy**

#### **Area 1 – Rural Areas Under Strong Urban Influence**

**RD POL 1** - To ensure that individual house developments in rural areas satisfy the housing requirements of persons who are an intrinsic part of the rural community in which they are proposed, subject to compliance with normal planning criteria.

**RD POL 2** - To facilitate the housing requirements of the rural community as identified while directing urban generated housing to areas zoned for new housing development in towns and villages in the area of the development plan.

#### **Section 9.4 – Persons who are an Intrinsic Part of the Rural Community**

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

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

dwelling in the past in which they have resided or who possess a dwelling in which they do not currently reside;

- Persons who were originally from rural areas and who are in substandard or unacceptable housing scenario's and who have continuing close family ties with rural communities such as being a mother, father, brother sister, son, daughter, son in law, or daughter in law of a long established member of the rural community being a person resident rurally for at least ten years;
- Returning emigrants who have lived for substantial parts of their lives in rural areas, then moved abroad and who now wish to return to reside near other family members, to work locally, to care for older members of their family or to retire, and;
- Persons, whose employment is rurally based, such as teachers in rural primary schools or whose work predominantly takes place within the rural area in which they are seeking to build their first home, or is suited to rural locations such as farm hands or trades-people and who have a housing need.

#### **4.3. Natural Heritage Designations**

4.3.1. No designations apply to the subject site.

#### **4.4. EIA Screening**

There is, therefore, no real likelihood of significant effects on the environment or need, therefore, for EIA.

#### **5.0 Appropriate Assessment**

5.1. Having regard to the nature and scale of the proposed development and the separation distance to the nearest European site, 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.

## 6.0 Recommendation

6.1. I recommend that planning permission be granted.

## 7.0 Reasons and Considerations

7.1. Having regard to the documentation submitted which adequately demonstrates that the applicant forms an intrinsic part of the rural community and complies with the rural housing need criteria, as set out in Section 9.2 of the Meath County Development Plan 2021-2017, the character of the site as an infill site and its suitability for the safe disposal of domestic effluent, it is considered that the proposed development would not contribute to the extension of ribbon development or endanger public health and that it would be in accordance with the proper planning and sustainable development of the area.

## 8.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 26/11/2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>a) The predicted noise environment of the site is to be fully assessed.</p> <p>b) The applicant should ensure that internal noise levels appropriate for habitable rooms within the proposed dwelling can be achieved and maintained.</p> <p>c) Appropriate noise mitigation measures should be implemented by the applicant.</p>

	<b>Reason:</b> In the interest of public health.
3.	<p>The existing front boundary hedge shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the establishment of a hedgerow along all side and rear boundaries of the site.</p> <p>Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p><b>Reason:</b> In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.</p>
5.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.</p> <p><b>Reason:</b> To ensure adequate servicing of the development, and to prevent pollution.</p>
6.	<p>All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.</p> <p><b>Reason:</b> In the interest of public health.</p>
7.	<p>a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.</p>

	<p>b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.</p> <p>c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.</p> <p><b>Reason:</b> In the interest of public health.</p>
8.	<p>a) Prior to commencement of development, the applicant shall submit for the written agreement of the Planning Authority, details of the piping of the roadside ditch to facilitate the new entrance.</p> <p>b) Sight distance triangles shall be maintained and kept free from vegetation or other obstruction that would reduce the minimum visibility required.</p> <p>c) Any setting back of the roadside boundary of the site shall be back planted with hedgerow species native to the area.</p> <p><b>Reason:</b> In the interest of traffic safety and rural amenity.</p>
9.	<p>a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter [unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant]. Prior to commencement of development, the applicant shall enter into a written agreement with the ABP-304885-</p>

	<p>19 Inspector's Report Page 29 of 30 planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p> <p>This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p><b>Reason:</b> To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.</p>
10.	<p>a) The roof colour of the proposed house and garage shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.</p> <p>b) The external walls shall be finished in neutral colours such as grey or off-white.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
11.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
12.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable</p>

	<p>indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
--	--

---

Elaine Sullivan  
Planning Inspector

13<sup>th</sup> day of September 2022