



An
Bord
Pleanála

Inspector's Report ABP- 312991-22

Development	Permission for a 1.5 storey dwelling, detached garage, waste water treatment system with all associated site works.
Location	Gudderstown, Ardee, Co Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	21/1549.
Applicant	Mark Lynch.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party v Refusal of Permission
Appellant	Mark Lynch.
Observer(s)	None
Date of Site Inspection	12 th October 2022
Inspector	Enda Duignan

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1.0 Site Location and Description

- 1.1.** The appeal site has a stated area of c. 0.4422ha and is located within the rural area of Gudderstown, Ardee, Co. Louth. The site is situated c. 2.5km to the north-east of the settlement Ardee and is accessed from the northern side of a public road which connects to the N52, c. 1km to the north-west of the site. The site is accessed via a vehicular entrance serving an existing dwelling and associated farm buildings. The site is located to the north of the existing dwelling and farm buildings and is accessed via what is identified as a right-of-way.
- 1.2.** The appeal site has a rectangular shape and currently comprises agricultural lands with no formalised boundaries. In terms of topography, the lands are generally flat and are low lying relative to the existing public road to the south of the appeal site.
- 1.3.** In terms of the site surrounds, lands are typically in agricultural use. The general settlement pattern in the area is linear and there are a number of dwellings to the south-west of the appeal and also a cluster of dwellings proximate to the junction of the public road and the L1212 road further to the south of the site.

2.0 Proposed Development

- 2.1.** The proposal seeks planning permission for the construction of a 1.5 storey dwelling, a detached domestic garage, a new secondary wastewater treatment system and polishing filter, a new private well, new vehicular entrance onto the right-of-way and all associated site works.
- 2.2.** The proposed dwelling will be centrally located within the appeal site and will comprise an entrance hall, bedroom, utility, bathroom and open plan kitchen/living/dining room at ground floor level and 3 no. bedrooms and a bathroom at first floor level. The dwelling will have a gable sided pitched roof form and materials and finishes will comprise a combination of a sand and cement plaster and stone for the principal elevations. The dwelling will have a total floor area of c. 193sq.m.

- 2.3.** A detached pitched roof garage with a stated floor area of c. 38sq.m. is proposed to be located on the north-western side of the dwelling. The garage will be accessed via a new coloured stone driveway from the new recessed vehicular entrance to the site. This new vehicular entrance will be accessible from the right-of-way which connects to the public road to the south.
- 2.4.** In terms of amenity space, a landscaped garden is proposed to be provided on the southern, northern and western sides of the dwelling. In terms of boundary treatments, a timber post and rail fence, back planted with hedgerow will form the southern, northern and western boundaries and a plastered block wall and pillars are proposed at the site entrance.
- 2.5.** The proposal includes the provision of a secondary wastewater treatment system and polishing filter which is to be located to the rear of the proposed dwelling.

3.0 Planning Authority Decision

3.1. Decision

Louth County Council refused planning permission for the development for the following 3 no. reasons:

1. "The proposed site, by reason of its open and exposed nature with no existing boundaries and location some 290m back from the public road would constitute an inappropriate and suburban form of piecemeal, backland development and would result in the intrusive encroachment of physical development in the open rural landscape. The proposed development in itself, and in conjunction with the concurrent application under Reg Ref 21/1534 together with the previously granted permissions under Reg Ref 17/44 and 21/1549 would militate against the preservation of the rural environment and would set an undesirable precedent for other such development in the vicinity in this rural area. The development would, therefore, be contrary to: Section 13.9.4 of the Louth County Development Plan 2021-2027 'Site Selection' which requires

applications to consider the existing number of one off dwellings in the area and the ability to absorb further development of one off dwellings without further eroding the rural character of the area; Policy Objective HOU 42 of the Louth County Development Plan 2021-2027 which seeks to manage development of rural housing in the open countryside by requiring any new dwelling to be *"appropriately designed and located to integrate 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.

2. Having regard to the location of the application site along a substandard right of way and the lack of detail within the application regarding proposals to upgrade this lane, it is considered that the proposed development would endanger public safety by reason of a traffic hazard and would be contrary to the proper planning and sustainable development of the area.
3. The applicant has failed to demonstrate that the proposed waste water treatment system and polishing filter is in compliance with the EPA Code of Practice 2021. Accordingly, in its current form, the development is contrary to Policy Objective IU18 of the Louth County Development Plan 2021-2027. The 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 Report

The Louth County Council Planning Report forms the basis for the decision. The report provides a description of the appeal site and surrounds and provides an overview of the proposed development, the relevant planning history of the surrounding area and the policy that is applicable to the development proposal. The report identifies the site

as being located within a Rural Policy Zone 2 of the Louth County Development Plan, 2021-2027, which is defined as an “Area Under Strong Urban Influence”.

With respect to the principle of the proposed development, the Planning Authority in their assessment of the application note that Applicants are required to demonstrate compliance with the Local Needs Qualifying Criteria to the Rural Policy Zone 2 which is set out in Table 3.5 of the current County Development Plan. On the basis of the documentary information submitted in support of the application, the Planning Authority is satisfied that the proposal is in compliance with rural housing Policy Objective HOU 41 of the current County Development Plan.

Concerns were highlighted with respect to the suitability of the site for a development of this nature. The proposal was deemed to be contrary to the policy of the current County Development Plan for backland development and the Planning Authority raised concerns with respect to the cumulative impact of the development when taken into consideration with the concurrent application and the extant permissions for the sites to the south of the appeal lands. On this basis, a refusal of planning permission is recommended.

In terms of traffic and transportation considerations, the Planning Authority raised concerns with respect to the substandard quality of what is indicated as being a ‘right of way’ adjoining the site. This is described as being more reflective of a dirt track than a road and there is a lack of detail as to whether improvements to this laneway are being proposed.

The Planning Authority also raised concerns with respect to the proposed secondary wastewater treatment system and polishing filter and it was determined that the Applicant had failed to demonstrate that the proposal complied with the EPA Code of Practice 2021.

A refusal of permission was recommended within the Planning Report for 3 no. reasons.

3.2.2. Other Technical Reports

Infrastructure: Report received stating no objection subject to compliance with conditions.

Environment: Report received recommending further information.

3.2.3. Prescribed Bodies

None.

3.2.4. Third Party Observations

None.

4.0 Planning History

4.1. Site - Recent & Relevant

There is no recent history of valid applications on the appeal site.

4.2. North (within Blue Line Boundary)

21/1534: Planning permission refused by the Planning Authority for the construction of a 1.5 storey dwelling, detached garage, waste water treatment system and all associated site works. The Application is currently the subject of a first party planning appeal (ABP Ref. 312995-22).

4.3. South (within Blue Line Boundary)

21/869: Planning permission granted by the Planning Authority for the construction of a two storey dwelling, detached garage, new vehicular entrance onto a private lane, waste water treatment system and all associated site works.

17/44: Planning permission granted by the Planning Authority for the construction of a detached two storey dwelling, detached garage, new vehicular entrance onto a private lane, waste water treatment system and all associated site works.

4.4. Enforcement History

None known.

5.0 Policy and Context

5.1. National Policy

5.1.1. Project Ireland 2040 National Planning Framework (NPF) Local Policy

National Policy Objective (NPO) 19 states it is an objective 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.

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.

5.1.2. Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).

Section 4.8 (Rural Places: Towns, Villages and the Countryside) of the RSES indicates that support for housing and population growth within rural towns and villages will help to act as a viable alternative to rural one-off housing, contributing to the principle of compact growth. Regional Policy Objective (RPO) 4.80 is relevant to the development proposal which notes that 'Local authorities shall manage urban generated growth in Rural Areas Under Strong Urban Influence (i.e. the commuter catchment of Dublin,

large towns and centres of employment) and Stronger Rural Areas by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable 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.

5.1.3. Quality Housing for Sustainable Communities, 2007 (Department of the Environment, Heritage and Local Government).

5.1.4. Sustainable Rural Housing Guidelines for Planning Authorities, 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. Circular Letter SP 5/08 was issued after the publication of the guidelines.

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

5.2. Local Policy

5.2.1. Louth County Development Plan (CDP), 2021-2027.

The Louth County Development Plan (CDP), 2021-2027, came into effect on the 11th November 2021. Under Map 3.1 of the said plan, the site is located in a rural area under urban influence (Rural Category 1) and under Map 3.2 the site is located within Rural Policy Zone 2 land, i.e., an 'Area Under Strong Urban influence'.

Applicants for one-off dwellings in Rural Policy Zone 2 are required to meet the qualifying criteria set out in Table 3.5 of current CDP.

Section 13.9 of the current CDP 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”.

Section 13.9.10 of the current CDP deals with Garages and Outbuildings in the Countryside. It sets out that: “garage will normally be positioned to the 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”.

Section 13.9.19 of the current CDP 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’”.

Section 13.20.3 of the current CDP 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”.

Section 13.16.17 of the current CDP deals with Entrances and Sightlines. It states that: “a well-designed access is important for safety and convenience of all road users”. Table 13.13 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.

5.3. Natural Heritage Designations

There are no European designated sites within the immediate vicinity of the site. The nearest designated site is the Stabannan-Braganstown Special Protection Area (SPA)

(Site Code: 004091), c. 2.5km to the east of the site. The 'Proposed Natural Heritage Area: Stabannan-Braganstown' is also located c. 2.5km to the east of the site.

5.4. EIA Screening

Having regard to the nature and scale the development which consists of the construction of a single house in an un-serviced rural location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The main points made can be summarised as follows:

- The Applicant outlines that this is their only opportunity to build a home on their family lands. It is stated that they have no alternative site and they are anxious to reside beside family members. It is stated that the proposed house is set back circa 300m from the Applicant's father's house and planning permission has been granted for two additional houses closer to the Applicant's father. It is purported that there will be no impacts from the proposed development on the private open space of the existing dwelling on the larger landholding (i.e. father's home).
- As the site is lower than the public road to the south, it is argued that the impact on the landscape would be minimised.
- References are made to extant planning permission on the lands to the south of this site and it is considered that the current application could be considered against the same criteria that were applied to the assessment of the extant permission. It is not understood why the criteria has changed so fundamentally in a number of months since planning was granted under Reg Ref 21/869 for a similar proposal.
- With respect to the condition of the laneway, it is the intention as part of the construction of the Applicant's sister's property, to upgrade the lane to a high

standard. It is noted that this may not have been indicated in the application documents but would have to be undertaken at construction stage. It is also noted that any concerns regarding house design can be addressed as a condition or by way of a further information request should it be possible.

- With respect to the proposed wastewater treatment facility system, it is stated that this could be dealt with by way of a redesign of the wastewater treatment system that can be submitted upon request.
- The Applicant indicates that they are currently homeless and living with the Applicant's sister and their family. It is stated that the Applicant has two young children, and they require their own home so that their children can come and stay with them.

6.2. Planning Authority Response

A response has been received from the Planning Authority dated 24th March 2022 which considers the appeal submission and indicates that they have no further comment to make regarding the proposed development.

6.3. Observations

None.

6.4. Further Responses

None sought.

7.0 Assessment

The main issues are those raised in the grounds of appeal and the Planning Report, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Compliance with Rural Housing Policy
- Dwelling Design and Site Suitability

- Vehicular Access & Existing Right-of-Way.
- Waste Water Treatment.
- Appropriate Assessment.

7.1. Compliance with Rural Housing Policy

- 7.1.1. The Louth County Development Plan (CDP), 2021-2027, has a presumption against one-off rural housing at rural locations identified as being under strong urban influence except in cases where the Applicant can demonstrate they meet the relevant qualifying criteria. As indicated earlier in this report, the site is located within Rural Policy Zone 2 lands as included the current CDP, which is defined as an “Area Under Strong Urban Influence”. Given the nature of the proposed development, the Applicant is required to demonstrate compliance with the Local Needs Qualifying Criteria to the Rural Policy Zone 2 which is set out in Table 3.5 of the current CDP.
- 7.1.2. In support of the planning application, the Applicant has submitted a completed “Qualifying Criteria Form for Housing in Rural Policy Zone 2” which indicates that the Applicant is seeking to qualify under Criteria 4, i.e. “A person who is seeking to build their first house in the area and has a demonstrable economic or social requirement to live in that area. Social requirements will be someone who has resided in the rural area of Louth for at least 18 years prior to any application for planning permission. Any Applicant under this category must demonstrate a rural housing need and shall not own or have sold a residential property in the County prior to making an application.”
- 7.1.3. In support of the application, the Applicant had submitted the following information in support of Qualifying Criteria 4:
- Map indicating location of family home and its proximity to the appeal site.
 - Copy of the birth certificate which provides Roodstown as the address at the time of the Applicant’s birth in 1981.
 - Letter from Coil San Nioclás (N.S.) Castlebellingham outlining that the Applicant, of Roodstown, Ardee attended the school between 1985-1993.
 - Copy of electoral register for 2021/2022 which confirms the Applicant’s address as being Roodstown, Ardee.

- Self-declaration from the Applicant to state that they do not own a house in Co. Louth.
- Print from AIB Bank Account which provides address as Roodstown Ardee (no date included).
- Letter from the Applicant outlining that the lands are in the process of transferring through probate following allocation of the lands (site) by the Applicant's late mother.

7.1.4. Within their assessment of the application, the Planning Authority note that the documentary evidence submitted in support of the application is sparse. Notwithstanding this, the Planning Authority indicate that the Applicant has demonstrated ties to the local area in excess of 18 years. In addition, the Planning Authority undertook a planning history search on the qualifying address which indicates that permission was granted for the Applicant's father for a dwelling in November 1973 under Reg. Ref. 73/666. On the basis of the information submitted, the Planning Authority consider the proposed development to be in accordance with rural housing Policy Objective HOU 41 of the current CDP. Section 3.17.14 (Rural Generated Housing Need) of the current CDP "recognises the importance of facilitating people with a strong economic or social link to their local rural area, in strengthening the rural community. Having considered the documentary evidence submitted in support of the application, I am also satisfied that the Applicant satisfies Criteria 4 of the current CDP, given they would appear to have resided in this rural area for at least 18 years prior to any application for planning permission and they have indicated that they do not a residential property in the County.

7.1.5. In terms of regional and 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 similarly identifies the site and its wider rural setting. 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.

- 7.1.6. In relation to locations identified as being under strong urban influence the National Planning Framework, NPO 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. Whilst the Applicant appears to have a strong desire as opposed to a need to live in this rural, this in itself does not override the public good necessity for such applications to meet local through to national planning provisions. These provisions seek to safeguard such rural locations from the proliferation of what is essentially a type of development that planning provisions seek to channel to appropriate serviced land within settlements where they can be more sustainably absorbed whilst safeguarding the rural environment from further diminishment of its character and predominant rural land use based function, i.e. agriculture.
- 7.1.7. In keeping with this, I note that National Policy Objective 3a of the National Planning Framework seeks to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements. In addition, NPO 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. There are settlements within the wider area (for e.g. Ardee), 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.
- 7.1.8. Whilst demonstrating that the Applicant has social ties to the area and a desire for a one-off dwelling in this rural locality, there is no specific, quantifiable and/or robust social need justification provided by the Applicant on file to have a dwelling at this particular rural location, that cannot be met more sustainably elsewhere. Including in nearby settlements such as villages and towns that can more absorb such

developments in a manner that is consistent with regional and national planning provisions. At such locations, this type of development has less potential for adverse visual and environmental impacts to arise and would have less unsustainable economic demands on public infrastructure and services. Therefore, to permit the proposed development sought under this application, it would also result in a haphazard and unsustainable form of development in an un-serviced area, it would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment that is sensitive to change, and it would give rise to inefficient and unsustainable provision of public services and infrastructure at remote from settlement locations. Further, it would also undermine the settlement strategy set out in the current CDP that seeks to direct this type of development to appropriately zoned land within settlements. For these reasons the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area. This is reason in itself for the development sought under this application to be refused.

7.2. Dwelling Design & Site Suitability

- 7.2.1. Policy Objective HOU 42 seeks “To manage the development of rural housing in the open countryside by requiring that any new or replacement dwelling is appropriately designed and located so it integrates into the local landscape and does not negatively impact or erode the rural character of the area in which it would be located”. In terms of design, the proposed 1.5 storey dwelling has vernacular features such as a pitched roof form and materials and finishes comprise a combination of stone and sand and cement render for the principal elevations. Overall, I am satisfied that the design of dwelling and the detached domestic garage is acceptable and is generally in keeping with the character of the surrounds.
- 7.2.2. In terms of site suitability, I note the appeal site forms part of a larger agricultural field which is identified as being within the Blue Line site boundary. The site, which measures c. 0.4422ha, forms a portion of this larger field and is set back c. 300m from the public road to the south. As the site forms a portion of the field, the site does not benefit from any formal boundaries. In addition, the site is at the lower level than the

public road to the south and is therefore exposed and visible from various vantage points. I am conscious of the planning history of the immediate surrounds, whereby planning permission was granted under Reg. Ref. Nos. 17/44 and 21/869 for the construction of dwellings directly to the south of the appeal site which are to be accessed by the same right-of-way as the appeal site. I also note that planning permission was refused by the Planning Authority for the construction of a 1.5 storey dwelling on the lands immediately to the north of the appeal site which is currently the subject of a first party planning appeal (i.e. Reg. Ref. 21/1534).

7.2.3. Given the location of the appeal site relative to the public road, the siting of the existing dwelling which is identified as being within the Applicant's father's ownership and the extant permissions on the lands to the immediate south of the site which are located within the Blue Line site boundary, I consider Section 13.9.6 (Backland Development) to be directly relevant to the assessment of this application. The policy notes that 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 is stated that this type of development results in a scattered arrangement of housing or clustered to the rear of existing properties and often long laneways to reach the properties. In addition, the policy notes that 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. It is notable that the policy stipulates that only one dwelling will be permitted per landowner.

7.2.4. The Planning Authority in their assessment of the planning application indicated that the appeal site is not capable of absorbing the proposed dwelling into the landscape given its open and exposed nature with no natural features. It was considered that the proposed development individually, and in combination with the concurrent application (i.e. Reg. Ref. 21/1534) and the 2 no. extant planning permissions within the same field to the south of the site would result in an intrusive encroachment of physical development in the open rural landscape. Having regard to the foregoing, I would

concur with the Planning Authority and I have significant concerns with respect to the potential visual impact of the proposal when taken in isolation and in combination with the extant planning permissions on the lands to the south. I agree with the Planning Authority insofar that development of this nature would be more reflective of what could be described as a suburban pattern of development which I consider would detract from the rural character of the surrounds. On this basis, I consider the proposal to be contrary to 13.9.4 (Site Selection) of the current County Development Plan which notes that careful consideration should be given as to how a dwelling in the chosen location would integrate into the surrounding landscape. In addition to integration, the policy notes that consideration should be given to the ability of the landscape to absorb further development of one-off housing. It is stated that if there is an existing proliferation of one-off houses in the area, the local landscape may be at a point where any further development would completely erode the rural character of the area. On the basis of the exposed and open nature of the site and the cumulative impact of the existing and permitted dwellings in the immediate hinterland together with the proposed development, I consider the proposed development to be contrary to Sections 13.9.4 and 13.9.6 and Policy Objective HOU 42 and of the current County Development Plan and would represent an ad-hoc and piecemeal form of development and a proliferation of one-off dwellings in this rural area. On this basis, I recommend that planning permission be refused for the proposed development.

7.3. Vehicular Access & Existing Right-of-Way.

- 7.3.1. In terms of site access, the dwelling is proposed to be accessed by an existing vehicular entrance onto the public road to the south of the appeal site. The existing vehicular entrance is located at the start of a bend in the public road and sightlines of 75m in each direction have been identified on the submitted site layout plan. I note that the Planning Authority's Infrastructure section has raised no concerns with this element of the proposal subject to compliance with conditions.
- 7.3.2. In terms of accessing the appeal site, a right-of-way is identified on the site location map, which continues from the existing vehicular entrance along the northern side of an existing dwelling and continues along the full length of the eastern side of the Blue

Line boundary. A new vehicular entrance is then proposed from the right-of-way which will provide direct access to the proposed dwelling. The Planning Authority raised significant concerns with respect to the substandard quality of this right-of-way which they described as being more reflective of a dirt track rather than a road. I would share the concerns of the Planning Authority given the condition of this track which I observed when inspecting the appeal site.

- 7.3.3. Although I acknowledge the commentary included within the appeal submission of the Applicant's intention to undertake upgrade works to this right-of-way prior to the construction phase of the development, I note that these works do not form part of the development proposal and they have not been identified as being located with the red line site boundary. I note that the entrance to the site is located outside the red line boundary and the works to the existing entrance as indicated on the submitted plans and particulars do not form the basis of this proposal. On the basis of the works which form part of the development proposal and substandard condition of this right-of-way, I consider the proposal would endanger public safety by reason of a traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.

7.4. Waste Water Treatment & Drainage

- 7.4.1. In relation to Refusal Reason No. 3 and the Planning Authority's concerns with respect to the suitability of the proposed waste water treatment system, I note that Policy IU 18 of the current CDP is an overarching policy objective that seeks to ensure 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). I note Section 10.2.3 of the current CDP deals with the matter of on-site waste water treatment systems.
- 7.4.2. In addition, Policy Objective IU 16 seeks: "to require that proper supervision, installation and commissioning of on-site wastewater treatment systems by requiring site characterisation procedures and geotechnical assessment be carried out by competent professionally indemnified and suitably qualified persons" and Policy

Objective IU 17 also seeks “to require that the construction and installation of all wastewater treatment systems are supervised and certified by a suitably qualified competent person as fit for the intended purpose and comply with the Councils requirements”.

- 7.4.3. At planning application stage, the Planning Authority’s Environment Section recommended that further information be submitted prior to a determination on the application being made, notably they requested the submission of a ground water risk assessment to accompany the application. On the basis on the information submitted with the application, the Planning Authority deemed the proposal to be contrary to Policy Objective IU 18 of the current CDP as the Applicant had failed to demonstrate that the proposal is compliance with the EPA Code of Practice, 2021.
- 7.4.4. Assessment of the waste water treatment element of a rural one-off house is a standard consideration. The site is in an area with a poor aquifer of moderate vulnerability. The Site Characterisation Form notes that groundwater was not encountered in the 2.5m deep trial hole. Bedrock was not encountered at a depth of 2.5m. The soil was gravely silt with cobbles and some boulders in the upper 800mm and silty gravel with cobbles and some boulders below 800mm. Table E1 (Response Matrix for DWWTSs) of the EPA Code of Practice Domestic Wastewater Treatment (Population Equivalent ≤ 10), 2021, identifies an R1 response category i.e. acceptable subject to normal good practice (i.e. system selection, construction, operation and maintenance in accordance with this CoP).
- 7.4.5. The T-test result was 12.72 which is noted as being within the acceptable range as per the EPA Code of Practice and there was no requirement for a P-test to be undertaken. I consider the results to be consistent with the ground conditions observed on site. Section 3.1 of the Site Characterisation Form states the ground condition was dry and firm under foot. Though the trial hole and percolation test holes had been filled in, the site comprises an agricultural field with no indication of, for example, water ponding, outcrops etc. Section 4.0 (Conclusion of Site Characterisation) of the Site Characterisation form states that, based on the T-test result (12.72), the site is suitable

for development including a secondary treatment system and soil polishing filter and a tertiary treatment system and infiltration/treatment area all of which are discharging to groundwater. Section 5.0 (Selected DWWTS) of the Site Characterisation Form recommends that secondary treatment system and soil polishing filter (Tricell Novo IRL6+) be installed on site as indicated on the proposed site layout plan.

- 7.4.6. A key concern of the Planning Authority is the lack of a ground water risk assessment that accompanied the planning application. On the basis of the information on file, the characteristics of the site and surrounds and having visited the site, I do not share the concerns of the Planning Authority and I am satisfied that proposal is acceptable and in accordance with the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent ≤ 10 (2021), subject to compliance with standard conditions.
- 7.4.7. In terms of surface water drainage, the planning application form and drawings indicate that the surface water disposal shall be via a number of soakpits located to the front and rear of the proposed dwelling. I note the Planning Authority's Infrastructure Section have raised no concerns in relation to surface water disposal on site and I am satisfied that the proposals are generally acceptable subject to compliance with appropriate conditions. Should the Board be minded to grant permission for the proposed development, a condition should be included which shall require the Applicant to submit design and construction details to the Planning Authority for written agreement which comply with BRE Digest 365 "Soakaway Design".

7.5. Appropriate Assessment

- 7.5.1. The nearest designated site is the Stabannan-Braganstown Special Protection Area (SPA) (Site Code: 004091), c. 2.5km to the east of the site. I note the un-serviced nature of this rural location which means that the site does not benefit from access to public mains drainage or water supply. Nor does there appear to be access to a group water scheme in this area. I also acknowledge the prevalence of agricultural activities

and a significant number of permitted and constructed one-off dwellings in the immediate vicinity.

- 7.5.2. Despite these factors, I am nonetheless of the opinion that taking into consideration the modest nature, extent and scope of the proposed development and based on best scientific information alongside having regard to the documentation on file which includes a Site Characterisation Report, that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

I recommend that the planning application be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005 and within lands which are designated as Rural Policy Zone 2 in the Louth County Development Plan 2021-2027. Furthermore, the subject site is located in an area that is designated as an area under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, 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 and having regard to the viability of smaller towns and rural settlements. Having regard to the documentation submitted with the planning application and appeal, the Board is not satisfied that the Applicant has a demonstrable economic or social need

to live in this rural area, or that the housing need of the Applicant could not be met in a smaller town or rural settlement. It is considered, therefore, that the Applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location. The proposed development would result in a haphazard and unsustainable form of development in an un-serviced 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. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

2. Having regard to the siting of the existing dwelling, the open and exposed nature of the site within no natural features or boundaries, together with the cumulative impact of permitted dwellings in the immediate hinterland, the proposal would represent an overdevelopment of one-off dwellings in this rural area and an intrusive encroachment of physical development in the open rural landscape. The development is considered to be contrary to Section 13.9.4 (site selection) and Section 13.9.6 (Backland Development) of the Louth County Development Plan, 2021-2027, which requires that applications consider the existing number of one-off dwellings in the area and the ability of the landscape to absorb further development without further eroding the rural character of the area. In addition, the proposed development is considered to be contrary to Policy Objective HOU 42 of the Louth County Development Plan, 2021-2027, which seeks to manage the development of rural housing in the open countryside by requiring any new dwelling to be “appropriately designed and located to integrate into the local landscape and does not negatively impact or erode the rural character of the area in which it would be located”. In this regard, the proposed development is considered to be contrary to the proper planning and sustainable development of the area.
3. Based on the substandard condition of the right-of-way, upon which access to the site appeal site is reliant and the lack of proposals to upgrade this lane, the

proposed development would therefore endanger public safety by reason of a traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.

Enda Duignan
Planning Inspector

25/10/2022