



An  
Bord  
Pleanála

## Inspector's Report ABP- 313250-22

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|-------------------------------------|---|
| <b>Development</b>                  | Retention permission for a dwelling house, waste water treatment system, driveway and shed and associated site works. |
| <b>Location</b>                     | Coolfore, Monasterboice, Co Louth.  |
| <b>Planning Authority</b>           | Louth County Council.   |
| <b>Planning Authority Reg. Ref.</b> | 22/45.  |
| <b>Applicant</b>                    | Jean O'Reilly.  |
| <b>Type of Application</b>          | Retention Permission.   |
| <b>Planning Authority Decision</b>  | Refuse Permission for Retention.  |
| <b>Type of Appeal</b>               | First Party v Refusal of Permission for Retention   |
| <b>Appellant</b>                    | Jean O'Reilly.  |
| <b>Observer(s)</b>                  | None  |
| <b>Date of Site Inspection</b>      | 3 <sup>rd</sup> August 2022   |
| <b>Inspector</b>                    | Enda Duignan  |

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## 1.0 Site Location and Description

- 1.1. The appeal site has a stated area of c. 0.3985ha is located within the rural area of Coolfore, Monasterboice, Co. Louth. The site is situated c. 9km to the north-west of Drogheda and the M1 is located c. 1km to the site's east. An existing vehicular entrance is provided on the western side of the L-6300-17 Class 2 public road which provides access to the site. The site utilises an existing gravel driveway of c. 70m length which it shares with an existing dwelling to the north-west. I note a right-of-way through these lands is identified on the submitted drawings.
- 1.2. The appeal site has a rectangular shape and is occupied by a single storey dwelling located within its south-western corner. A detached shed is located to the west of the dwelling. The dwelling has a single storey, pitched roof form and comprises 2 no. bedrooms, WC and an open plan kitchen/living/dining room.
- 1.3. The remainder of site appears to be in agricultural use with the southern site boundary characterised by mature trees and a hedgerow. The remainder of the site boundaries are undefined.
- 1.4. 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 clustered around the road junction to the north of the site.

## 2.0 Proposed Development

- 2.1. The proposal seeks planning permission for the retention of an existing dwelling on site, along with a waste water treatment system (wwts), driveway, shed and associated site works.
- 2.2. The dwelling has a single storey, pitched roof form and a total floor area of c. 49sq.m. The dwelling comprises 2 no. bedrooms, WC and an open plan kitchen/living/dining room. Access to the dwelling is provided via a series of steps which are located on its eastern side. Materials and finishes for the dwelling comprise timber clad elevations

and a tiled roof. A detached single storey flat roof shed is located on the western side of the dwelling.

- 2.3. The dwelling is surrounded by gravel on its northern and western sides and a garden area comprising soft landscaping is provided to the east of the dwelling. Both gravel and soft landscaping areas are enclosed by a timber post and wired fence. The existing septic tank is located within the eastern portion of this garden area.
- 2.4. Vehicular access to the site is provided via the entrance permitted under reg. ref. 18/906 which is associated with the constructed dwelling to the north-west of the site.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Louth County Council refused planning permission for the development for the following 5 no. reasons:

1. The site of the development is located within Rural Policy Zone 1 of the Louth County Development Plan 2021-2027 where it is policy of the Plan that applicants demonstrate compliance with one of qualifying criteria outlined within Table 3.5 of the Plan. Based documentary evidence submitted, the applicant has failed to clearly demonstrate that they fulfil the qualifying criteria for Rural Policy Zone 1. As such, the development contravenes rural Housing Positive HOU 41 of the Louth County Development Plan 2021-2027 and is contrary to the proper planning and sustainable development of this area.
2. The site, by reason of its location in an area characterised by a proliferation of one-off rural dwellings, and situated some 115m back from the public road exacerbates the already excessive pattern of overdevelopment and constitutes an inappropriate form of piecemeal, backland development resulting in an intrusive encroachment of physical development in this area of high scenic quality. Such development militates against the preservation of the rural environment and set an undesirable precedent for their similar inappropriate

development by reason of site selection. Accordingly, the development is considered to be contrary to Section 13.9.4 (site selection) 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; Policy Objectives HOU 42 and HOU 47 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 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 13.9.4 of the Development Plan relating to 'Site Selection' and Section 13.9.6 relating to 'Backland Development' and Policy Objective NBG 36. Such development would be contrary to the proper planning and sustainable development of the area.

3. The design of the dwelling is not considered to be reflective of a rural dwelling and is not considered to accord with the provisions of Section 13.9.9 or 13.9.10 of the Louth County Development Plan 2021-2027 and accordingly, the overall design is considered to be contrary to 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.
4. The applicant has failed to demonstrate the minimum sightline requirements of 75m x 3m set back as set out in Table 13.13 of the Plan. Accordingly, in its current form the development is contrary to Section 13.16.17 Entrances and Sightlines and Table 13.13 of the Louth County Development Plan 2021-2027. The development would endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.

5. 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 is the basis for the decision. The report dated 1<sup>st</sup> March 2022 identifies the site as being located within a Rural Policy Zone 1 of the Louth County Development Plan, 2021-2027, which is defined as “Area Under Strong Urban Influence and of Significant Landscape Value”. It is also indicated that the site is situated within an Area of High Scenic Quality 2 (AHSQ 2) Monasterboice. The Planning Authority note that Applicants are required to demonstrate compliance with the Local Needs Qualifying Criteria to the Rural Policy Zone 1 which is set out in Table 3.4 of the current County Development Plan. On the basis of the information submitted, it is unclear to the Planning Authority what qualifying criteria the Applicant is seeking to qualify under. However, it was determined that the Applicant had not adequately demonstrated that they met any of the qualifying criteria and the proposed development would therefore contravene 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. It was considered that the cumulative impact of the existing dwellings in the immediate area both constructed and granted together with the development to be retained would represent an overdevelopment of one-off dwellings in an un-serviced rural area and an unacceptable loss of this rural environment. The Planning Authority also indicated concerns with respect to the design and architectural quality of the dwelling and therefore considered the proposals to be contrary to Section 13 and Objective HOU 42, HOU 47 and NGB of the current County Development Plan.

In terms of traffic and transportation considerations, the Planning Authority acknowledged that further information would be required in order to address concerns raised with respect to sightlines. It was noted that sightlines granted under reg. ref 18/906, upon which the development relies, have not been implemented.

The Planning Authority also raised concerns with respect to the existing septic tank that has been installed on site and it was determined that the Applicant had failed to demonstrate that the site can cater for a waste water treatment system and percolation area. In addition, the Applicant has failed to submit design details and associated calculation for the soakpit nor has the location of the soakpit been identified on the submitted plans.

A refusal of permission for retention is recommended by the Planning Authority for 5 no. reasons.

### 3.2.2. Other Technical Reports

Infrastructure: Report received recommending a request for further information in relation to sightline visibility and surface water testing.

Environment: Report received recommending further information on a number of items including the requirement for ground water risk assessment and supervised percolation tests to be carried out on the site.

### 3.2.3. Prescribed Bodies

None.

### 3.2.4. Third Party Observations

None.

## 4.0 Planning History

### 4.1. Site- Recent & Relevant

There is not recent history of valid applications on the appeal site.

### 4.2. Setting - Recent & Relevant

**18/906:** Retention permission and planning permission granted by the Planning Authority on 16/07/2019 for development relating to previously granted planning application no. 08/955. The development will consist of the proposed retention of an existing detached dormer dwelling, upgrading existing site entrance, proposed new wastewater treatment system and percolation area and all associated site works.

### 4.3. Enforcement History

**20 U188:** Warning letter issued with respect to the siting of a log cabin/dwelling on lands without the benefit of planning permission.

## 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  $\leq 10$ ), 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 11<sup>th</sup> 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 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 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  $\leq 10$ ) (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 River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299), c. 2km to the south of the site. The River Boyne and River Blackwater Special Protection Area (SPA) (Site Code: 004232) is also located c. 3.1km to the south of the site. The ‘Proposed Natural Heritage Area: King William’s Glen’ is also located c. 2km to the south of the site.

### **5.4. EIA Screening**

Having regard to the nature and scale the development which consists 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:

- In response to Refusal Reason No. 1, the Appellant has now submitted the Qualifying Criteria Form to demonstrate the Applicant's compliance with the applicable policy for Housing in Rural Policy Zone 1. It is contested that the Applicant was unfairly refused permission and the 'qualifying criteria form' would have been submitted through a further information request. It is stated that the Applicant qualifies under the required criteria '2 Sons or Daughters of a Landowner' and '5 Care for Elderly Person(s) or Person(s) with a disability' and copies of the supporting documentation have been enclosed. Attached to the appeal is a copy of the Land Registry Certificate/Folio LH4958 which provides proof that the land has been in the family ownership since 1997. The appeal submission also clarifies that the Applicant has lived in Coolfore for 3 no. years and before moving to the development, resided with her parents for 1 no. year. Before this, the Applicant lived and worked in Galway but returned every week to provide care and support for her parents.
- In response to Refusal Reason No. 2, it is contended in the appeal submission that the location, topography and existing site features such as the trees and hedgerow to the south of the site allows for the development to be successfully absorbed at this location. Additional boundary hedging and planting is recommended which will further screen and integrate the development into the surrounding landscape.
- In response to Refusal Reason No. 3, it is stated that the proposed dwelling can respect the character and appearance of the land through using the site's natural features, contours and ecology. It is stated that the addition of new trees and hedgerows around the site's boundaries will make the dwelling discreet by integrating it within the surroundings.
- It is contended that the dwelling is of an appropriate size to meet the needs of the Applicant, and should it be deemed necessary, the Applicant will accept a condition to remove the internal partitions within the bedrooms so that only one bedroom is provided.

- In response to Refusal Reason No. 4, it is acknowledged that the sight lines associated within reg. ref. 18/906 have not been fully implemented. However, works have been and will be further undertaken to achieve this so that it fully complies with the extant planning permission.
- In response to Refusal Reason No. 5, it is confirmed that a certified septic tank was installed at the time the dwelling was constructed. It is stated within the appeal submission that they do not agree with the Planning Authority's refusal reason as the soil categorisation was based on a desk top study. The study also states that the site can still be suitable for the provision of a waste water treatment system and percolation area if the minimum depths and separation distances can be met. A copy of the site characterisation report is enclosed with the appeal and confirms that the site is suitable for the provision of a waste water treatment system and percolation area.

## **6.2. Planning Authority Response**

A response has been received from the Planning Authority dated 27<sup>th</sup> April 2022 which noted the following:

- In terms of the Appellant's response to Refusal Reason No. 1, it is accepted by the Planning Authority that the Applicant is the daughter of the qualifying landowner. However, they are not satisfied that sufficient documentary evidence has been provided to demonstrate a minimum of 18 years living in the local area to qualify under Criteria 2 of rural Policy Zone 1. In terms of qualifying under Criteria 5, the Applicant has not submitted medical supporting documentation outlining the medical conditions and level of care required and has not demonstrated why the existing property cannot be extended or modified to provide additional residential accommodation for the carer. The proposal would therefore contravene the policy of the current CDP.
- In terms of the Appellant's response to Refusal Reason No. 2, it is stated that the dwelling is considered to represent an inappropriate form of backland

development in an area which has an already excessive number of one-off rural dwellings in the immediate vicinity.

- No further commentary with respect to Refusal Reason Nos. 3 & 4.
- With respect to the Appellant's response to Refusal Reason No. 5, the Environment Section remains unsatisfied that the waste water treatment system complies with the EPA Code of Practice 2021 and lists outstanding information that is required. A copy of Environment Section's report is enclosed with the Planning Authority's response.

### 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
- Site Suitability & Dwelling Design
- Vehicular Access & Sightlines
- Waste Water Treatment & Drainage
- 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

and in landscapes deemed to be of high scenic quality except in cases where the applicant can demonstrate they meet the qualifying criteria.

7.1.2. As indicated earlier in this report, the site is located within Rural Policy Zone 1 lands of the current CDP, which is defined as an “Area Under Strong Urban Influence and of Significant Landscape Value”. It is also indicated that the site is situated within an Area of High Scenic Quality 2 (AHSQ 2) Monasterboice. 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 1 which is set out in Table 3.4 of the current CDP.

7.1.3. The appeal submission indicates that the Applicant is the daughter of the landowner and supporting documentation has been submitted to demonstrate that the Applicant qualifies for both the following:

- 2: Sons or Daughters of a Landowner; and,
- 5: Care for Elderly Person(s) or Person(s) with a disability.

7.1.4. In support of the appeal, the Applicant has now submitted a Qualifying Criteria Form for Housing Rural Policy Zone 1 dated 5<sup>th</sup> April 2022. Under Part A of the form, the Applicant indicates that they fall under Qualifying Criteria 2 (Sons or Daughters of a Landowner). I note that Qualifying Criteria 5 has not been indicated on the form and no specific documentation with respect to this Qualifying Criteria is enclosed with the appeal. The following information in support of Qualifying Criteria 2 has been enclosed:

- Map indicating location of family home and its proximity to the development.
- Letter from Parish of Mellifont to outline that the applicant has lived at this location and that she provides continuing care and support for her parents and works in Drogheda.
- Letter from a local Councillor outlining that the applicant provides support to her parents and has invested all her finances into this development.

- Letter of consent from the applicant's mother to use her lands for this development.
- Letter of consent from the applicant's mother for right of way for access to the site where the development is located.
- Letter from Mr. Brian O'Reilly to confirm consent to use his well for water supply to the development.
- Self-declaration from the applicant to state that she does not own a house and did not previous own a house within the rural area of the county. Site Characterisation and Site Suitability Assessment Report and Certificate EN 12566-1 Septic Tank.
- The Land Registry Certificate/Folio LH4958.

7.1.5. As per Table 3.4 of the current CDP, Qualifying Criteria 2 relates to "A son or daughter of a landowner (see definition above) who is/are seeking to build a first home for permanent occupation. A qualifying landowner is defined as a person who owns a landholding of at least 1.5 hectares and has owned the land for a minimum of 15 years. Any applicant under this category must demonstrate a rural housing need and have a demonstrable social or an economic need to live in the area and shall not have previously owned a dwelling. No more than three houses (exclusive of the family home) shall be permitted on the landholding. Any application will be subject to the appropriate siting and consideration of proper planning and sustainable development."

7.1.6. Information has been submitted which demonstrates that the Applicant's father owns a landholding of at least 1.5ha (c. 2.4ha as per Folio LH4958) and has been in ownership of this parcel of land for in excess of 15 years. I am therefore satisfied that the Applicant satisfies this element of Qualifying Criteria 2.

7.1.7. Whilst demonstrating that the applicant has social ties to the area and a desire for a one-off dwelling in this rural locality, the documentation provided with this application and on appeal crucially does not robustly demonstrate that in recent years there is sufficient information to tie her residence to this rural locality and with this going back



the required 15 years. The appeal submission confirms that the Applicant has lived in Coolfore for the last 3 years and before then resided in Galway. 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 local, 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. In terms of the Applicant's economic need, it is confirmed within the appeal submission that Drogheda is the Applicant's place of employment. I am therefore not satisfied that the Applicant has a demonstrable social or an economic need to live in this area.

7.1.8. Qualifying Criteria 2 also sets out that any application will be subject to the appropriate siting and consideration of proper planning and sustainable development. As considered in the assessment below, there are other significant issues in relation to the proposed development sought under this application.

7.1.9. In terms of Qualifying Criteria 5, it is detailed with the planning appeal that the Applicant has chosen to reside at this location to care for her parents and her father who it is stated is in ill-health. Again, I note that Qualifying Criteria 5 has not been indicated on the Qualifying Criteria Form and no specific documentation with respect to this specific Qualifying Criteria is enclosed with the appeal. The policy of the current CDP requires Applicants to submit documentation to demonstrate why the existing property (i.e. home of parents) cannot be extended or modified to provide residential accommodation for the carer. It must be clearly demonstrated that consideration was given to adapting the property in the first instance but was not feasible with valid reasons why it cannot be adapted provided. On this basis of the information submitted, I am not satisfied that the Applicant has robustly demonstrated that they comply with this criteria.

7.1.10. I draw the Board's 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. Therefore, to permit a proposed rural dwelling house for the applicant where an applicant has not demonstrated a genuine social or an economic need would be contrary to the local settlement strategy as provided for under the current CDP.

7.1.11. 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. 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.

7.1.12. 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 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.

7.1.13. 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 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.

7.1.14. Therefore, to permit the proposed development sought under this application where a genuine demonstrable economic and/or social reason for such a development has not been demonstrated would be contrary to Policy HOU 41 of the current CDP. 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. Site Suitability & Dwelling Design**

7.2.1. The Planning Authority have highlighted significant concerns throughout their assessment of the application that the development to be retained exacerbates the already excessive pattern of overdevelopment in the immediate area. When inspecting the site, it was evident that there is a proliferation of one-rural houses in the site's immediate surrounds. This is also evident when examining aerial imagery of surrounding area with a cluster of one-off houses located to the north of the site and extensive ribbon development on the surrounding road network to the site's south being evident.

- 7.2.2. As indicated earlier in this report, the site is situated within an Area of High Scenic Quality 2 (AHSQ 2) Monasterboice. The Planning Authority refer to Section 13.9.4 (site selection) of the current County CDP which outlines the policy parameters for the identification of a site for a rural dwelling. The policy notes that the ability of the landscape to absorb further development of one-off housing should also be taken into account and 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. Evidence of over proliferation of housing includes the number of existing dwellings in the area, the extent of intermittent views of dwellings, and the capacity of the local road network to accommodate further development. It is stated that areas of the County where the character of the countryside is under severe pressure or being extensively eroded will generally not be suitable for any further development of one-off housing.
- 7.2.3. It is my view that Refusal Reason Nos. 2 & 3 are interrelated, and I would share the view of the Planning Authority that the cumulative impact of the existing dwellings in the immediate hinterland together with the proposed development would represent an overdevelopment of one-off dwellings in this rural area. Although the existing dwelling is substantially set back from the public road (i.e. c. 70m), it is visible from certain vantage points and I am not satisfied that the provision of new boundary landscaping as a measure to screen the development as suggested by the Appellant is an appropriate design solution in this instance.
- 7.2.4. I would also have significant concerns with respect to the design of the existing dwelling which is akin to a temporary log cabin type structure. Although the site is well maintained and the dwelling is modest in size, with a floor area of c. 49sq.m. and a height of c. 3.7m, the design of the dwelling is not in keeping with the vernacular character of the surrounding area. The dwelling does not accord with the design criteria contained within Sections 13.9.8 (House Design – New Build) and 13.9.9 (Design, Detailing and Material Finishes) of the current CDP for housing in the open countryside and if permitted, would set an undesirable precedent for similar development in the surrounding area. I again do not accept that the provision of new

boundary landscaping to ameliorate the visual impact of the building is an appropriate design solution as indicated in the Appellant's response to Refusal Reason No. 3.

- 7.2.5. On the basis of the foregoing, the regularisation of the existing conditions would exacerbate the pattern of overdevelopment in the area and would be contrary to Section 13.9.4 (site selection) of the current CDP, which requires that applications consider the number of one-off dwellings in the area and the ability of the landscape to absorb further development without further eroding its rural character. Given the design of the dwelling and the overall pattern of development in the surrounding area, I consider the development to be retained to be contrary to Policy Objectives HOU 42 and 47 of the current CDP and would set an undesirable precedent for similar development. On this basis, I recommend to the Board that permission be refused for the retention of the existing dwelling.

I note that the Planning Authority raised concerns with respect to the suitability of the dwelling given its overall size (i.e. 49sq.m.) and its substandard level of amenity for the occupant. Reference was made within the Planning Report to the minimum floor area requirement of 69sq.m. for a 2 bedroom apartment. I consider the design standards as set out in the *Quality Housing for Sustainable Communities, 2007 (Department of the Environment, Heritage and Local Government)* to be a more relevant consideration in this instance which recommends a minimum floor area of 60sq.m. for a 2BED/3P House (1 storey). Although the appeal submission indicates that the Applicant is willing to accept a condition to amalgamate the 2 no. bedrooms to provide a single bedroom, I share the concerns of the Planning Authority and the undesirable precedent the proposal may establish should the development be regularised.

### 7.3. **Vehicular Access & Sightlines.**

- 7.3.1. The existing dwelling is set back c. 70m from the public road and is accessed via the entrance serving the existing dwelling to the north-west. A gravel driveway, which is identified as a proposed right-of-way on the submitted plans, crosses the adjoining lands and provides access to the appeal site. The Planning Authority's Infrastructure section recommended that the Applicant submit a formal legal agreement together

with a map showing the extent of the lands so affected outside the site boundary to the public road together with an undertaking from the landowner's solicitor that the agreement will be entered as a burden against the title of the land. This information has not been provided by the Applicant at appeal stage. However, a letter of consent is enclosed from the Applicant's mother for a right of way for access to the site where the development is located.

- 7.3.2. The Planning Authority in their determination deemed the proposal to constitute a traffic hazard as the Applicant had failed to demonstrate that it achieved the minimum sightline requirements of 75m x 3m set back as set out in Table 13.13 of the current CDP. The submitted plans (Drawing No. 21-10-01) have a notation indicating that the modified entrance visibility splays permitted under reg. ref. 18/906 are to be provided. From an inspection of the appeal site, it is evident that these works have yet to be carried out and the works will require the extensive removal of the existing embankment to the north-west to achieve the required sightlines. The appeal submission acknowledges this and outlines that the Applicant will give an undertaking to carry out these works which it is stated were not undertaken to date due to financial constraints.
- 7.3.3. 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. Ensuring that these works are undertaken in accordance with the extant permission (i.e. reg. ref. 18/906) is an enforcement matter for the Planning Authority. Although I consider that the addition of a single dwelling would not result in an over intensification of the permitted entrance, it is not appropriate to condition these works to be undertaken on lands that are outside the control of the Applicant in the event that permission was contemplated for the development's retention. I am therefore not satisfied that the Applicant has demonstrated compliance with Table 13.13 of the current County Development Plan and its current form, the proposal would endanger public safety by reason of a traffic hazard. The proposal 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. 5 and the Planning Authority's concerns with respect to the suitability of the waste water treatment system that has been installed on site, I note that Policy IU 18 of the current CDP 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  $\leq 10$  (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.
- 7.4.2. In addition to Policy Objective IU 18, Section 10.2.3 of the current CDP under Policy Objective IU 16 states: "to require that proper supervision, installation and commissioning of on-site wastewater treatment systems by requiring site characterisation procedures and geotechnical assessment be carried out by competent professionally indemnified and suitably qualified persons" and Policy Objective IU 17 states: "to require that the construction and installation of all wastewater treatment systems are supervised and certified by a suitably qualified competent person as fit for the intended purpose and comply with the Councils requirements".
- 7.4.3. 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. 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. In the Planning Authority's response to the appeal, similar concerns were highlighted by their Environment Section and they recommended that their decision to refuse the permission be upheld. The Appellant notes that the onsite tests carried out by the Environmental Engineer verify that the site is suitable for the provision of the waste water treatment system and the percolation area.

- 7.4.4. Assessment of the wastewater treatment element of a rural one-off house is a standard consideration. The site is in an area with a poor aquifer of extreme vulnerability. The Site Characterisation Form notes that groundwater was not encountered in the 2.1m deep trial hole. Bedrock was not encountered at a depth of 2.1m. The soil was silt/clay in the upper 400mm and clay intermixed with stone below 400mm. Table E1 (Response Matrix for DWWTs) of the EPA Code of Practice Domestic Wastewater Treatment (Population Equivalent  $\leq 10$ ), 2021, identifies an R2<sup>1</sup> response category i.e. acceptable subject to normal good practice. Where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Chapter 6 are met and the likelihood of microbial pollution is minimised.
- 7.4.5. The T-test result was 15.22. A P-test was also carried out giving a result of 10.58. I consider the results to be consistent with the ground conditions observed on site. Section 3.2 of the Site Characterisation Form states the colour of the soil was brown indicating it is well aerated with good drainage. 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. Table 6.4 (Percolation Values) of the Code of Practice states that, based on the T-test result, the site may be suitable for the development of a septic tank system and percolation area, 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 (Recommendation) of the Site Characterisation Form recommends that the existing O'Reilly Oakstown EN Certified Septic Tank be maintained to manufacturer guidelines and a new purpose-built percolation area be constructed to ensure that there is a minimum of 1.2m of suitable percolating material between the base of the lowest part of the percolation area and groundwater/bedrock at all times. On the basis of the information included, the proposal would therefore require the construction of this new percolation area for the proposal to be acceptable.
- 7.4.6. Section 3 of the Site Characterisation Form indicates that there is an existing mobile home located to the west of the site and is serviced by an O'Reilly Oakstown Septic Tank. It is also noted that there are a number of other dwellings within 250m of the site



which are served by waste water treatment systems. However, these are not indicated on the Site Characterisation Form. Amongst other items, a key concern of the Planning Authority is the lack of a ground water risk assessment that accompanied the planning application and appeal. This is particularly relevant in this instance given the proliferation of one-off houses in the immediate surrounds and the reliance on wells for drinking water as there appears to be no watermain for the area.

- 7.4.7. This application is therefore not accompanied by any demonstration that a safe and sustainable water supply can be provided to serve the proposed dwelling sought under this application and its future occupants. Nor is there sufficient information that shows if the retention of the development were to be permitted, would allays concerns that there would be no potential risk of it being prejudicial to public health or that it would not give rise to diminishment of ground water quality in this area with the dwellings in the vicinity appearing to be dependent upon bored wells.
- 7.4.8. I am not satisfied on the basis of the information on file, having visited the site and in the absence of any groundwater risk assessment, that the impact of the proposed development when taken in conjunction with existing wastewater treatment systems in the area, would not give rise to a risk of groundwater pollution in an area highly dependent on private wells for their potable water supply. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 7.4.9. In terms of surface water drainage, the planning application form and drawings indicate that the surface water disposal shall be via a soakaway. I note the Planning Authority's Infrastructure Section recommended that the Applicant submit details with respect to the proposals for the development's storm water management. No additional details with respect to surface water management has been included within the appeal and the Appellant has suggested that this matter could be addressed through compliance with an appropriate condition. Should the Board be minded to grant permission for retention, 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 River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299), c. 2km to the south of the site. The River Boyne and River Blackwater Special Protection Area (SPA) (Site Code: 004232) is also located c. 3.1km to the south 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 proliferation of 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 development to be retained 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 development to be retained 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 1 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. In addition, the development to be retained does not accord with Objective HOU 41 of the Louth County Development Plan 2021-2027. The regularisation of the 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 proposals are therefore contrary to the proper planning and sustainable development of the area.

2. Having regard to the siting of the existing dwelling, together with the cumulative impact of existing dwellings in the immediate hinterland, the proposal would represent an overdevelopment of one-off dwellings in this rural area. The development is considered to be contrary to Section 13.9.4 (site selection) 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 design of the dwelling is not considered to be reflective of a rural dwelling and is not considered to accord with the provisions of Section 13.9.9 or 13.9.10 of the Louth County Development Plan, 2021-2027 and accordingly, the overall design is considered to be contrary to 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. Such development is therefore

considered to be contrary to the proper planning and sustainable development of the area.

3. Based on the existing site conditions and the extent of the development proposals as indicated within the red line site boundary, the Applicant has failed to demonstrate the minimum sightline requirements as prescribed in Section 13.16.17 Entrances and Sightlines and Table 13.13 of the Louth County Development Plan, 2021-2027. The development would therefore endanger public safety by reason of a traffic hazard and would be contrary to the proper planning and sustainable development of the area.
  
4. 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. As a ground water risk assessment has not been carried out for the proposed development, there is no demonstration that a safe and sustainable water supply can be provided to serve the dwelling sought under this application and its future occupants. Nor is there sufficient information that shows that if permission was granted, that would allay concerns that there would be no potential risk of it being prejudicial to public health or that it would not give rise to diminishment of ground water quality in this area. In this regard, the development is contrary to Policy Objective IU18 of the Louth County Development Plan, 2021-2027 and the development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of this area.

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Enda Duignan  
Planning Inspector

10/08/2022

