



An  
Bord  
Pleanála

## Inspector's Report ABP- 314698-22

### Development

Retention of the single storey house and wastewater treatment system servicing dwelling house both laid out and constructed. Full permission is sought for alteration works to shared vehicle access entrance and neighbouring roadside boundaries to provide upgraded sight visibility and all associated site development works.

### Location

Begrath, Monasterboice, Co Louth.

### Planning Authority

Louth County Council.

### Planning Authority Reg. Ref.

22/582.

### Applicant

Andrew Mooney.

### Type of Application

Retention Permission & Permission.

### Planning Authority Decision

Refusal of Retention Permission & Permission.

**Type of Appeal**

First Party v Refusal of Retention  
Permission & Permission.

**Appellant**

Andrew Mooney.

**Observer(s)**

None

**Date of Site Inspection**

9<sup>th</sup> June 2023

**Inspector**

Enda Duignan

## **1.0 Site Location and Description**

- 1.1.** The address of the appeal site is Begrath, Monasterboice, Co Louth, and is situated c. 3km to the south-east of Collon and c. 5km to the north-west of Drogheda. The site is located on the northern side of a local road which connects to the R-168, c. 200m to the site's south-west. The site is positioned to the rear of a row of 4 no. detached one-off dwellings and comprises a single storey dwelling which accessed from a gravel surfaced driveway. The site originally formed part of a larger agricultural field and a timber post and wire fence forms the western and northern site boundaries. In terms of the topography of the lands, the site slopes sharply to the west/northwest. The topography of the appeal site itself is undulating, with a mound to the south-east of the site. The appeal site has a stated area of c. 0.331ha.
- 1.2.** 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 of the Old Mellifont Road and the R-168 to the south-east 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 wastewater treatment system (wwts), driveway, boundary treatments and associated site works.
- 2.2.** The dwelling has a single storey, pitched roof form with a maximum height of c. 3.4m and a stated floor area of c. 98sq.m. The dwelling comprises 2 no. bedrooms, walk in wardrobe, utility, bathroom and an open plan kitchen/living room. Access to the dwelling is provided via a covered porch on the dwellings south-western side. Materials and finishes for the dwelling comprise horizontal timber cladding for the principal elevations and a metal sheet roof.
- 2.3.** The dwelling is surrounded by gravel on its northern and western sides and a garden area comprising soft landscaping is provided further to the north and west of the dwelling. Both gravel and soft landscaping areas are enclosed by a timber post and

wired fence. The existing wastewater treatment system and percolation area is located within the northern portion of this garden area.

- 2.4.** Vehicular access to the site is provided via the existing entrance serving the dwelling to the immediate south of the appeal site which is identified as being within the ownership of the Applicant's grandfather. The proposed development also seeks planning permission for alteration works to the shared vehicular entrance and neighbouring roadside boundaries to provide upgraded sight visibility.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Louth County Council refused planning permission for the development for the following 4 no. reasons:

1. Policy Objective HOU 47 of the Louth County Development Plan 2021-2027 requires applications for rural dwellings to comply with the standards and criteria for Housing in the Open Countryside set out in Section 13.9 of Chapter 13. Having regard to the location of the site in an area under significant pressure for one off rural housing, evident by the high number of one off dwellings in the vicinity of the application site it is considered the development would be contrary to policy objective HOU 47, as an additional dwelling in this location would result in the further erosion of the rural character of the area which would be contrary to Section 13.9.6 'Backland Development' and would militate against the preservation of the rural environment and would set an under desirable precedent for other similar inappropriate development in the vicinity. In addition the development would also be contrary to policy objective HOU 42 which seeks to manage the 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 not erode the rural character of the area in which it would be located. The development would therefore, be contrary to the proper planning and sustainable development of the area.
2. The applicant has failed to demonstrate that ground conditions on site are

adequate to accommodate the wastewater treatment system and polishing filter in compliance with the EPA Code of Practice 2021. Accordingly, in its current form, the development is contrary to Policy IU18 of the Louth County Development Plan 2021-2027, prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

3. It is the policy (ENV 38 and 39) of the Louth County Development Plan 2021-2027 to seek to retain and protect significant stands of existing trees /hedgerows/woodlands and protect and preserve existing hedgerows in new developments. The achievement of the required sightlines will require the removal of some 75m of mature hedgerow. This hedgerow forms part of the rural character of the area and provides visual amenity. Accordingly, it is considered that the proposal would contravene the policy of the Louth County Development Plan 2021-2027 and would be contrary to the proper planning and sustainable development of the area.
4. It is the policy of the Louth County Development Plan 2021-2027 that backland development will only be considered in Rural Policy Zones 1 and 2 where the applicant's site has been owned by the family for at least 15 years and the land holding is at least 1.5 hectares. Only one dwelling will be permitted per landowner (as defined above). Based on the information submitted, it would not appear that this application could avail of this exemption and as such, the development would contravene the policy of the Louth County Development Plan 2021-2027 and would be contrary to the proper planning and sustainable development of the 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 site and surrounds, sets out the planning history of the site and provides an overview of the policy at local and national level that is relevant to the development proposal.

In terms of the Applicant's qualification for a rural house at this location, the Planning

Authority refer to the material submitted in support of the application, and it is confirmed that the Applicant is compliance with the relevant qualifying criteria and a housing need has been established. However, concerns are raised with respect to the backland nature of the development, and it is stated that an additional dwelling would result in the further erosion of the rural character of the area. In addition, concerns are raised with respect to the extent of hedgerow removal required to provide sightlines for the existing entrance. Further information was also requested with respect to the wastewater treatment system that has been installed on site.

A refusal of permission for retention was recommended by the Planning Authority for 4 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 drainage proposals.

Environment: Report received recommending further information with respect to the wastewater treatment system.

#### 3.2.3. Prescribed Bodies

Irish Water: Report received stating no objection.

#### 3.2.4. Third Party Observations

None.

## 4.0 Planning History

**20/184 (ABP Ref. 307600-20)**: Planning permission refused by the Planning Authority and the Board for development comprising the construction of a two-storey dwelling house, domestic garage, a proprietary wastewater treatment system and all associated site works. The application was refused for the following 1 no. reason:

1. The proposed development, by reason of its location and distance from the public road, would constitute inappropriate backland development which would

be out of character with the established pattern of development in the surrounding rural area and which would result in an intrusive encroachment of physical development into the open rural landscape. Such development would militate against the preservation of the rural environment and the preservation of a clear distinction between the built up areas of Drogheda and the surrounding countryside and would set an undesirable precedent for other such development in the vicinity. Furthermore, having regard to the topography of the site, the access road proposed and the cut and fill proposed to accommodate the proposed dwelling house, the proposed dwelling house would be unduly dominant in the landscape and would detract from the character and visual amenity of the surrounding rural area. Such development would be contrary to the policy requirements, as set out in the current Development Plan for the area which requires that the siting of a proposed dwelling is such that it does not detract from the rural area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

**19/88:** Planning application deemed withdrawn which sought permission for the construction of a two storey dwelling house, a domestic garage, a proprietary wastewater treatment system and all associated site works.

#### **4.1. Enforcement History**

**UD U014:** Enforcement file with respect to an unauthorised dwelling on the appeal site.

### **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.**

Under Map 3.1 of the current CDP, 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 13.9.19 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'".

Relevant policies include:

HOU 41 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 set out in Tables 3.4 and 3.5.

HOU 42 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.

HOU 44 To attach an occupancy condition of 7 years in the form of a Section 47 agreement in respect of all planning permissions for new dwellings in rural areas and Level 5 Settlements restricting the use of the dwelling to the applicant, or to those persons who fulfil the criteria set out in Tables 3.4 and 3.5.

HOU 47 To require 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 'Housing in the Open Countryside' or Section 13.19.9 if the site is located within the Brú na Bóinne UNESCO World Heritage Site, the Tentative World Heritage Site of Monasterboice, or the Battle of the Boyne Sites.

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. 2.5km 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. 3.4km to the south of the site.

#### **5.4. EIA Screening**

Having regard to the nature and scale the development which consists of the retention 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 and the development to be retained. 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**

A First Party appeal has been prepared and submitted on behalf of the Applicant. The appeal submission sets out the planning history of the site and provides a rationale for the need for a family home at this location. Included as an appendix to the submission is a letter from the Applicant which accompanied the application. The main grounds of appeal can be summarised as follows:

- In response to Refusal Reason No. 1 and the issue of backland development, it stated that the applicant's site has been owned by the family since the 1920s and the family's landholding far exceeds 1.5ha. it is stated that a signed agreement by the landowner (Applicant's grandfather) accompanied the planning application confirming that an agreement is in place to establish a legal right of way to accommodate access to the appeal site. It is contended that the Applicant meets the exemption criteria as set out under the relevant policy of the CDP and should be afforded to avail of this exemption in this instance.
- In response to Refusal Reason No. 2, it is highlighted within the submission that the Environmental Section of the Planning Authority requested further information with respect to the wastewater treatment system. It is stated that the environmental matters could have been dealt with by way of conditions of

a grant of planning permission, where suitable information could have been submitted to the Planning Authority prior to the commencing stage of the works.

- In response to Refusal Reason No. 3, it is stated that the proposed entrance on to the public road is located on a convex curve, with restricted visibility to the existing house and to general traffic using the public road. It is highlighted that adequate sightlines have been identified on the submitted plans and letters of consent from the adjoining landowners have accompanied the application to facilitate the setting back of planted hedges on either side of the entrance, thus providing the required visibility. It is contended that replacement hedges reflecting the native hedging in the local area can easily be planted behind the visibility lines and within a few years the newly planted hedges will reflect the actual native hedgerows in the surrounding countryside.
- In terms of Refusal Reason No. 4, it is stated that response provided is similar to the response to Refusal Reason No. 1 and the same points are reiterated. In addition, reference is made to the fact the Planning Authority within their assessment of the application noted that the proposed house nestles into the landscape and was deemed to be acceptable in design terms.

## **6.2. Planning Authority Response**

A response has been received from the Planning Authority dated 6<sup>th</sup> October 2022 confirming its decision.

## **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
- Wastewater 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 except in instances where Applicants can demonstrate they meet the qualifying criteria and have a genuine housing need. As indicated earlier in this report, the site is located within Rural Policy Zone 2 lands of 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. The application documents confirm that the Applicant qualifies for a rural dwelling under Criteria No. 4 which is detailed as follows:

- 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.

7.1.2. In support of the application, the Applicant submitted a Qualifying Criteria Form and the following documentation has been enclosed:

- A self declaration letter stating that the applicant has never owned a dwelling in the rural area.
- Letter of consent for proposed development from the applicant's grandfather who is the owner of the appeal site.
- Letter from local National School confirming the applicant's attendance.

- A register of electors which provides the applicant's address as Coolfore, Monasterboice.
- Copy of the applicant's birth certificate.
- A letter from the applicant setting out the planning history of the site, financial matters, family ties to the local area and medical issues.

In addition to the foregoing, the appeal submission outlines the Applicant's ties to the local area, their need for a house at this location and the planning history of the site. It was noted within the submission that during the initial pre-planning meeting for a previous application, the issue of backland development was not raised as an item of concern by the Planning Authority. Following the formal withdrawal of an application (Ref. 19/88) and the subsequent refusal of an application (Ref. 20/184 (ABP Ref. 307600-20)), it is confirmed within the appeal that the Applicant's mortgage approval had lapsed and they were no longer in a financial position to purchase a house. As a result, they were left with no option but to construct, what they describe as a modest single storey dwelling on the appeal site to provide a family home for the Applicant and their partner. I note that Table 3.5 of the current CDP contains an extensive list of persons who may qualify for a dwelling within a rural area. On the basis of the information submitted with the application and appeal, I am generally satisfied that the Applicant can be considered for a one-off rural house, as per the specific policy requirements of the current CDP (i.e. Qualifying Criteria No. 4) and this point has been confirmed by the Planning Authority.

## **7.2. Site Suitability & Dwelling Design**

- 7.2.1. I note that there is a pattern of ribbon development along this section of the local road and the appeal site is located to the rear of the home of the Applicant's grandfather. The appeal site previously formed part of a larger agricultural field and is now accessed via the vehicular entrance serving the existing dwelling to the site's immediate south. The dwelling to be retained has a single storey form and is centrally located within the appeal site. The dwelling has a maximum height of c. 3.4m, a stated floor area of c. 98sq.m. and materials and finishes comprise horizontal timber cladding for the principal elevations and a metal sheet roof. 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-off 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 further to the south-west of the site and extensive ribbon development on the surrounding road network being evident.

7.2.2. In terms of site selection, Section 13.9.4 of the current County CDP notes that the ability of the landscape to absorb further development of one-off housing should 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. It is my view that Refusal Reason Nos. 1 & 4 are interrelated, and I would have concerns 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.

7.2.3. In terms of backland development, Section 13.9.6 of the CDP 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. The policy notes that this type of development results in a scattered arrangement of housing or clustered to the rear of existing properties and 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. Notwithstanding this, the CDP notes that backland development will only be considered in Rural Policy Zones 1 and 2 where the applicants' site has been

owned by the family for at least 15 years and the landholding is at least 1.5 hectares. Only one dwelling will be permitted per landowner (as defined above). Any backland development should be accompanied by a deed of right of way to the proposed dwelling and must not have a negative impact on traffic safety. Within their assessment of the application, the Planning Authority indicate that it would not appear that the Applicant could avail of this exemption on the basis of the information submitted with the application. I note that the Applicant has not submitted documentation to substantiate this claim and the extent of the lands in the family ownership have not been identified on the submitted documentation. However, the Appeal submission confirms that the lands in question are in family ownership for in excess of 100 years and the overall family landholding far exceeds 1.5ha. Although the Applicant may qualify for an exemption as per Section 13.9.6 of the CDP, I again reiterate my concerns with respect to the proliferation of one-off houses at this location which is only exacerbated by the development to be retained.

7.2.4. Further to the above, I would also have significant concerns with respect to the design of the existing dwelling which is akin to a temporary cabin type structure. Although the site is well maintained, the dwelling is modest in size and set back from the public road to the rear of existing dwellings, 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.

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.

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

- 7.3.1. The existing dwelling is currently accessed via the existing entrance serving the dwelling to the south of the appeal site. A letter of consent has been enclosed from the Applicant's grandfather (i.e. landowner) and a right-of-way over these lands has been identified on the submitted documentation. The proposed development also seeks planning consent for alteration works to the shared vehicular entrance and neighbouring roadside boundaries to provide upgraded sight visibility. This results in the removal of the hedgerow of the Applicant's family home and grandfather's home and a new setback hedgerow is proposed to be planted so that sightlines are maintained.
- 7.3.2. Within their assessment of the application, the Planning Authority refer to Policies ENV 38 & 39 which seek 'To retain and protect significant stands of existing trees/ hedgerows/woodlands, and seek increased planting of native trees, where appropriate, in new developments', and which 'Protect and preserve existing hedgerows in new developments, particularly species rich roadside and townland boundary hedgerows, and where their removal is necessary during the course of road works or other works seek their replacement with new hedgerows of native species indigenous to the area'. The Planning Authority raised concerns with respect to the extent of hedgerow removal required to facilitate the proposed development and it was noted that this existing hedgerow forms part of the rural character of the area. It is contended within the appeal submission that replacement hedges reflecting the native hedging in the local area can easily be planted behind the visibility lines and within a few years the newly planted hedges will reflect the actual native hedgerows in the surrounding countryside.
- 7.3.3. Although I acknowledge that the Applicant is proposing to set back and reinstate a hedgerow on the adjoining sites, I share the Planning Authority's concerns with respect

to the extent of hedgerow removal in this particular instance. The proposed development would adversely impact the rural amenity and character of the area and I therefore consider the proposal to be contrary to Policies ENV 38 of the current CDP.

#### **7.4. Wastewater Treatment**

- 7.4.1. In relation to Refusal Reason No. 2 and the Planning Authority's concerns with respect to the suitability of the wastewater 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 to ensure that private wastewater treatment systems comply with the recommendations contained within the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent  $\leq 10$  (2021). 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, which included a Site Characterisation form and other associated documentation. 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 permission be upheld.
- 7.4.2. Assessment of the wastewater treatment element of a rural one-off house is a standard consideration. In response to the reason for refusal, the appeal submission contends that the environmental matters could have been dealt with by conditions of a grant of planning permission, where suitable information could have been submitted to the Planning Authority prior to the commencing stage of the works. Given the nature of the proposed development and the policy of the current CDP, I would concur with the Planning Authority that this information should have accompanied the retention application to allow for a full assessment of the application to be undertaken. Whilst I note the commentary of the Appellant, no documentary evidence has been submitted to demonstrate the adequacy of the existing wastewater treatment system to cater to the development and I do not consider it appropriate for this to be addressed by way

of condition. Therefore, I am not satisfied on the basis of the information on file, that the existing wastewater treatment system and percolation area is suitable to cater for the level of development proposed. In this regard, the proposed development would be prejudicial to public health, would fail to accord with Policy IU 18 of the current CDP and would therefore, be contrary to the proper planning and sustainable development of the area.

## **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) and the River Boyne and River Blackwater Special Protection Area (SPA) (Site Code: 004232), both of which are also located c. 2.5km and c. 3.1km to the south of the site respectively. 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, 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. Having regard to the siting and backland nature of development to be retained, 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. The proposed development and the development to be retained is therefore considered to be contrary to the proper planning and sustainable development of the area.

2. Given the overall extent of hedgerow removal required to facilitate the proposed vehicular sightlines, the proposed development is considered to adversely impact the rural amenity and character of the area. In this regard, the proposed development would be contrary to Policy ENV 38 of the Louth County Development Plan, 2021-2027 and would therefore be contrary to the proper planning and sustainable development of the area.
3. The applicant has failed to demonstrate that the proposed wastewater treatment system and polishing filter is in compliance with the EPA Code of Practice, 2021, nor is there sufficient information that shows that if retention permission was granted, 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 proposed development and the development to be retained is contrary to Policy Objective IU18 of the Louth County Development Plan, 2021-2027. The proposed development and the development would therefore be prejudicial to public health and would be contrary to the proper planning and sustainable development of this area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my

professional judgement in an improper or inappropriate way.

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Enda Duignan

Planning Inspector

12/06/2023