



An  
Bord  
Pleanála

## Inspector's Report ABP316492-23

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<b>Development</b>	Permission for dwelling house, garage effluent treatment plant and associated site works
<b>Location</b>	Lower Lislea, Omeath, Co. Louth
<b>Planning Authority</b>	Louth County Council.
<b>Planning Authority Reg. Ref.</b>	23/61.
<b>Applicant(s)</b>	Robert and Ann-Marie Flynn.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	To Refuse permission.
<b>Type of Appeal</b>	First v Decision
<b>Appellant(s)</b>	Robert and Ann-Marie Flynn.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	12 <sup>th</sup> July 2023.
<b>Inspector</b>	Richard Taylor.

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## 1.0 Site Location and Description

- 1.1. The appeal site is located at Lower Lislea, Omeath, **County Louth** and is accessed via a laneway off the R173 public road. It is located within a western section of an agricultural field. The topography of the site is broadly level but gently slopes downwards towards the east to the R173 road. However, the sites sits at a lower level from the adjacent laneway to the west from which access is proposed of varying height between approximately 1.5 and 2 metres. The topography of the vicinity of the site raises steeply towards the west.
- 1.2. The access road is generally narrow in terms of width and sweeps from the access point with the R173 in a broadly 90-degree layout arrangement to the site. It is mostly bounded on both sides by typical field hedgerows with relatively narrow grass verges on both sides for the majority of the road up to the site frontage and beyond. There is a stream that runs broadly parallel to the access road located approximately 73 metres from the northern boundary of the site.
- 1.3. There are two existing to dwellings immediately opposite the site to the west and northwest, the latter of which is in a poor state of repair with both being broadly two stories in height. Immediately to the north and adjacent to the site is a hardstanding area that includes a caravan which comprises approximately half of the curtilage indicated on the site layout drawing with overgrown vegetation within the remainder. To the north and east of the site, are agricultural lands and two further dwellings both of which have direct access onto the R173 public road. The remaining lands to the south and west are also in agricultural use.

## 2.0 Proposed Development

- 2.1. The proposal seeks permission for a dwelling house, domestic garage, effluent treatment plant and percolation area, and associated site works. The proposed dwelling is 234.7 square metres in floor area. The proposed dwelling is 1 1/2 storeys with a ridge height of 8.34 metres. The dwelling is 9.4 metres in depth and an overall width of 17.7 metres. The ground floor area is approximately 129 square metres. Accommodation includes a kitchen dining and single-storey sunroom at the southern gable, separate sitting room bedroom bathroom and utility area. The first floor is approximately 106 square metres and comprises 3 bedrooms and a bathroom. The

dwelling will be finished largely in nap plaster, with stone detailing to a central two storey front gable projection. The roof will be finished in blue/black natural slates with timber windows. A detached single garage is also proposed, 4.8 metres in width by 6.1 metres in depth, and finished in materials matching the dwelling.

- 2.2. The dwelling is broadly located in the middle of the site, set back off the front site boundary by approximately 23.2 metres and approximately 26.2 metres from the rear/eastern site boundary. It includes a new access with visibility splays of 3.0 metres x 75 metres, located on an outside bend off the adjacent laneway. The proposal will result and a broadly rectangular shaped plot retaining the northern and southern existing field hedgerow boundaries. A new timber post and rail ranch style fence with beech hedgerow planting will be formed along the eastern site boundary. The area of the site will be approximately 0.37 hectares. The effluent treatment system is located adjacent to the northern site boundary.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Louth County Council refused the application on 31st March 2023 citing two reasons for refusal, both of which relate to road safety:

1. The proposed development would give rise to the intensification of use of the junction of the class three public road and protected regional road (R173), at a point where two vehicles cannot pass, where the maximum speed limit applies, where there are substandard sightlines for vehicles accessing and egressing from the lane to the north and south of the junction and where there is no right-hand turning lane. In addition, this junction abuts the wall of Quann's bridge which restricts the width of the protected regional route and impedes visibility to the north. Sightlines are further restricted to the north by reason of the vertical alignment of the road.

It is considered that this intensification of traffic would endanger public safety by reason of a traffic hazard and would give rise to additional potential for conflict to arise between traffic and other road users at this junction onto this heavily trafficked protected regional route where the maximum speed limit applies. The

development would, therefore, be contrary to the proper planning and sustainable development of the area and, if granted permission, would set an undesirable precedent.

2. The applicant has failed to demonstrate that the minimum site line requirements of 75 metres x 3 metres set back as set out in table 13.13 of the Louth County Development Plan (as varied) or stopping distances are achievable from the site onto this Class 3 public road. Accordingly, the proposed development is contrary to section 13.16.17 entrances and sightlines and table 13.13 of the Louth County Development Plan 2021-2027 (as varied). The proposed development would endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- The Louth County Council planning report forms the basis of their submission.
- The report identifies that the site is located within Rural Policy Zone 1 which is defined as “area under strong urban influence and of significant landscape value” within the Louth County Development Plan 2021- 2022.
- Reference to site history and previous refusal under reference 22467 for reasons of:
- Failing to demonstrate compliance with the qualifying criteria for residential development in Rural Zone 1, and no compliance with the EPA code of practice.
- Concluded that the applicant has demonstrated a social need to live in the area in compliance with the criteria. A review of planning history confirms that the applicant does not already own a house in the area and has adequately demonstrated need.
- Site layout and design is acceptable and in accordance with section 13.9.4 of the plan, adequate amenity space provided, no adverse impact on neighbouring residential amenity.

- Assessment of traffic and transport considerations identifying the R173 as a protected regional route and located on a narrow Class 3 public road which is a cul-de-sac. This road caters for at least four dwellings that are occupied, three additional dwellings where it is unclear if they are presently occupied, clusters of farm buildings and provides access to farmland. The width and alignment of the road is generally limited and poor. At the junction with the R173, the width is restricted such that two cars cannot pass. The access is located at a point where the maximum speed limit applies, there are substandard sightlines for vehicles accessing and egressing from the Class 3 road and there is no right turn provision. The intensification of traffic would endanger public safety.
- Placemaking and Physical Development Section of the Council assessed visibility requirements for the proposed entrance into the site from the adjacent public road. This does not address sightline visibility or intensification of the junction of the Class 3 Road and Protected Regional Route R173.
- Minimum sightline requirements of 75 metres x 3 metres set back as set out in table 13.13 of the plan are not achievable from the site onto a public road. The entrance is located on a 90-degree bend with the plans submitted displaying sightlines crossing over the public road. Highlights concerns relating to stopping distances at the entrance location, i.e. a car travelling towards the bend cannot see a car stopped waiting to turn into the entrance until they have entered the bend which does not allow a sufficient distance or time to stop. Concluded that the proposal is contrary to section 13.16.17 entrances and site lines table 13.13 of the Louth County development plan 2021-2027 (as varied).
- Proposal is acceptable in relation to flood risk and surface water. Water and wastewater connections are acceptable as the environment section have no objections to the proposal subject to conditions.

### 3.2.2. Other Technical Reports

- Placemaking on Physical Development Section, Louth County Council. Response dated 16th March 2023 recommends grant with 11 conditions including:
  - Construct development in accordance with submitted drawings and reports received 10th February 2023;

- Provide and maintain visibility sightlines 75 metres x 1.05 metres x 3 metres in accordance with plan and provided prior to commencement of any other works; Where necessary to remove hedges, banks, stone walls to provide adequate sightline visibility, the new boundary wall, fence, head shall be located behind the visible display and a minimum of three metres from edge of carriage way. Removal of any pole, column, or sign affecting visibility also to be removed;
- Clearance of visibility splays to level no higher than 250 millimetres above adjoining carriage way and retained thereafter;
- gates set back at least 5.5 metres from road edge, wing walls or fence shall be splayed back at an angle of 45 degrees and gates shall open inwards;
- Gradient to not exceed 2% for the first five metres;
- Applicant and or developer responsible for full cost of repair of any damage to adjoining L7502-0 public road from construction work;
- Applicant and or developer to apply for and obtain road opening licence from the council on pay related phase and restoration costs;
- Four further conditions relating to provision of drainage surface water, Provisions for measures to ensure cleanliness of public roads and footpaths during development works.
- Environment Section Louth County Council response dated 22nd of March 2023: Recommends permission be granted subject to 4 conditions including development to be carried out in accordance with the plans and specifications submitted, wastewater code of practice, and EPA code of practice 2021.

#### 4.0 Planning History

Case Ref: 22601: permission refused for dwelling, garage and effluent treatment plant and percolation area and associated site works on 15th September 2022 for the same applicant as the current appeal. Three refusal reasons as follows:

- 1) Site located within Rural Policy Zone 1 as applicant does not meet with qualifying need criteria set out in the plan and therefore contrary to HOU41;

- 2) Failure to demonstrate adequate wastewater arrangements and therefore contrary to policy I18 of the plan;
- 3) Inadequate information submitted to satisfy the planning authority that the proposal would not be likely to have a significant effect on Carlingford Lough SAC or any other European site and therefore contrary to policy objective NBG3 of the plan.

This decision was not subject to appeal.

## 5.0 Policy and Context

### 5.1. Development Plan

Louth County Development Plan 2021-2027 (as varied) (LCDP) is the operative plan for the area. The proposed development site is located within a rural area under strong urban influence (Rural Policy Zone 1). Relevant LCDP policies include:

- i. HOU 40: to recognise a sensitive scenic and culturally important landscape in rural policy zone 1 which includes Carlingford Lough and Mountains... and the need to carefully manage development in these areas whilst recognising the existing communities in these areas.
- ii. HOU 41: to manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with qualifying criteria relative to the rural policy zone set out in tables 3.4 and 3.5.
- iii. 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.
- iv. HOU 45: to apply a presumption against granting planning permission for rural one off dwellings in Rural Policy Zone 1 where there is an alternative site available on family lands in Rural Policy Zone 2.
- v. HOU 46: to restrict residential development on a land holding, where there is a history of development through the speculative sale or development of sites, notwithstanding the applicant's compliance with the local need criteria.

- vi. HOU 47 requires all 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 Countryside”. Sections 13.9.8 and 13.9.9 provide guidance in relation to house design and design, detailing and material finishes respectively.
- vii. MOV 56: to safeguard the capacity and safety of the national and regional road network by restricting further access onto national primary, national secondary, and protected regional roads in accordance with the details set out in tables 7.9 and 7.10.
- viii. Chapter 13, 13.16.5.1 National and Regional Roads, 13.16.17 Entrances and Sightlines table 13.13 and figure 13.1, and access 13.19.14. Other sections within chapter 13 namely site selection, ribboning, back land development, visual impact assessments, design, detailing and material finishes, garages and outbuildings, boundary treatment, and landscaping are also of relevance.
- ix. ENV 39: to protect and preserve existing hedgerows particularly species rich roadside townland boundary hedgerows 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.
- x. NBG 3: to protect and conserve special areas of conservation (SAC) and special protection areas (SPAs) designated under the EU habitats and birds directive.
- xi. NGB 6: to ensure a screening for Appropriate Assessment (AA)... is undertaken.
- xii. NBG37: to protect the unspoiled rural landscapes of the areas of high scenic quality (AHSQ) from inappropriate development for the benefit and enjoyment of current and future generations.
- xiii. IU16, IU17, IU18 relating to wastewater treatment system and water supply.
- xiv. IU19 relating to surface water drainage, I26 relating to flooding.

#### 5.1.2 Other Relevant Planning Policy:

- i. Project Ireland 2040 National Planning Framework (NPF).

- ii. National Development Plan 2021- 2030 (NDP).
- iii. Guidelines for planning authorities and An Board Pleanála on carrying out Environmental Impact Assessment, August 2018.
- iv. EPA Code of Practice Domestic Wastewater Treatment Systems, population equivalent of less than 10, 2021.
- v. Sustainable Rural Housing Guidelines for Planning Authorities, April 2005.
- vi. Appropriate Assessment of Plans and Projects in Ireland-Guidance for Planning Authorities, 2010.
- vii. TII publication DN-GEO-03060 Geometric Design of Junctions, April 2017.

## 5.2. Natural Heritage Designations

- Carlingford Shore SAC, site code 002306, approx. 500 metres from the site.
- Carlingford Lough SPA, site code 0040708, approx. 9.5 kilometres from the site.
- Carlingford Mountain, site code IE 0000453, approx. 780 metres from the site.
- Dundalk Bay SAC and SPA approx. 11.5 kilometres from the site.

## 5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity or any connectivity to any sensitive 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 application is a revised submission to address the reasons for refusal and associated issues within a previous application submitted six months previous, both of which were assessed under the LCDP 2021-2027. The previous reasons

for refusal did not include or refer to road safety issues, nor where they issues within the previous planning report. This is unfair to the applicant.

- The Council Road engineer had no objection to permission being granted to both the previous and current applications. It is noteworthy that a different road engineer was involved in each of these applications. It would not be standard practice for a planner to ignore a recommendation from a technical expert which would be outside their normal expertise.
- **Grounds for appeal for the first reason for refusal as follows:**
- The development is located along a Class 3 local road, a public road in the charge of Louth County Council, noted on the public road schedule as the L70502-0. The road is a short cul-de-sac that links onto the R173 to the east, extends approximately 440 metres towards the west providing access to a small number of houses, cluster of farm buildings, and farmland.
- The first reason relates to the R173/ L70502-0 junction. This is a standard T junction or simple priority junction with the L70502-0 being the minor road, R173 being the major road. Drivers on the minor road are required to stop the junction and only enter onto the major road when it is safe to do so. Minor road drivers are advised of their statutory obligation to stop before entering the major road through the provision of a stop line / associated lettering and sign.
- The access requirements are set out in the development plan with respect to visibility on gradients related to the interface over the side access with the public road. Expanding the assessment to consider the operation of an existing public road/public road junction goes beyond the access requirements outside in the plan and not been standard practice of the Planning Authority to do so. The infrastructure section of the Council did not raise any related issues.
- There are series of short Class 3 cul-de-sacs this section of the R173 in addition to the L70502-0. Permission has been granted for a number of dwelling houses along these cul-de-sacs in recent years including references 16831, 18204 and 21904. In all cases, the required visibility provision related to the site access onto the Class 3 road (cul-de-sac) with no reference or concerns raised regarding the junctional of the cul-de-sac with the R173.

- The reason refusal refers to the R173 as a protected regional road. The section that runs to the north of Omeath is not identified as a protected regional road on either map 7.2 or table 7.10 of the plan. The R173 is a standard regional road only, while the development plan includes restrictions on new accesses or intensification of use of existing accesses onto your protected regional road, there is no such written policy with respect to a standard regional road.
- Lack of right turn lane: The relevant design manual leading to junctions along a rural road is the T11 publication DN-GEO-030 60 Geometric Design of Junctions. The development shall cause a slight increase, approximately 6, to the Two-way Annual Average Daily Traffic (AADT) on the L70502-0 and shall remain significantly lower down the threshold value of 600 AADT set out in table 4.2. The existing junction arrangement is therefore the most appropriate and in accordance with the design manual. There are no right turn lanes onto any of the minor roads that link onto the section of the R173 to the north of Omeath.
- Proximity of Quann bridge: a Class 2 road, the L7050, is located to the north of the R173/L7502-0 junction. Traffic using this junction far exceeds the volume using the R173/L7502-0 junction. Any impact of the bridge applies equally to this junction and that is considered that the impact is greater as the wall impedes visibility to the south which is the direction from which the near side R173 traffic shall be travelling. There is no evidence of a policy prohibiting development on the L7050 to preclude an increase in the volume of traffic using the R173/L7050 junction.
- Restricted width of junction: the reason for refusal refers to restricted junction width and two cars cannot pass. Traffic flows are extremely low (7 in and out trips over a 24 hours), determined from a three-day automatic traffic count taken in 2021 (evidence cited from Irish traffic surveys Ltd in appendix). A dwelling house generally generates 3 in/out trips per day and with this increase traffic flow along the L7502-0 to 10 in and out trips per day. Possibility that two vehicles will meet is extremely remote and the short section of hard shoulder along the R173 on the south side of the junction provides a pulling in/waiting area for vehicles wishing to turn left of the R173 should a vehicle be waiting to turn out of the L70502-0 at the same time.

- **Grounds for appeal for the second Reason for Refusal:**
- Visibility splays of 75 metres x 3 metres is clearly shown on drawing number 3071-0PP-003 (Rev A).
- The Placemaking and Physical Development section of the Council does not raise any concerns on this issue and recommends a grant of permission. This was also the case for the previous application reference 22601.
- Footnote one of section 13.16.17 of the plan allows a relaxation of the stopping sight distance requirement (Y value) in cases where the 85% percentile speed on a local Class 2 or Class 3 rural road is shown to be 42 KMPH, with the appropriate site distance (Y value) in accordance with TI publication DN-GEO-03060.
- An automatic traffic speed survey carried out by Irish traffic surveys Ltd in April 2021 shows that the 85 percent percentile speed of traffic on the L7502-0 did not exceed 37.3 KMPH over any of the three survey days. The relaxation in sight distance requirement can therefore be applied. In the case of entrance/junction on an existing road, practice is to round the measured 85% percentile speed up to the next standard design speed value. In this case, the 37.3 KMPH is rounded up to 42 KMPH. The appropriate stopping sight distance is therefore 50 metres.
- Sight distance provision is appropriate and in full compliance with table 13.13 of the plan. Stop visibility requirements are achievable as shown on the drawings.

## 6.2. Planning Authority Response

- Previous refusal reference 22601 and refusal reasons is acknowledged.
- The R173 is a designated protected regional route at this location specified in the plan.
- The Place Making and Physical Development section assessed the visibility requirements for the proposed entrance into the site from the public road, however it does not address the matter of sightline visibility or intensification of the use of the junction of the Class 3 road and protected regional route R173.
- The report fully assessed the entrance onto the public road and the junction of the public road with the R173. The sightline provision at the proposed entrance onto

the Class 3 public road does not accord with development plan specifications while visibility at the junction of both roads was not addressed.

- The proposal would result in intensification of the junction of the Class 3 public road and R173 at a point where two vehicles cannot pass, where the maximum speed limit applies, where there are substandard sight lines for vehicles accessing and egressing from the lane to the north and south of the junction and where there is no right-hand turning lane. In addition, this junction abuts the wall of Quann's bridge which restricts the width of the R173 visibility to the north. Sight lines are further restricted to the north by reason of the vertical alignment of the road.

### 6.3. Observations

- No observations received.

### 6.4. Further Responses

- No further responses received.

## 7.0 Assessment

7.1. Having examined all the application and appeal documentation on file and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the Local Planning Authority (LPA) reasons for refusal, and I am satisfied that no other substantive issues arise. Appropriate Assessment (AA) also needs to be considered. The main issues, therefore, are as follows:

1. Refusal Reason 1:
  - a. Status of the R173
  - b. Safety of the access road junction with the R173
2. Refusal Reason 2:
  - a. Sightlines of the proposed access to the appeal site
  - b. Stopping distances
3. Compliance with Rural Housing Policy

4. Domestic effluent disposal
  5. Topography details
  6. Appropriate Assessment (AA)
- 7.2. The issues and this appeal relate to the access, traffic and associated safety issues as set out in the refusal reasons provided by the LPA. For clarity the LPA have, based on the evidence provided, concluded that a dwelling on the site is acceptable and associated policy requirements have been satisfied.

### **Refusal Reason 1 (a) Status of the R173**

- 7.3. There is dispute between the parties as to the status of the R173 in regard to its protection. The LPA consider it a protected regional road, whilst the appellant is in disagreement.
- 7.4. Status of protected roads is set out in the LCDP 2021-2027 through policy MOV 56 and associated designations in tables 7.9 and 7.10. Table 7.10 identifies the R173/176 Grenore-Carlingford-Omeath (Cornamucklagh) as a protected route. The restrictions applied are also included in the table, stating no new accesses or intensification of existing accesses. The table goes on to set out a list of five exemptions. The appellant considers that this section of the R173 is not subject to protected status. Tables 7.9 and 7.10 require to be read in conjunction with map 7.2 “road network” on page 7-25. The legend on this map identifies graphically, the extent of the protected road networks within the plan area, through differing colours assigned to road types.
- 7.5. The R173 predominantly traverses parallel to the shoreline of Carlingford Lough. The map identifies this road in purple, with the map 7.2 legend identifying this as a “protected regional road”. However, the map does not identify the entirety of the R173 as having protected status. Rather it is identified as protected for the majority of its length. It is difficult from the graphic detail to identify the exact location at which the protected status commences and or finishes, however it is estimated based on an assessment of geographical features, that the protected status appears to start or end in and around the western or Newry side of Omeath village approximately 1.92km from the access road junction with the R173 to the southeast. The stretch of the R173 between Omeath village western boundary and the border with Northern Ireland is coloured green, which translates from the map legend as a “regional road”

but does not benefit from protected status. The proposal will access this section of the R173 via the access road adjacent to the site. Accordingly, I agree with the appellant that the site does not seek access to or from a protected route.

Accordingly, refusal reason one is not sustained insofar as it relates to access to a protected regional road.

**(b) Safety of the access road junction with the R173**

- 7.6. The first refusal reason also refers to inadequacies of the laneway access to the site, and in particular the junction with the R173. Based on the evidence presented this is a public road and therefore in control of the Council. The R173 is reasonably straight in terms of route and subject to the maximum speed limit. There is a continuous white line marked centrally on the carriageway along this section of the road and adjacent to the site access road junction, which indicates no overtaking at this point/section for vehicular traffic.
- 7.7. I have reviewed the scale drawings submitted in support of the appeal. I estimate that the width of the road access, where it meets the R173, as being approximately 7.5 metres in width. Site observations indicates that access extends beyond that indicated on the plans, approximately 2.8 metres from the R173 carriageway edge to a point adjacent to the bridge wall structure.
- 7.8. Visibility is restricted from the access road at the junction with the R173. The northwestern visibility splay, or left-hand side emerging, is limited to an extent by a wall structure associated with an adjacent bridge (Quann's Bridge), however there is a grass verge approximately 2.8m in depth between the bridge wall and the edge of the R173 public road. Immediately to the north of the verge, there is another public road. To the north of this road there is a further roadside verge at the back of which is a roadside boundary related to a dwelling to the rear. Along this boundary there are a number of semi mature trees with overhanging branches across the roadside verge which also impact visibility to a degree. The site frontage of the adjacent dwelling to the southeast is set back along the R173 frontage for a length of approximately 35 metres. The eastern, or right-hand side emerging, visibility splay is approximately 38 metres to a point where the common roadside boundary of the R173 steps inwards towards the highway. Visibility beyond this point is restricted, but not completely obscured.

- 7.9. The access road narrows in width to a “pinch point” broadly level with the front elevation of the adjacent dwelling to the southeast to approximately 5 metres, approximately 11 metres from the junction with the R173. As the lane traverses west, it varies in width between approximately 5 metres and 7 metres. From my site observations, the lane is restricted and as such does pose difficulties for vehicles to pass. There are no formal passing areas. Passing is facilitated through use of roadside verges at several locations.
- 7.10. I agree with the LPA insofar as the R173 junction and access road are substandard and would result in difficulties for accessing and egressing the appeal site. However, based on the evidence from the Council Road engineers and the appellant, I do not consider these issues are unacceptable. The appeal proposal will inevitably result an additional vehicle traffic along the access road however it will not be unacceptable, given the proposal is for a single dwelling. As discussed above, the R173 is not a protected route at this location, and I therefore conclude that the intensification will be acceptable and not precluded by relevant policies in the plan. In addition, a right turn lane at the junction is not required, as the R173 is not a protected route. I agree with the appellants conclusion that a right-turn junction is not required taking account of the traffic survey information, the geometric design of junctions document, and associated evidence provided. These issues referred to in the remainder of refusal reason one, are therefore not sustained.

**Refusal Reason 2: (a) Sightlines of the proposed access to the appeal site**

- 7.11 The planning report indicates that they do not accept that the sight lines are achievable due to the proposed entrance is located on a 90-degree bend, with sightlines crossing over the public road and therefore cannot be achieved.
- 7.12 The submitted drawings indicate that the access is set back off the public road and current roadside boundary by approximately 6 metres. Approximately 4.5 metres of the western, or left-hand side emerging, visibility splay will be within the site, with the remainder entirely within the adjacent public road and associated verges. The northern, right-hand side emerging, visibility splay includes approximately 10 metres within the site with the remaining 65 metres within the public road.
- 7.13 Notwithstanding the narrowing of the adjacent public road, the visibility splays are in accordance with the requirements specified in the plan. This is confirmed in the

consultation response from the Place Making and Physical Development section of the Council. This response recommends, at condition 2, that these are provided prior to the commencement of any other development. The consultation response, and related evidence provided by the appellant and submitted plans, confirm that the sightlines are acceptable and achievable. I consider that it is acceptable that sightlines are provided within public road infrastructure and accordingly the Council's concerns in this regard are not sustained. As such, sightlines can be provided in perpetuity, and with minimal likelihood of being obscured or affected by vegetation or structures within third party lands.

**c. Stopping distances**

- 7.14 The Council report does not accept that the necessary stopping distances for traffic approaching the new access can be achieved due to the location of the access on a bend of the adjacent public road.
- 7.15 The appellants evidence refers to DN-GE0-03060, rural road link design, calculating that the appropriate distance is 50 metres in this case and is achievable and shown on the supporting plans. The Place Making and Physical Development section of the Council have not raised any objections in this regard.
- 7.16 Based on the supporting plans, site observations, consultation response, and appellants evidence, I consider that the Councils objections are misplaced as necessary stopping sight distances can be achieved, and no evidence to the contrary has been provided. In addition, the assessment above concludes that the required visibility splays from the appeal site can be achieved which will also assist vehicles exiting the site and ensuring that no conflict issues with vehicles using the public road will arise. Accordingly, I conclude that public safety will not be unacceptably prejudiced.
- 7.17 In considering the traffic, access, and associated road safety issues, I note that these have been considered by the Council within two applications for similar proposals. The first application under reference 22601, was considered acceptable in relation to these issues in both the planning report and Council Infrastructure section response. The second application, which is the subject of this appeal, was also considered acceptable by the Council Infrastructure section. On both occasions site inspections were undertaken as part of the Infrastructure section's review of the

proposed details by two differing officers as noted in the responses. In assessing the access details to the proposed site, these officers would have traversed and accessed the site via the R173 junction and minor public road from which access is proposed. Accordingly, these officers would have been fully aware and reviewed the adequacy of the public road and junction, but no associated issues with these details were highlighted and a grant of permission was recommended subject to conditions. These responses are therefore a significant material consideration in favour of the proposal.

7.18 The appellant raised concerns with the Council deviating from the expert opinion provided on this case. The Council in its role as decision maker are required to make a decision based on all material considerations relevant to the case. The weight afforded to any material consideration is a matter for the decision maker. Accordingly, the Council may deviate from advice received but when doing so must clearly set out and articulate their reasons. In this case, I do not consider that the Council refusal reasons have been sustained based on the evidence provided for the reasons set out above.

7.19 The appellant has also referred to other cases or applications where access and traffic issues associated with the R173 have been considered acceptable. The details of these cases have not been included within the evidence. However, the above assessment has concluded that the application is acceptable in relation to these issues.

### **3. Compliance with Rural Housing Policy**

7.20 The Louth County Development Plan 2021-2027, has a presumption against one-off rural housing at rural locations identified as being under strong urban influence except in cases where the applicant can demonstrate they meet relevant qualifying criteria. The proposed development site is located within a rural area under strong urban influence and of Significant Landscape Value, Rural Policy Zone 1. Qualifying criteria are set out through policy HOU 41 and accompanying table 3.4 at section 3.17.4.

7.21 The applicant has sought to demonstrate compliance under criterion 2, which relates to a son or daughter of a landowner who is 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. The applicant 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 land holding. Any application will be subject to appropriate siting and consideration of proper planning and sustainable development. A range of supporting documentary evidence was provided, including land registration information confirming transfer of ownership in 2011 to the applicants' parents, and lands in ownership totalling 1.66 hectares.

7.22 The LPA consider, on the basis of the evidence provided, that the applicant satisfies the criteria requirements of the policy. Based on a review of the planning report and evidence I am satisfied that the applicant meets the relevant criteria and associated policy tests as set out in the plan. I am also satisfied that the site, layout and design is acceptable, adequate amenity space is proposed, and that the amenity of existing residents would not be adversely impacted due to the separation distances to the nearest existing properties. I therefore conclude these issues satisfy relevant plan requirements.

#### **4. Domestic effluent disposal & Flooding**

7.23 Details have been provided for surface water, water and wastewater connections in the supporting information. The Environment Section within the Council have no objections to these details and based on this evidence I therefore consider the relevant details to be acceptable. The site is not identified as being vulnerable to flooding and is therefore acceptable in relation to this issue. Related policy requirements are therefore satisfied.

#### **5. Topography**

7.24 From my site observations I note that the appeal site sits at a lower level than the adjacent public road to which access is proposed. I note that the site layout drawing does not include detailed existing and proposed levels of the site in relation to the road and locality. In the event that the Board approve the application, I recommend a condition is included requiring that site level details are submitted to and agreed with the Council prior to the commencement of development to ensure the proper planning and design of the site.

## **6. Appropriate Assessment (AA)**

- 7.25 The site is located approximately 500 metres from the nearest European site, Carlingford Shore SAC. An assessment screening report was submitted and support of the application.
- 7.26 Taking account of the screening report and having regard to the character of the site; the modest nature, scale and extent of development sought, it is considered that no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. I recommend a GRANT of permission, subject to conditions.

## **9.0 Reasons and Considerations**

- 9.1. Having regard to the current Louth County Development Plan, 2021-2027 and all material considerations, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the zoning objective for the site, would not detract from the visual amenity of the area, would provide an acceptable standard of residential amenity for the prospective residents, would not seriously injure the residential amenity of surrounding properties, and would not endanger public safety or convenience by reason of traffic generation, drainage proposals, or otherwise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning
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	<p>authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interests of clarity.</p>
2.	<p>(a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter [unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant]. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p> <p>This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p>Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.</p>
3.	<p>The developer shall enter into water and wastewater connection agreements with Uisce Éireann.</p> <p>Reason: In the interest of public health</p>
4.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for</p>

	<p>such works and services. Surface water from the site shall not be permitted to drain onto the adjoining public road.</p> <p>Reason: In the interest of traffic safety.</p>
5.	<p>a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (p.e. ≤ 10)" – The Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>
6.	<p>The detailed treatment of the splayed entrance, gates, road boundary set-back, roadside area and replacement hedge shall be as agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of traffic safety.</p>
7.	<p>(a) The carriageway of the public road shall not be raised, lowered or otherwise altered at its junction with the access driveway to the proposed dwelling.</p> <p>(b) The gradient of the access driveway shall not exceed 2% for the first 5 metres adjacent to the carriageway of the public road.</p> <p>(c) no development shall commence on site until the visibility sightline splays at the entrance have been provided and associated works carried out.</p>

	<p>(d) where it is necessary to remove hedges, banks, and/or stone walls to provide adequate visibility, the new boundary wall, fence, and/or hedge shall be located behind the visibility splay and shall be a minimum of 3 metres from the edge of the road carriageway.</p> <p>(e) the area within the visibility splay shall be cleared to provide a level surface no higher than 250 millimetres above the level of the adjoining carriage way and shall be retained and kept clear thereafter.</p> <p>(f) All necessary measures shall be taken by the applicant/developer to prevent the spillage or deposit of any materials including clay rubble or other debris on adjoining roads during the course of development. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the applicant/developers own expense.</p> <p>(g) The applicant/developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of Louth County Council or pay the Council the cost of making good any such damage upon issue of such a requirement by the Council.</p> <p>Reason: In the interest of traffic safety and to protect the amenities of the area</p>
8.	<p>The site shall be landscaped, using only indigenous deciduous trees and hedging species, within the first planting season following occupation of the dwelling hereby permitted as follows:</p> <p>(a) the establishment of a hedgerow to replace any vegetation removed to facilitate the site access, and adjacent to the site access boundaries; and</p> <p>(b) the establishment of a hedgerow to the rear boundaries of the site.</p> <p>Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p>

	<p>Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting the development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
10.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
11.	<p>Details of the finished site levels shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and carried out and retained in accordance with the agreed details.</p> <p>Reason: In order to allow the planning authority to assess the impact of these matters on the visual amenity of the area before development commences and in the interest of orderly development.</p>

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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Richard Taylor  
Planning Inspector

8<sup>th</sup> August 2023