



An  
Bord  
Pleanála

## Inspector's Report ABP-317907-23

<b>Development</b>	Retention & Permission: Demolition of carport and attached domestic garage and retention of house and all associated site works.
<b>Location</b>	Faughanhill, Bohermeen, Navan, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	23603
<b>Applicant</b>	Rose Murray.
<b>Type of Application</b>	Permission for Retention & Permission
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party.
<b>Appellant</b>	Rose Murray.
<b>Observer</b>	None.
<b>Date of Site Inspection</b>	23 October 2023
<b>Inspector</b>	Sinéad O'Connor

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.3. Planning Authority Reports .....	5
3.4. Prescribed Bodies .....	6
3.5. Third Party Observations .....	6
4.0 Planning History.....	6
5.0 Policy Context.....	8
5.1. Development Plan.....	8
5.2. National Planning Framework.....	10
5.3. Sustainable Rural housing Guidelines for Planning Authorities (2005) .....	11
5.4. Natural Heritage Designations .....	11
5.5. EIA Screening .....	12
6.0 The Appeal .....	12
6.1. Grounds of Appeal .....	12
6.2. Planning Authority Response.....	14
7.0 Assessment .....	14
8.0 Appropriate Assessment Screening.....	18
9.0 Recommendation.....	20
10.0 Reasons and Considerations.....	20
Appendix 1 – Form 1 and Form 2	

## **1.0 Site Location and Description**

- 1.1. The site is located approximately 7.5 km northwest of Navan and 1.5 km north of Bohermeen. The site has a stated area of 0.7996 hectares and is located on the north side of a private road accessed from the CR222. There are 2 no. dormer bungalows to the immediate west of the site, and a further 4 no. dwellings and farm buildings to the southeast. Ribbon development has occurred on both sides of the CR222 in the vicinity of the subject site.
- 1.2. The subject site is irregular in shape and accommodates a part 1- and 2-storey 4-bed detached dwelling with an integrated car port and garage. The planning application form submitted to the P.A. states that the dwelling has an area of 526 sq.m. however, I note that submitted drawing no. 23010-(PL)-001 states that the dwelling has a floor area of 466 sq.m.. The dwelling has a maximum height of 9.2 metres and is finished with painted render and stone cladding.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the retention of part of the existing dwelling and the ancillary wastewater treatment system. It is proposed to demolish the east side of the dwelling that currently accommodates the car port and garage at ground floor level and an ensuite double bedroom and office above. The stated area for demolition is 166 sq.m.. The development for which retention permission is sought comprises a part 1- and 2- storey 3-bedroom dwelling with a stated area of 360 sq.m. No works are proposed to the existing entrance, driveway or wastewater treatment system and percolation area.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.2. On the 2 August 2023 Meath County Council issued a Notification of Decision to refuse planning permission and retention permission for the proposed development. The 3 no. reasons for refusal are repeated below for reference:

1. Having regard to the level of existing and permitted development it is considered the proposed development would give rise to an excessive density of development in a rural area lacking certain public services and community facilities and would establish an undesirable precedent for further development of this type. Furthermore, the proposed development would be contrary to the policies and objectives of the Meath County Development Plan 2021-2027 which seeks to provide more sustainable formats of development within the rural area, through supporting vitality of lower order centres and existing local community facilities including policies/objectives RD POL 4, RD POL 8, RUR DEV SO 5, CS OBJ 1 and RD OBJ 1. The development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is a policy (RD POL 9) of the Meath County Development Plan 2021-2027, *“To require all applications for rural houses to comply with the ‘Meath Rural House Design Guide’*. The development to be retained by reason of its size, scale, and massing is considered to be out of keeping with and inappropriate in this rural environment notwithstanding the proposed alterations, whereby it would not reflect the traditional vernacular style of the area as detailed in the Meath Rural House Design Guide. Furthermore, it is considered that the development would be out of keeping with and would fail to integrate with the character of the surrounding rural area and would form a visually obstructive feature, which would not respect and integrate with the surrounding landscape. Accordingly, to permit the proposed development would materially contravene the aforementioned policy provisions of the Meath County Development Plan 2021-2027 and thereby be contrary to the proper planning and sustainable development of the area.
3. It is a policy (RD POL 48) of the Meath County Development Plan 2021-2027, *“To ensure all septic tank/proprietary treatment plants and polishing filter/percolation areas satisfy the criteria set out in the EPA ‘Code of Practice Waste Water Treatment and Disposal Systems Serving Single Houses (p.e. <10)’*, (2009) *(or any other updated code of practice guidelines) in order to safeguard individual and group water schemes”*. On the basis of the failure of the subject application to demonstrate that the proposed development meets

the minimum standards as set out in the '2021 Environmental Protection Agency Code of Practice'. The Planning Authority is not satisfied that the subject site can cater for the safe and effective treatment and disposal of effluent in accordance with the necessary standards and therefore would be prejudicial to public health, would be contrary to the above-referenced policy of the Development Plan and would not be in the interest of the proper planning and sustainable development of the area.

### **3.3. Planning Authority Reports**

#### **3.3.1. Planning Report**

The Meath County Council Planning Report forms the basis of the Planning Authority's decision. The key points of the report are summarised below:

- The provision of a dwelling on this landholding would result in an excessive density of development and would have a detrimental impact on the character of the rural area.
- The design of the dwelling to be retained would not accord with the Meath Rural Design Guide.
- The applicant has not demonstrated that the wastewater treatment system would accord with the Environmental Protection Agency 'Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ )' (2021) (the EPA CoP).
- The report notes that the dwelling is served by a private well, and that the site is not located in a known flood risk zone.

#### **3.3.2. Other Technical Reports**

Environmental Section: The vulnerability rating of the area is high, and a high winter water table is expected. The applicant has not shown that the polishing filter allows for the required 900 mm vertical separation distance above the highest point of the water table, as is required under the EPA CoP. The applicant has not shown that the surface area of the polishing filter accords with the EPA CoP. The applicant has not demonstrated that the development would not have a negative impact on groundwaters.

### **3.4. Prescribed Bodies**

Department of Housing, Local Government & Heritage: No submission.

An Taisce: No submission.

The Heritage Council: No submission.

### **3.5. Third Party Observations**

None.

## **4.0 Planning History**

The planning history of the site can be summarised as follows:

- P.A. Ref. KA60180: On 29 June 2006 planning permission was refused for the construction of a dormer bungalow with a garage, a proprietary wastewater treatment system and private well. 3 no. reasons for refusal were given which relate to the excessive density of development in the unserviced rural area, the excessive concentration of wastewater systems, and the contravention of a condition attached to an adjoining dwelling that sought to restrict future residential development on the landholding (P.A. Reg. Ref. KA40669).
- P.A. Ref. KA70152, ABP Case Ref. PL17.223673: On 12 December 2007 retention planning permission was refused for an existing part 1- and 2 -storey detached dwelling with a car port and garage, with a stated floor area of 588 sq.m., including the area of the carport and garage. 4 no. reasons for refusal were given which relate to the excessive density of development in the rural area under strong urban influence, the excessive concentration of wastewater treatment systems, the incongruous nature of the scale, height and design of the dwelling, and the contravention of conditions attached to the adjoining dwellings under P.A. Reg. Refs KA40653 and KA40669. I note that the dwelling refused retention permission under Case Ref. PL17.223673 appears largely identical to the dwelling currently at the subject site.
- P.A. Ref. KA802674, ABP Case Ref. PL17.231881: On 5 May 2009 planning permission and retention planning permission was refused for works to demolish part

of the existing rural dwelling and to retain a dwelling of 329.7 sq.m. The 4 no. reasons for refusal in this case are similar to the reasons for refusal under P.A. Ref. KA70152, ABP Case Ref. PL17.223673, discussed above.

Relevant planning history of the adjoining sites and sites in the immediate vicinity can be summarised as follows:

#### To the West of the Subject Site

- P.A. Ref. KA40653: On 2 June 2005 planning permission was granted for the construction of a dormer bungalow and wastewater treatment system on lands to the west of the subject site. Condition No. 3 requires the applicant to enter into an agreement under Section 47 of the Planning and Development Act 2000, as amended, to sterilise the landholding from further residential or non-agricultural development.
- P.A. Ref. KA40669: On 5 August 2005 planning permission was granted for the construction of a dormer bungalow and wastewater treatment system on lands to the west of the subject site. Condition No. 3 requires the applicant to enter into an agreement under Section 47 of the Planning and Development Act 2000, as amended, to sterilise the landholding from further residential non-agricultural development.

#### To the South of the Subject Site

- P.A. Ref. KA191809, ABP Case Ref. 306950-20: On 17 September 2020 planning permission was refused for the construction of a single storey house to the south of the subject site. 3 no. reasons for refusal were in the Board's Order which relate to the characterisation of the site, excessive development in the rural area, contravention of rural development policies in the Development Plan, contravention of the Meath Rural Design Guide, and the contravention of the conditions attached to P.A. Refs. KA40653 and KA40669.
- P.A. Ref. KA201978, ABP Case Ref. 309695-21: On 5 July 2021 the Board issued an Order to refuse planning permission for the construction of a single storey house to the south of the subject site. The 3 no. reasons for refusal given are similar to those under P.A. Ref. KA191809, ABP Case Ref. 306950-20, discussed above. The Board's decision was the subject of Judicial Review, Murtagh -V- An Bord Pleanála [2021 No. 778 JR], and the decision to refuse planning permission was upheld.

- P.A. Ref. 221060, ABP Case Ref. 314855-22: On 20 September 2022 Meath County Council issued their decision to refuse planning permission for a 2 storey dwelling to the south of the subject site. 2 no. reasons for refusal were given, which relate to the excessive density of development in the rural area, contravention of rural development policies and objectives in the Development Plan, and the contravention of the conditions attached to P.A. Refs. KA40653 and KA40669. This decision was appealed to An Bord Pleanála by the First Party and a decision has yet to be issued.
- P.A. 221061, ABP Case Ref. 314856-22: On 20 September 2022 Meath County Council issued their decision to refuse planning permission for a 2-storey dwelling to the southwest of the subject site. 2 no. reasons for refusal were given, which are similar to the reasons for refusal for P.A. Ref. 221060, discussed above. This decision was appealed to An Bord Pleanála by the First Party and the appeal was withdrawn on the 26 June 2023.

## 5.0 Policy Context

### 5.1. Development Plan

The Meath County Development Plan 2021-2027 is the relevant Statutory Plan. Policies and objectives of relevance to the proposal include the following:

- The site is outside the development boundaries of any settlements defined in the Development Plan and, therefore, is located within a rural area.
- Section 9.3 describes 3 no. rural area types; Area 1 – Rural Areas under Strong Urban Influence; Area 2 – Strong Rural Areas; and Area 3 – Low Development Pressure Areas. Map 9.1 shows that the site is within a Strong Rural Area. The Development Plan states that the Key Challenge for Strong Rural Areas is to maintain a reasonable balance between development activity in defined settlements and housing proposals in the rural area.
- Section 9.4 of the Plan describes the criteria for persons who are an Intrinsic Part of the Rural Community including the requirement for the applicant to have lived in the rural area for a period of over 5 years and to not own, or have owned, another dwelling.



- Section 9.5.1 lists the key assessment criteria for rural residential development in all rural area types, which include the following:

- Housing need background of the applicant.
- Local circumstances such as the degree to which the surrounding area has been developed and is trending towards becoming overdeveloped.
- Degree of existing development on the original landholding.
- Suitability of the site in terms of access, wastewater disposal and house location relative to other policies and objectives of this plan.
- Degree to which the proposal might be considered infill development.

- Section 9.5.4 states that the housing needs of those members of the rural community who are not part of the agricultural/horticulture community will be facilitated in designated rural nodes. Table 9.2 lists Bohermeen as a rural node and map 4.1 – Bohermeen shows the defined boundary of this settlement. The subject site is located 1.5 kilometres to the north of the northern boundary of Bohermeen.

Policy relevant to ‘Strong Rural Areas’ includes:

- RD POL 4 To consolidate and sustain the stability of the rural population and to strive to achieve a balance between development activity in urban areas and villages and the wider rural area.
- RD POL 5 To facilitate the housing requirements of the rural community as identified while directing urban generated housing to areas zoned for new housing development in towns and villages in the area of the development plan.
- Policy RD POL 8 and Objectives RUR DEV SO 5 and RD OBJ 1 seek to support the development of rural nodes to provide housing options for those with local housing needs and to establish rural communities.
- Policies RUR DEV SP 1, RD POL 1, RD POL 5 and RD POL 6 seek to differentiate between urban and rural generated housing demand, and to provide for residential development for persons intrinsic to the rural area subject to normal planning criteria such as design, location and the protection of the environment.

Relevant development management policies and objectives include the following:

- RD POL 9 To require all applications for rural houses to comply with the 'Meath Rural House Design Guide'.
- RD POL 48 To ensure all septic tank/proprietary treatment plants and polishing filter/percolation areas satisfy the criteria set out in the Environmental Protection Agency 'Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ )' (2021) (or any other updated code of practice guidelines) in order to safeguard individual and group water schemes.

## 5.2. National Planning Framework

The Meath County Development Plan 2021-2027 postdates the National Planning Framework (NPF). Section 1.2 of the Plan confirms that the Development Plan incorporates the provisions of the NPF. For reference, the following National Policy Objectives (NPO) are relevant to rural development:

- National Policy Objective 15 Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.
- National Policy Objective 19 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;
  - In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

- National Policy Objective 52 The planning system will be responsive to our national environmental challenges and ensure that development occurs within environmental limits, having regard to the requirements of all relevant environmental legislation and the sustainable management of our natural capital.

### 5.3. **Sustainable Rural housing Guidelines for Planning Authorities (2005)**

The Rural Settlement Strategy of the Meath County Development Plan 2021-2017 refers to the Sustainable Rural housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005. The following provisions are relevant in this instance:

- The Guidelines require Planning Authorities, in their Development Plans, to identify the location and extent of rural area types including rural areas under strong urban influence, stronger rural areas, structurally weaker rural areas and areas with clustered settlement patterns. Further to this, different development objectives are required for each rural area type.
- The Guidelines place emphasis on meeting the housing needs of persons with roots or links to rural areas within those areas, subject to siting and design considerations.
- Appendix 4 of the Guidelines recommends against ribbon development for reasons of road safety, demands for public infrastructure and visual impacts. The example for ribbon development given in these Guidelines is the provision of 5 or more houses on one side of a given 250 metres of road frontage.

### 5.4. **Natural Heritage Designations**

The subject site is not within or immediately adjacent to any designated areas or Natura 2000 sites. The subject site is circa 2.5 kilometres to the south of the River Boyne and River Blackwater Special Area of Conservation (SAC) (site code 002299) and the River Boyne and River Blackwater Special Protection Area (SPA) (site code 004232). The site is circa 3 kilometres to the north of the Jamestown Bog Proposed Natural Heritage Area (pNHA) (site code 001324).

## **5.5. EIA Screening**

See completed Form 1 and Form 2 in Appendix 1. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA or EIA determination, therefore, is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of appeal raised by the First Party relate to the 3 no. reasons for refusal given in Meath County Council's Notification of Decision. The key points are summarised below:

- The subject development complies with the National Planning Framework, the Sustainable Rural Housing – Guidelines for Planning Authorities, and the Meath County Development Plan 2021-2027, which facilitate rural development subject to rural need criteria, and design and development standards.
- It is stated that there is no technical, environmental, heritage, amenity or other substantive reason why the subject development should not be granted planning permission.
- It is stated that there is a critical shortage of housing, which, as per Government Policy, requires the provision of residential units through all channels.
- The dwelling to be retained at the site is of a similar size to other rural residential development permitted by the P.A. in this area between 2021-2022.
- It is stated that the site is within the Bohermeen rural node and a designated Strong Rural Area, where rural development is facilitated under the Development Plan. The proposed development would contribute to the vitality of the Bohermeen rural node.

- The existing rural residential density in the area is appropriate in a designated rural node. Development Plan does not state no additional dwellings would be permitted in this rural area.
- The First Party has lived at the subject site for over 15 years and, therefore, complies with the Development Plan criteria for persons local to or linked to a rural area.
- Meath County Council have permitted other rural dwellings in the area since the subject development was first refused planning permission. It is stated that there is an inconsistent approach to the assessment of applications for rural dwellings in the locality.
- The lack of public infrastructure does not preclude development under the Development Plan or the Rural Housing Guidelines.
- The subject development would not create an undesirable precedent for similar development as future rural development would also be subject to assessment under the Meath County Development Plan.
- The subject development complies, on balance, with the provisions of the Meath Rural Design Guide. The Appellant refers to permitted dwellings in the locality that were found by the P.A. to generally align with the guide. The dwelling has a 'B' energy rating and has been finished to a high standard, in accordance with the guide.
- The existing dwelling is screened from the public road by existing vegetation and would not have any significant impact on the landscape or visual amenity of the area. It is stated that there are established large structures in Ireland's rural areas that have no negative visual impacts due to site layout and screening. Further to this, it is stated that a wide variety of house styles are currently accommodated in the rural area.
- The Appellant does not agree that the subject development represents a material contravention of the Development Plan on the basis that rural housing applications are one of the most common types of applications in the country.
- It is stated that the P.A.'s dislike of the dwelling's design does not necessarily equate to the development being a material contravention of the Development Plan.

- The issues raised by the P.A. in respect of the wastewater treatment system are addressed in the Site Characterisation Report and Site Characterisation Form prepared by Dr. Eugene Bolton and submitted as part of the appeal statement.
- The existing wastewater treatment system is stated to accord with EPA CoP and, therefore, Policy RD POL 48 of the Development Plan. It is stated that any remaining issues regarding the wastewater treatment system can be addressed by way of condition.
- The First Party queries whether the demolition of the subject dwelling (Appellants home) would be a proportionate response to the unauthorised development that has taken place on the site given the lack of environmental, heritage or conservation impacts.
- The demolition of the subject dwelling would give rise to environmental impacts including the loss of embodied carbon; dust, noise and vibration nuisance; and the creation of additional construction traffic, which would be contrary to Regional and Local policies and objectives.

## 6.2. Planning Authority Response

A response has been received from the Planning Authority dated 25 September 2023. The Planning Authority requests that the Board upholds their decision to refuse planning permission for the subject development.

## 7.0 Assessment

Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local, regional and national policies, I consider that the main issues in this appeal are as follows:

- Compliance with Rural Housing Policy
- Rural Design Guide
- Wastewater Treatment
- Material Contravention

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

- 7.1.1. The Development Plan facilitates rural residential development subject to compliance with local housing need criteria and development management standards. It is stated in the submitted documentation that the Appellant has lived in the subject unauthorised dwelling since its construction in 2006/2007 and has never owned another house. The Appellant has, therefore, resided in this rural area for over 15 years and exceeds the 5-year minimum residency requirement under Section 9.4 of the Development Plan. I note that the criteria for determining rural housing need under Section 9.4 does not differentiate between the authorised or unauthorised status of the applicant's residence. In this way, notwithstanding the unauthorised status of the dwelling, I consider that the First Party meets the criteria for persons local to or linked to a rural area as set out in Section 9.4 of the Development Plan.
- 7.1.2. The First Party states that the subject site is located within the Bohermeen Rural Node however, I do not consider this to be the case. Chapter 9 of the Development Plan contains a Rural Node Map Index and '4.1 – Navan – Bohermeen' shows the defined boundary of the Bohermeen rural node. The subject site is more than 1.5 Kilometres from the northern boundary of Bohermeen. Drawing from the above, I have assessed the subject dwelling in respect of its location within the open countryside.
- 7.1.3. I consider that the rural area surrounding the subject site is under significant pressure for residential development, as is evidenced by the number of planning applications in the vicinity of the subject site. Having undertaken a site visit it is my opinion that the rural area surrounding the subject site accommodates an excessive density of residential development, which has eroded its rural character. Ribbon Development has occurred on the public road and there are several existing rural houses on the private road serving the subject dwelling. In my view, the subject development exacerbates existing issues of overdevelopment in this locality and contributes to the ongoing development pressures experienced in the area. This finding is consistent with the decisions made by the Board under Case Refs. 306950-20 and 309695-21 regarding proposed residential development in the immediate vicinity of the subject site. Drawing from the above, I recommend that planning permission and retention planning permission be refused.

## **7.2. Rural Design Guide**

- 7.2.1. Having reviewed the documents submitted and undertaken a site visit, I do not consider that the dwelling to be retained accords with the Meath Rural Design Guide. I consider that the dwelling has a poorly proportioned mock Georgian form and deep plan layout that the guide expressly seeks to avoid. In my view, the single storey section of the dwelling is not suitably scaled with reference to the 2-storey element and creates an overly complex roof structure. I consider that the existing porch and balcony are over dominant and prominent, and the existing mock Georgian entrance door is overly ornate with reference to the examples given in the guide. The use of stone cladding on the facades of the building is inconsistent and does not align with the provisions of the guide, in my opinion. Notwithstanding the existing screening vegetation at the site boundaries, I consider that the subject development fails to integrate with its surroundings owing to its incongruous design, scale, and massing. I recommend that planning permission and retention planning permission is refused on this basis.

## **7.3. Wastewater Treatment**

- 7.3.1. The existing dwelling is served by a wastewater treatment unit and percolation area. I note that the appeal statement includes a Site Characterisation Report and Site Characterisation Form that had not formed part of the application made to the P.A.
- 7.3.2. The submitted Site Characterisation Form states that the aquifer category at the subject site is Locally Important (LI) and has a High vulnerability (H). The Groundwater Protection Response is classified as R1, as per Table E1 of the EPA CoP. The depth of groundwater from the surface was found to be 1.8 metres and mottling was present at 700 mm. The soil and subsoil are classified as Sandy Clay and Gravely Sandy Clay, respectively. The results of 3 no. separate trial holes are provided. The percolation test results for surface and sub-surface are 24 and 22, respectively. These percolation values fall within the range of 3-120 listed in Table 6.4 of the EPA CoP. It is stated that the minimum separation distances specified in Table 6.2 are met. Drawing from the above, I consider that the subject site is generally suitable for a domestic wastewater treatment plant.
- 7.3.3. Table 6.3 of the EPA CoP states that the minimum allowable distance between the point of infiltration and the depth of unsaturated soil/subsoil is 1.2 metres for



percolation trenches following septic tanks and 0.9 metres for Polishing Filters following secondary systems and infiltration areas following tertiary systems. The submitted form states that mottling is observed at 0.7 metres below ground level, which indicates that the required depth of either 0.9 metres or 1.2 metres may not currently be achieved at the subject site. In this respect, it is not clear that the existing wastewater treatment system meets the minimum requirements of the EPA CoP.

- 7.3.4. The Site Assessment section of the submitted Site Characterisation Report states that the existing percolation area serving the site is too close to the water table, which may result in the incomplete treatment of wastewater arising from the dwelling. It is further stated that the percolation area would need to be upgraded to ensure that no contamination of groundwater occurs. The report recommends the installation of a soil polishing filter to accord with the provisions of the EPA CoP. Aside from suggesting that any issues may be addressed by condition, I note that the submitted documentation provides no explicit commitment to undertake these recommended remedial works.
- 7.3.5. It is of note that the report from the Environmental Section of Meath County Council raised concerns regarding the design of the existing percolation area and the potential failure of the existing system to meet the minimum requirements of the EPA CoP. I note that the P.A. response to the appeal made no reference to the Site Characterisation Report or Site Characterisation Form submitted with the appeal.
- 7.3.6. I consider that the existing wastewater treatment system and percolation area is prejudicial to public health due to its failure to meet the minimum design requirements of the EPA CoP. It is my opinion that the submitted documentation gives no surety that the necessary remediation works would be undertaken at the site. Given the seriousness of the issues raised, the potential for impacts on public health, and the nature of this case as a retention application, I do not consider it appropriate in this instance to address the existing issues with percolation area by condition. Drawing from the above, I recommend that retention planning permission for the existing wastewater treatment unit and percolation area is refused.
- 7.3.7. If the Board is minded to grant permission for the subject development I recommend that the P.A. is contacted for their response to the Site Characterisation Report and

Site Characterisation Form submitted with the appeal. In addition, I recommend that a condition be attached requiring the Applicant to undertake the remedial works identified within a prescribed time period.

#### **7.4. Material Contravention**

- 7.4.1. Reason No. 2 of the P.A. decision states that the subject development would materially contravene policy RD POL 9 of the Meath County Development Plan 2021-2027. For reference, Policy RD POL 9 requires rural houses to comply with the Meath Rural House Design Guide.
- 7.4.2. I note that neither the Planning and Development Act 2000, as amended, nor the Planning and Development Regulations 2001, as amended, define the word 'material' in respect of assessing potential material contraventions of a Development Plan. For the purposes of this current assessment, it is my opinion that a potential contravention of the Development Plan would be material if the subject development directly opposes a quantitative and definitive policy or objective. In this regard, I note that the Meath Rural House Design Guide is fundamentally a guidance document, which was prepared and adopted as a Variation to the Meath County Development Plan 2007-2013. As per the Foreword of the document, the purpose of the Meath Rural House Design Guide is to provide a frame of reference to encourage building forms that align with the traditional Irish vernacular. As a guidance document, the Meath Rural House Design Guide provides for flexibility of implementation and includes subjective design elements that could be open for interpretation by the applicant. Owing to the nature and content of the guide, I do not consider the failure of the subject development to align with the provisions of the Meath Rural House Design Guide constitutes a material contravention of the Plan and specifically Policy RD POL 9. The Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act 2000, as amended.

#### **8.0 Appropriate Assessment Screening**

- 8.1.1. The River Boyne and River Blackwater SAC (site code 002299) and River Boyne and River Blackwater SPA (site code 004232) are the nearest designated sites to the subject site and are located approximately 2.5 kilometres to the north. The subject

site is located in the Athboy groundwater area, which is shown in the EPA mapping to have a 'Good' Ground Waterbody WFD Status 2016-2021.

Natura 2000	Site Code	Qualifying Interests	Conservation Objectives
River Boyne and River Blackwater Special Area of Conservation SAC	002299	<p>Alkaline fens [7230]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
River Boyne and River Blackwater Special Protection Area SPA	004232	Kingfisher ( <i>Alcedo atthis</i> ) [A229]	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA

8.1.2. During the site inspection I did not see any evidence of waterbodies at the subject site and the EPA mapping does not show any waterbodies within or immediately adjoining the site. In this way, there are no direct pathways from the subject site to any designated site.

8.1.3. The submitted Site Characterisation Report states that there is currently a risk of incomplete treatment of wastewater at the site, and that the existing percolation area should be upgraded to ensure no contamination of groundwater occurs. Owing to the distance between the subject site and the designated sites, the intervening land

uses, the favourable status of the existing groundwater, and the small scale of the subject development, I do not consider that the subject development would have likely effects on the conservation objectives of the River Boyne and River Blackwater SAC and SPA or any other designated site.

- 8.1.4. The subject development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites River Boyne and River Blackwater SAC (site code 002299) and River Boyne and River Blackwater SPA (site code 004232), or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.
- 8.1.5. This determination is based on the following: the distance of the development from the European Sites, the size and nature of the existing development and the good status of the existing groundwater.
- 8.1.6. This screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

## **9.0 Recommendation**

- 9.1. I recommend that planning permission and retention planning permission be refused for the reasons and considerations as set out below.

## **10.0 Reasons and Considerations**

1. Taken in conjunction with existing development in the vicinity, the subject development would contribute to the excessive density of development and overdevelopment of a rural area, contrary to the provisions of Section 9.5 of the Meath County Development Plan 2021-2027. The subject development would contravene Policy RD POL 8 and Objectives RUR DEV SO 5 and RD OBJ 1 of the Development Plan, which seek to direct rural generated residential development to serviced centres (which policy is considered to be

reasonable), and the principles of development set out in the Plan which seek to prevent the encroachment of random rural development that militates against the preservation of the rural environment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Notwithstanding the proposed alterations, it is considered that the 1- and 2-storey dwelling which is proposed to be retained is out of character in this rural area by reason of its scale, massing, and design. The incongruous design of the dwelling fails to align with the Meath Rural House Design Guide and would establish an undesirable precedent for further development of this kind. The development is, therefore, contrary to the proper planning and sustainable development of the area.
3. The wastewater treatment system to be retained at the site does not accord with the minimum requirements of the EPA Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ ) (2021). The submitted documentation does not provide surety to the Board that the remediation works recommended in the Site Characterisation Report and Site Characterisation Form will be undertaken, therefore, the subject development contravenes Policy RD POL 48 of the Meath County Development Plan 2021-2027 and is prejudicial to public health.

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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Sinead O'Connor  
Planning Inspector

23<sup>th</sup> of October 2023

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-317907-23		
<b>Proposed Development Summary</b>	Retention & Permission: Demolition of carport and attached domestic garage and retention of house and all associated site works.		
<b>Development Address</b>	Faughanhill, Bohermeen, Navan, Co. Meath		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>		10. Infrastructure Projects (b) (i) Construction of more than 500 dwelling units	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: Sinead O'Garra

Date: 23/10/2023

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-317907-23	
<b>Proposed Development Summary</b>	Retention & Permission: Demolition of carport and attached domestic garage and retention of house and all associated site works.	
<b>Development Address</b>	Faughanhill, Bohermeen, Navan, Co. Meath	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The subject dwelling is within a rural area with significant levels of existing residential development. In this way, the existing dwelling is not exception in the context of the existing environment.</p> <p>The development comprises the demolition of part of the existing dwelling. The waste arising from these works would not be significant. Due to the limited scale of the development, being a single house, I do not consider that the operation of the proposal would result in any significant waste, emissions or pollutants.</p>	No
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>The dwelling to be retained at the site would have 3 no. bedrooms and a floor area of 360 sq.m. I do not consider that this would be an exceptionally large dwelling in the context of the existing environment.</p> <p>The dwelling is located in a rural area without public waste water infrastructure. The concentration of private domestic wastewater treatment units in this locality does not meet or exceed the density thresholds set out in the</p>	No



Are there significant cumulative considerations having regard to other existing and/or permitted projects?	Environmental Protection Agency 'Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent ≤10)' (2021). I do not consider the existing and permitted development at risk of significant cumulative impacts on sensitive characteristics of the environment.	
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The proposed development is not located within, or immediately adjoining, any designated ecological site (ie. SAC, SPA or pNHA). The nearest designated sites are circa 2.5 kilometres to the north of the subject site.</p> <p>Owing to the separation distance between the subject site and the designated sites, I do not consider that the proposed development would have the potential to significantly affect other significant environmental sensitivities in the area.</p>	No
<b>Conclusion</b>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p> <p><b>X</b></p>	<p><b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b></p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p><b>There is a real likelihood of significant effects on the environment.</b></p> <p>EIAR required.</p>

Inspector: Sinead O'Garra

Date: 23 October 2023

DP/ADP: \_\_\_\_\_ Date: \_\_\_\_\_

(only where Schedule 7A information or EIAR required)