



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317976-23

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<b>Development</b>	Outline planning permission for a dwelling house, wastewater treatment system and associated site development works.
<b>Location</b>	Cavan/Rathroal, Knockbridge, Co. Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	2360179
<b>Applicant(s)</b>	Barry & Maggie Soraghan
<b>Type of Application</b>	Outline Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Barry & Maggie Soraghan.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	10 January 2024.
<b>Inspector</b>	Paula Hanlon

## 1.0 Site Location and Description

- 1.1. The site subject to this appeal (hereafter referred to as 'the site') is located in a rural area, a distance of approximately 1.65 kilometres southwest of Junction 16 on the M1 motorway, on the southern approach into Dundalk. Soraghan's public house and residence, being the nearest development, are sited a distance of approximately 170 metres northeast of the site.
- 1.2. The site (stated area 0.399ha) is setback approximately 80 metres from the R215 within agricultural lands in an undulating landscape. Two existing outbuildings are located within the site. An existing unsurfaced agricultural track with mature native planting on its western side is currently utilised for agricultural access and the proposed vehicular access follows the existing field gate and established track.
- 1.3. The proposed access is off the western side of the R215 regional road (formerly N52), which is designated as a 'Protected Regional Road' within the Louth County Development Plan and where a speed limit of 80kph applies. Existing road signage and roads markings cautioning motorists of approaching bend in road and to travel slow are in-situ within close proximity to the northeast of proposed access and a continuous white line is in-place along the stretch of road off which the applicant proposes this development. Road signage posting the N52 national secondary road also remains along this stretch of road, notwithstanding its road status, being the R215.
- 1.4. These lands are well screened by way of mature trees and hedgerow along the roadside and within the landholding itself.
- 1.5. There are no designations aside from the protected regional road status of adjoining road attached to the site.

## 2.0 Proposed Development

- 2.1. The proposed development seeks outline planning permission for a dwelling house, wastewater treatment system and associated works.
- 2.2. The application was accompanied by the following documentation of note -

- Letter of Consent from Landowner (Applicant's father) in making application.
- Documentation on Applicant's 'Local Needs'.
- Site Characterisation form
- Traffic Report.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By Order dated 11/08/2023, Louth County Council issued a Notification of decision to refuse planning permission, stating one reason for refusal as follows:

This proposal seeks to access onto the Protected Regional Road (R215) in a location where the maximum speed limit applies, there are no grass verges and the width of the carriageway of the regional route is restricted and where there are a series of dangerous bends and a record of traffic hazards in the vicinity. Furthermore, adequate visibility of 215m x 3m over a height of 0.6-1.05m above road level in each direction cannot be achieved at the junction with the regional road as required by Section 13.16.17 Entrances and Sightlines and Table 13.13 of the Louth County Development Plan 2021-2027, as varied. As such the proposed development would materially contravene the Louth County Development Plan 2021-2027, as varied, and would endanger public safety by reason of traffic hazard and obstruction of road users and would be contrary to the proper planning and sustainable development of the area.

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

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

A planning report prepared on 11/08/2023, forms the basis for the decision by Louth County Council to refuse permission.

#### **3.2.2. Other Technical Reports**

Physical Development Section – Report dated 09/08/23 recommends a refusal.

Environment Section – Report dated 25/07/23 no objections, subject to conditions.

### **3.3. Prescribed Bodies**

Transport Infrastructure Ireland (TII) - Report received dated 19/07/23, no observations to make.

## **4.0 Planning History**

None relevant.

## **5.0 Policy Context**

### **5.1. Louth County Development Plan 2021-2027**

The Louth County Development Plan 2021-2027 (CDP) is the operative Development Plan for the county.

The site is located within a rural area of Co. Louth on the southwestern approach into Dundalk. Relevant policies, objectives and standards within the CDP are set out under Housing (Chapter 3), Movement (Chapter 7) and the Development Management Standards (Chapter 13).

The county is classified into two areas for the purposes of rural housing policy, Rural Policy Zone 1 (Area under strong urban influence and of significant landscape value) and Rural Policy Zone 2 (Area under strong urban influence).

The appeal site is located within Zone 2 (Area under strong urban influence) and Table 3.5 of the CDP sets out outlines eligibility requirements which applicants must meet.

The road hierarchy within Co. Louth is set out within Chapter 7 of the CDP. Map 7.2 provides details of the location of these roads in the County. The plan provides restrictions to some routes along regional roads to maintain their efficiency and

functionality. Table 7.10 of the CDP includes the route 'R215 from R132 Junction to Junction 16' as a 'Protected Regional Road' and sets out Restrictions and Exemptions on any development proposals which access onto this route including;

Restriction: No new access or intensification of existing access

Exemption: 5. Dwellings required to satisfy the housing needs of persons who have lived for not less than 18 years in the area, where no other site is available off a minor road, and where the existing entrance servicing the family home is used. Where the entrance to the existing family home cannot be used, consideration will be given for one new entrance only onto the adjoining protected regional route. A condition confining occupancy to a family member for a minimum of 7 years will be attached to any permission granted under this exemption.

It is policy objective to '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' (Policy objective MOV 56).

A stated development management standard within the CDP requires that minimum visibility for new entrances have a sight distance of 215m, a distance of 3 metres from the edge of the carriageway in respect of development of 1-6 house(s) onto a protected regional route (Table 13.13).

The following policy objectives are also relevant to the consideration of this appeal: HOU 41 & HOU 45 (rural housing); IU16 & IU18 (wastewater); IU19 (SuDs), Section 13.9.4 (Site Selection).

## 5.2. Sustainable Rural Housing – Guidelines for Planning Authorities

These guidelines state that development plans should facilitate the housing need of the rural community while directing urban generated housing to settlements. The guidelines go on to state that the housing requirements of persons with a link to the rural area should be facilitated in the area it arises subject to normal siting and design requirements.

In terms of safeguarding the specific function of regional road types, the Guidelines outline the need for PA's to indicate any regional or county road type routes that act as particularly important transport links as well as locally specific development control requirements that will operate to safeguard the specific functions of such routes in terms of future road design and construction requirements.

### **5.3. National Planning Framework**

National Policy Objective 19 of the National Planning Framework (NPF) states the following in relation to one-off rural housing in the countryside:

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

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

The appeal site is not located within any designated Natura 2000 site(s) or Natural Heritage Area(s). Stephenstown Pond proposed Natural Heritage Area (Site code 001803) is sited approximately 640 metres to the west of this site. Dundalk Bay, being the nearest Natura 2000 site, a designated SPA (004026), SAC (000455) and pNHA (000455) is located approximately 4.4 kilometres east of the site.

## 5.5. EIA Screening

See completed Form 2 on file. 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, therefore, is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A First Party Appeal has been received from Barry & Maggie Soraghan ('the appellant') in relation to the PA's decision to refuse permission. The appellant does not accept the PA's determination and reason for refusal and a summary on the following grounds of appeal is provided below.

#### Sight Visibility Requirement

- Sufficient evidence has been provided and the reason to refuse on the single grounds of sight visibility is refuted given that achievable visibility of 160m x 3m over a height of 0.6m-1.05m, is fully in compliance and exceeds the national standards as set out in TII Design Document 'Rural Road Link Design' (DN-GEO-03031) and Table 5.5 of TII Design Document 'Geometric Design of Junctions' (DN-GEO-03060) for design speed (85% speed) of 85km/hour.
- The requirement of 215m visibility applicable to a design speed of 100kph is illogical and out of sync with national standards and the design ethos contained in Section 13.16.17 of the CDP.
- Inconsistencies between design principles and philosophy set out in Section 13.16.17 and Table 13.13 of the CDP in relation to applying the applicable TII road design manual.
- A single design standard applied to all Protected Regional Routes is a 'blunt and unsophisticated design approach' that fails to account for criteria listed in Section 13.16.17 of the CDP.

## Traffic Report

- An automatic traffic count and speed survey carried out at the site entrance over a four-day period [12.30 Friday 1<sup>st</sup> September - 08.15 Tuesday 6<sup>th</sup> September] and following new surfacing and new road delineation being applied, demonstrated an operation speed of approximately 75kph.
- Recorded results show 85% speed of traffic travelling along the R215 at this location within the posted speed limit of 80kph with a 2-way traffic value of 74.9kph [ Southbound traffic (76.1kph) and Northbound (73.8kph)].
- The overall volume of traffic (5,360 vehicles per day) including heavy vehicles (3.5% rigid lorries; 3.3% artic lorries and 0.4% buses) is modest and any increase in visibility requirements set out in National Design Standards is unwarranted,

## Other Matters

- Policy MOV56 was not cited in the PA's reason for refusal.
- Location of accidents mapping provided. The site is within a low accident area, with 1 accident recorded within the 320m stretch of road centred at the proposed access and remainder predominantly to the north & a smaller number south of proposed access.
- Applicant is the son of a longstanding landowner, with frontage only onto the R215 and the proposal is the only viable option. The applicant's circumstances are unique and would not constitute a 'precedent' case for future planning decisions onto a protected road.
- Sight visibility can be achieved with the removal of significant lengths of existing roadside boundary but is contrary to adopted policies & objectives on biodiversity.
- Wide discrepancy between the standard of Protected Regional Routes within the County. The R173 and R132 have a 3.65 metres carriageway with hard shoulder in each direction and other routes have no hard shoulder and follow legacy routes with poor horizontal and vertical alignment, the latter being the category in which the appellant indicates as being relevant to this case.
- Lack of funding to support R215 upgrading works reflects its relative low level strategic importance.



- Reference made by the Roads Authority, that 'traffic may travel at speeds appropriate to a national secondary road' along the R215 are flawed.

## 6.2. **Planning Authority Response**

A response has been received from the Planning Authority (PA) dated 29/09/2023 which confirms its decision to refuse on grounds of traffic hazard & obstruction of road users and requests that the Board upholds the decision.

## 7.0 **Assessment**

The applicant has demonstrated to the satisfaction of the PA that they meet the eligibility requirements for a dwelling house within Zone 2 (Area under strong urban influence) and I am generally satisfied and concur with the PA in terms of siting and public health matters. Accordingly, having examined the application details and all other documentation on file, including the submission received in relation to the appeal, site inspection and having regard to the relevant policies, objectives and guidance, I am satisfied that the main issue to be considered is that raised in the First-Party grounds of appeal, being the PA's reason for refusal and I am satisfied that no other substantive issues arise.

The main issues in determining this appeal are as follows:

- Site Access and Traffic Safety
- Other Matters (Material Contravention).

### 7.1. **Site Access and Traffic Safety**

Compliance with adopted policy objectives and standards contained within the operative Development Plan is a key consideration for any planning application for a dwelling house in a rural area and the matter of traffic safety is pertinent to the assessment of any planning application. I submit that the proposed vehicular access

constitutes the upgrading of an existing field gate which is one of two entrances that serves the family landholding, the other utilised in accessing the family home, farmyard and family business (Soraghan's public house) to the northeast of this site. Submitted documentation indicates that the overall landholding (22.52ha) fronts entirely onto the R215 over a distance of approximately 300 metres and that there is no further access available onto any other public road.

#### 7.1.1. Principle of Establishment of Access onto R215 Protected Regional Road

I note that the PA raised no issues in this instance with regard to the principle of the establishment of an access onto the R215 protected regional road, given that the applicant substantiated compliance with an exemption to restrictions as required within Table 7.10 of the CDP.

In reviewing the stated exemptions, and based on the documentation provided, I concur with the conclusions of the PA and I am satisfied that the appellant has substantiated grounds for the establishment of an access in principle onto this protected regional road, in compliance with Table 7.10, exemption 5 as follows; the applicant meets the housing needs criteria having resided in the area for over 18 years; no alternative access to the family land holding is available off a minor road; existing entrance serving family home is substandard and this proposal is the first new entrance sought by a family member onto the R215.

There are therefore no outstanding matters in this regard, however this is subject to satisfying all other planning criteria, including road & traffic safety.

#### 7.1.2. Road & Traffic Safety

Based on my observations on inspection on this site, I have serious concerns regarding traffic safety at this location notwithstanding the reported results of survey undertaken. The appeal site is within the 80km/hr speed limit zone, and I noted on my site inspection that the road was relatively trafficked and that vehicle speeds varied with good road surfacing.

I note the PA's concerns due to a number of factors including speed limit, no grass verges & width of carriageway being restricted where there is a series of dangerous bends and record of traffic hazards in the vicinity, and that the required visibility cannot be achieved. I also note that the appellant contends that the proposal is consistent

with national guidelines in respect of visibility requirements (160m x 3m) for design speed of 85kph, that findings of traffic survey undertaken indicate that the road has modest traffic volume (c.5,360 vehicles per day with proportion of heavy vehicles (3.5% rigid lorries; 3.3% artic lorries and 0.4% buses) and that this is a 'low accident area' area.

I have considered the appellants Traffic Report which provides findings of a traffic study undertaken over a 4-day period in September 2023 and referred to the referenced TII guidelines in respect of required visibility requirements. Whilst I note the appellants point in respect of stopping Sight Distance appropriate for design speed, I also note that the appellant refers to the rationale for a reduction in speed limit along this section of the R215 to 80km/hr 'in recognition of the sub-standard horizontal alignment of this section of road and the consequential reduction in the stopping sight distance/forward visibility available to drivers'.

It is my view that the proposed development seeks to develop an access onto a Protected Regional Road (R215) at a highly constrained location due to poor horizontal road alignment on approach, restrictive width of carriageway with no hard shoulder and absence of continual grass verge wherein the maximum speed limit of 80kph applies. I also consider that vehicle speeds vary according to the impression of constraint that the road alignment and layout impart to the driver and that road markings and signage advising motorists on the road alignment and to slow down in the immediate vicinity of this site are necessary in the interest of road safety, given the alignment on approach to this site, most notably at the southern approach between Martin's cross and the site, and at the northern approach along Soraghan's public house.

Accordingly, and having inspected the site, I consider that the establishment of an access to serve a domestic dwelling at this location would exacerbate existing traffic safety concerns at this location and pose a serious traffic hazard given likely traffic movements generated from this development, the road capacity (alignment constraint and layout constraint), traffic volume (albeit considered modest by the appellant) and history of road accidents contiguous to the proposed development.

The Board will note that the appellant within Section 34.0 of their appeal submission attached a copy of accident map which highlights a number of recorded accidents on both the northern and southern approach to this development. I consider that the

justification provided by the appellant in relation to providing reduced visibility (i.e. 160 metres in both directions) from the standard sought by the PA (i.e. 215 metres in both directions) given the site-specific circumstances with extent of dangerous bends, restricted road width and no hard shoulder is not acceptable in this instance. I consider it reasonable that the PA should require greater visibility on Protected Regional Routes than on 'normal' Regional Roads, as per Table 13.13 of the Development Plan. I am also of the view that in order to provide the required visibility splays it is likely that a significant amount of roadside hedgerow and trees would have to be removed. I therefore recommend that planning permission be refused on the basis that the proposed development would be contrary to Table 13.13 of the Development Plan and would endanger public safety by reason of a traffic hazard and obstruction of road users.

## **7.2. Other Matters (Material Contravention)**

The Board will note that the PA's reason for refusal considered that the proposed development would materially contravene various provisions of the Development Plan. Having considered the proposed development, the refusal reason and the relevant provisions of the CDP, in my opinion the Board should not consider itself restrained by section 37(2). While the proposed development may be contrary to a development standard, as considered in my assessment below, I am satisfied that the proposed development in the rural area does not represent a material contravention of the Development Plan.

The PA in its refusal reason put forward that the proposal will 'materially contravene the Louth County Development Plan 2021-2027, as varied' on the grounds that proposed sight visibility at the entrance does not meet the required standard stated within Section 13.16.17 Entrances and Sightlines and Table 13.13 of the CDP.

Having regard to Section 37 (2) of the Planning and Development Act 2000 (as amended), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the PA to whose decision the appeal relates.

- i. the proposed development is of strategic or national importance,

- ii. there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- iii. permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- iv. permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

Having regard to the above provisions and in the event that the Board is of the view that the proposal does represent a material contravention, I wish to also submit to the Board that I see no validity in this appeal which necessitates a material contravention to the CDP, for the following reasons:

- i. The development of a single rural dwelling is not considered to be of strategic or national importance.
- ii. There are no conflicting objectives in the development plan and the objectives are clearly stated, insofar as the proposed development is concerned.
- iii. The proposal is located in the open countryside where Section 28 Guidelines - Sustainable Rural Housing Guidelines for Planning Authorities (2005) outline the need for PA's to indicate any regional or county road type routes that act as particularly important transport links as well as locally specific development control requirements that will operate to safeguard the specific functions of such routes in terms of future road design and construction requirements. The PA in this instance has identified the R215 as a 'Protected Regional Route' and included locally specific control requirements in respect of required visibility lines accordingly.
- iv. There is no evidence provided that other dwelling houses have been granted along the R215 in the immediate area following the adoption and implementation of the CDP.

### **7.3. Appropriate Assessment**

The nearest European designated sites are Dundalk Bay SPA (0004026) and SAC (0000455) sited approximately c.4.4km east of the site, Stabannon & Braganstown SPA (0004091) c. 8.5km south and Carlingford Mountain SAC (0000453) c.11.9km northeast of the site. Taking into consideration the nature, extent and scope of the proposed development, separation distance to the nearest European site and to the nature of the receiving environment, with no direct hydrological or ecological pathway to any European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **8.0 Recommendation**

It is recommended that the planning authority's decision to refuse permission be upheld based on the following reason and considerations.

### **9.0 Reason and Considerations**

The proposed development seeks to achieve access to a Protected Regional Road (R215) and the traffic movements to which it would give rise, in conjunction with existing traffic movements, road capacity with restrictive width and poor horizontal alignment on approach, would interfere with the safety and free flow of traffic at a point where the maximum speed limit of 80kph applies. The applicant has also failed to demonstrate that adequate visibility can be achieved at the junction with the public road as required under Table 13.13 of the Development Plan. As such, the proposed development, if permitted would conflict with the Louth County Development Plan 2021-2027 and would endanger public safety by reason of a traffic hazard and obstruction of road users and would therefore be contrary to the proper planning and sustainable development of the area.

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

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Paula Hanlon  
Planning Inspector

31 January 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	317976-23		
<b>Proposed Development Summary</b>	Outline planning permission for a dwelling house, wastewater treatment system and associated site development works		
<b>Development Address</b>	Cavan/Rathroal, Knockbridge, Co. Louth		
<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>		
<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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			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>			<b>Conclusion</b> No EIAR or Preliminary Examination required
<b>Yes</b>	X	Class 10 (Infrastructure Projects)	Proceed to Q.4



**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	317976-23	
<b>Proposed Development Summary</b>	Outline planning permission for a dwelling house, wastewater treatment system and associated site development works	
<b>Development Address</b>	Cavan/Rathroal, Knockbridge, Co. Louth	
<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 proposed development will not result in the production of 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>Are there significant cumulative considerations having regard to other existing</p>	<p>No. The site area is 0.399 ha.</p> <p>There are no other developments under construction in proximity to the site. All other developments are established uses.</p>	No

and/or permitted projects?		
<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>No. The appeal site is not located within any designated Natura 2000 site(s).</p> <p>The nearest European designated sites are Dundalk Bay SPA (0004026) and SAC (0000455) sited approximately c.4.4km east of the site, Stabannon &amp; Braganstown SPA (0004091) c. 8.5km south and Carlingford Mountain SAC (0000453) c.11.9km northeast of the site.</p> <p>Due to the nature and scale of the proposal, the proposed development does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>	No
<p>• <b>Conclusion</b></p>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>		

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

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

(only where Schedule 7A information or EIAR required)