



An
Bord
Pleanála

Inspector's Report ABP-320619-24

Development	Construction of a dwelling and garage, new entrance, waste water treatment system and all associated site works.
Location	Bellview Road, Cartown, Drogheda, Co. Louth.
Planning Authority	Louth County Council.
Planning Authority Reg. Ref.	24100.
Applicant(s)	Niall Meade.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party.
Appellant(s)	Niall Meade.
Observer(s)	None.
Date of Site Inspection	11 th October 2024.
Inspector	Ciarán Daly

1.0 Site Location and Description

- 1.1. The subject site consists of part of an adjacent field and an open yard type area with hard surface adjacent to an agricultural field and separated from it by hedgerow. The site fronts on to Belview Lane to the west and north-west and is adjacent on the other southern side to an existing two storey detached rural house with detached garage located on the corner of Belview Lane (Carstown) (L-6309-Class 2) and Newtownstalaban Road (L2307). Part of the subject site located adjacent to the dwelling and the road appeared to be in use for the storage of plant hire machinery. A small prefab unit is also on the site and the entrance is shared with the adjacent dwelling. This compound is separated from the grass field by a hedgerow which includes some mature trees. There is a slight slope on the site which slopes downhill from north to south.
- 1.2. There is an electricity substation adjacent to the north-west of the site and a power line located adjacent to the site. There are a number of detached dwellings located along the same side of the road as the subject site including two dwellings to the north and south of the site within a 250m stretch of road. The rural site is located over 2km from the north-east edge of Drogheda town is located within an 80km per hour speed limit zone.

2.0 Proposed Development

- 2.1. The proposed development, in summary, consists of the following:
- a one and half storey dwelling and garage,
 - new entrance,
 - wastewater treatment system.

3.0 Planning Authority Decision

3.1. Decision

Louth County Council decided to refuse permission for the proposed development for 4 no. reasons which related to the following:

1. Applicant failed to meet the housing need criteria for a one-off rural dwelling.

2. Extensive removal of hedgerow would be required and lack of natural features to integrate the development into the landscape.
3. The P.A. is precluded from granting permission where it would facilitate unauthorised development.
4. The P.A. is not satisfied that the development in combination with the unauthorised development would not adversely affect the integrity of European sites in the vicinity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report formed the basis for the decision. The key conclusions of the report were the following:

- The Applicant does not come within scope of the qualifying criteria for rural one-off housing in Rural Policy Zone 2.
- There is a proliferation of one-off housing at this location, safe access has not been demonstrated without the extensive removal of hedgerow. The site would then lack natural features to integrate into the landscape.
- No details submitted in relation to the use of the site for machinery storage and the P.A. cannot grant permission in this circumstance.
- Not satisfied that the proposal in combination with the unauthorised development would not adversely affect European sites in the vicinity.

3.2.2. Other Technical Reports

- Placemaking and Physical Development: No objection subject to conditions.
- Environment Section: No objection subject to conditions.

4.0 Planning History

Subject site and adjacent site to south

06/33 (Adjacent site at Sandpit, Termonfeckin, Carstown, Co Louth): Permission granted to Bernard Meade by the Planning Authority for a two storey dwelling with garage to rear.

10/113 Permission granted by the Planning Authority at the adjacent site at Sandpit, Carstown, for the retention for the revised site layout, revised floor plans & elevations, revised dwelling & garage location, new shed to rear & garden storage area.

21/1377: Application for 1.5 storey dwelling with detached garage, entrance, driveway and wastewater treatment system deemed withdrawn following request for further information for one and half storey dwelling, entrance and wastewater treatment system.

22/857 (Adjacent site at Sandpit, Termonfeckin, Carstown, Co Louth): Permission granted for (1) alterations to site boundaries of existing dwelling (2) decommissioning of existing percolation area (3) construction of new percolation system with connection to existing waste water treatment system and all associated site works. This permission has not been implemented to date.

23/235: Permission refused by the Planning Authority for a 1.5 storey dwelling, new entrance and wastewater treatment plant. 5 no. refusal reasons related to absence of rural housing need, extensive removal of roadside hedgerow in an area under pressure for one-off rural housing, use of the unauthorised development, inadequate visibility at the road junction and not satisfied that the development would not adversely affect European sites.

Sites in the vicinity

18/591 (Site on Belview Lane c.350m to north, Carstown, Termonfeckin, Co Louth) Permission granted by the Planning Authority for two storey dwelling, detached garage and waste water treatment system overturned on appeal (ABP-303697-19). Reason for refusal: failure to satisfy the Board that housing need is not urban generated per local and national policy. Failure to demonstrate no adverse impact on hedgerow, mature trees and that sightlines could be maintained.

5.0 Policy Context

5.1. Local Policy

The Louth County Development Plan 2021-2027 (as varied) (the CDP) has been varied twice per Variation No. 1 (adopted on 18th July 2022) and Variation No. 2 (adopted on 20th May 2024).

Section 3.17.4 relates to Rural Generated Housing Need policy.

“This section sets out the policy for rural housing in the open countryside, which is defined as all areas outside the development boundary of settlements in Levels 1-5 identified in the settlement hierarchy in Table 2.4. It recognises the importance of facilitating people with a strong economic or social link to their local rural area, in strengthening the rural community. There is a specific qualifying criteria for each of the Rural Policy Zones that is set out in Tables 3.4 and 3.5. Applicants will be required to demonstrate to the Planning Authority that they qualify with one of the criteria in the relevant Rural Policy Zone. For clarification any persons from Rural Policy Zone 1 who are native residents of the area and have demonstrated a rural housing need but are not engaged in full time agricultural activities will be deemed to qualify to build on a suitably located site in Rural Policy Zone 2. The application site shall not normally be a distance of more than 6kms from the qualifying family residence”.

Table 3.5: Local Housing Need Qualifying Criteria in Rural Policy Zone 2 (Area under Strong Urban Influence)

- 1. Persons engaged in full time agriculture...*
- 2. A person whose business requires them to reside in the rural area...*
- 3. Landowners including their sons and daughters who have demonstrable social or economic ties to the area where they are seeking to build their home. Demonstrable social or economic ties will normally be someone who has resided in the rural area of Louth for at least 18 years prior to any application for planning permission. Any applicant under this category must demonstrate a rural housing need and shall not own or have sold a residential property in the County for a minimum of 10 years prior to making an application.*

4. *A person who is seeking to build their first house in the area and has a demonstrable economic or social requirement to live in that area. Social requirements will be someone who has resided in the rural area of Louth for at least 18 years prior to any application for planning permission. Any applicant under this category must demonstrate a rural housing need and shall not own or have sold a residential property in the County prior to making an application.*
5. *An emigrant who was resident of the area (previously resided in the area for at least 18 years in total) and wishes to return to the area to live...*
6. *Persons who are required to live in a rural area, for exceptional health reasons...*
7. *Residents who have demonstrable social ties to the area and are providing care for an elderly person(s) or a person(s) with a disability who lives in an isolated rural area and who does not have any able bodied person residing with them...*
8. *A person who has been a resident for at least 10 years that previously owned a home and is no longer in possession of that home due to the home having been disposed of following legal separation / divorce / repossession and can demonstrate a social or economic need for a new home in the rural area.*

Section 3.17.7 relate to Capacity of Areas to Absorb Further Development.

“As part of the management of development in the countryside, consideration will be given to the ability of an area to absorb further development of one off housing. Whilst this Plan recognises the importance of supporting rural communities, there is also a requirement to protect the landscape and countryside for future generations. In this regard, if it is considered that an area is becoming over developed due to the proliferation of one off housing and the local infrastructure does not have the capacity to accommodate further development, it is unlikely that planning permission will be granted. Further details on the criteria, and considerations for the siting and design of one off rural dwellings, is set out in Section 13.9 and Section 13.9.4 of the Development Management Guidelines in Chapter 13”.

Policy Objective HOU 42 is *“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”*.

The following sections are also relevant:

Section 10.2.3 On-site wastewater treatment systems.

Section 10.2.5 Sustainable drainage systems.

Policy Objective ENV 39 *“Protect and preserve existing hedgerows in new developments, particularly species rich roadside and townland boundary hedgerows, and where their removal is necessary during the course of road works or other works seek their replacement with new hedgerows of native species indigenous to the area”*.

Section 13.9 Housing in the Open Countryside.

Section 13.9.4 Site Selection.

Section 13.9.7 Visual Impact Assessments.

Section 13.9.8 House Design – New Build.

Section 13.9.9 Design, Detailing and Material Finishes.

Section 13.9.10 Garages and Outbuildings.

Section 13.9.14 Access.

Section 13.9.15 Boundary Treatments.

Section 13.9.16 Landscaping.

Section 13.9.19 Rural Generated Housing Need.

Section 13.16.17 Entrances and Sightlines.

Table 13.13 Minimum visibility standards for new entrances.

5.2. National and Regional Policy

5.2.1. Hou 42

5.2.2. Regional Spatial and Economic Strategy (RSES) – Eastern and Midland Regional Assembly (EMRA)

Regional Policy Objective (RPO) 4.80 states that *“local authorities shall manage urban generated growth in Rural Areas Under Strong Urban Influence (i.e. the commuter catchment of Dublin, large towns and centres of employment) and Stronger Rural Areas by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements”*.

5.2.3. Project Ireland 2040 – National Planning Framework (NPF)

National Policy Objective 19 of the NPF states the following,

“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”*.

5.2.4. Sustainable Rural Housing Guidelines for Planning Authorities, 2005.

The above guidelines seek to facilitate people from rural areas in the planning system. The Guidelines give examples including farmers (and their sons and daughters) or other persons taking over or running farms and persons who have spent substantial periods of their lives living in rural areas and are building their first homes.

5.3. Natural Heritage Designations

The subject site is not located adjacent to, or within, any designated site. The nearest such sites are located:

- c. 2.9km south-east at the Boyne Coast and Estuary Special Area of Conservation (SAC) and Proposed Natural Heritage Area (PNHA) (site code 001957),
- c. 3.1km south at the River Boyne and River Blackwater SAC (site code 002299),
- c. 3.2km south at the Boyne Estuary Special Protection Area (SPA) (site code 004080),
- c. 4.2 km east at the North-west Irish Sea SPA (site code (004236).

5.4. EIA Screening

See Forms 1 and 2 appended to this report. The proposed development is located within a rural area adjacent to agricultural fields and a house. Having regard to the nature and scale of the proposed development, to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended) and the absence of 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.

6.0 The Appeal

6.1. Grounds of Appeal

One no. appeal was received from Gerry Eustace on behalf of Niall Meade of Bellview, Cartown, Drogheda, Co Louth. The grounds of appeal can be summarised as follows:

- The applicant was unable to get a pre-planning consultation and no meeting took place. Had a timely meeting been secured all the issues raised in the Council's previous F.I. request could have been addressed.
- Had the applicant been able to make a timely application, then it would have been assessed under the previous Development Plan where a 10-year residency requirement for local need was allowed. This was raised to 18 years in the current development plan.
- Issues with the Planning Authority failing to consider the August 2021 application until retention issues had been resolved under reg. ref. 22/857 caused further delays such that the new development plan came into effect.
- Issues cited in relation to unjustified refusal reasons under the Decision to refuse permission under reg. ref. 23/235.
- The house was designed to meet the one-off rural dwelling design requirements.
- There are a limited number of dwellings on the same side of the road as the site and the area is not overpopulated.
- There were delays in processing a pre-planning application in August 2023.
- Assertions made in relation to a meeting with a Council planner and alleged undertakings given at that meeting.
- The latest refusal of permission was merely a re-statement of the previous refusal.
- In relation to refusal reason no. 1, all the further information items were satisfied and remaining issues could be resolved by conditions.
- Personal family circumstances in relation to ownership of the site and adjacent site asserted.
- As action has not yet been taken in relation to the site and house, criteria 8 does not yet apply and the applicant and his father fall between the qualifying

criteria for rural policy zone 2 (supporting documents have been included to verify).

6.2. Planning Authority Response

The planning authority's response to the grounds of appeal can be summarised as follows:

- All three most recent applications were assessed under the current Development Plan.
- Concerns were expressed in pre-planning advice issued at the time of the previous development plan in March 2021.
- The current application was assessed under a number of rural housing policy qualifying criteria. It is stated that there is no qualifying criteria in relation to the need to sell a house owing to financial reasons.
- Failure to demonstrate health qualifying criteria.
- In relation to alleged unauthorised development, this issue remains unresolved.
- The Natura issue relates to the lack of detail on how the builder's yard is to be resolved and noting the ditch within 50m that connects to Natura sites.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Rural Housing Qualifying Criteria.
- Design, Layout and Access.
- Other Refusal Reasons

- Other Issues.

7.2. Rural Housing Qualifying Criteria

- 7.2.1. As part of the Development Plan under Section 3.17.4 (Rural Generated Housing Need) there are qualifying criteria for each of the rural policy zones including zone 2. The site is located in Rural Policy Zone 2 noted to be an “*area under strong urban influence*” per Map 3.2. Under Table 3.5, for a person seeking to build their first house, 8 no. criteria are outlined in this regard and an applicant must meet one of these criteria.
- 7.2.2. Criteria no. 1 relate to persons engaged in full-time agriculture, criteria no. 2 relates to business that requires the person to reside in the rural area, criteria no. 3 relates to landowners including sons and daughters with demonstrable social or economic ties to the area for someone who has resided in the rural area for at least 18 years prior to any application, criteria no. 4 relates to a person who has a demonstrable economic or social requirement to live in the area who has reside in the rural area for 18 years prior to any application, criteria no. 5 refers to returning emigrants previously resident in the rural area for 18 years, criteria no. 6 refers to exceptional health reasons, criteria no. 7 refers to carers of elderly or disabled persons and criteria no. 8 refers to a previous home owner who has been resident for at least 10 years and who is no longer in possession of that home due to the home having been disposed of following repossession and who can demonstrate a social or economic need for a home in the rural area.
- 7.2.3. In the appeal and application for this repeat application, the applicant has effectively asserted that he qualifies under criteria no. 8, with a case having also been presented in relation to the 18 year rule for criteria no.s 3 and 4 and in relation to criteria no.s 6 and 7. I will assess each in turn. However I note a lack of supporting information with the application such as school records, address confirmation, map showing qualifying residence in relation to the subject site, letters of proof of address and details of business activities of the applicant in the area. I note that the applicant has not furnished documentation to demonstrate he has lived in the area for the

required period of 18 years. The submitted declaration suggests residence at Belview since 2008 which would be 16 years if supporting documentation were supplied. I also note no supporting documentation to suggest that the applicant is engaged full-time in agriculture or meets the other criteria no. 2 requirements.

7.2.4. Criteria no. 8 is for *“A person who has been a resident for at least 10 years that previously owned a home and is no longer in possession of that home due to the home having been disposed of following legal separation / divorce / repossession and can demonstrate a social or economic need for a new home in the rural area”*. In this regard the applicant’s father has resided at the adjacent site for over 10 years as a home owner who built his first home at this location (see planning history), and while remaining in possession of that home, a signed and dated court order has been presented with the appeal that shows that his house can be repossessed 10 months from 12th February 2018.

7.2.5. I note no repossession has taken place to date and the applicant is the son of the person against whom the order has been made. In planning terms Criteria no. 8 is intended to cater for the provision of a new house for a former rural resident in zone 2, and I agree with the P.A. that there is no provision for this to apply to an unsold house. I note also that this relates to the house of the father of the applicant and not the applicant. I consider that the applicant has failed to demonstrate that he meets the criteria under the CDP rural housing policy having regard to Criteria no. 8.

7.2.6. For completeness, in relation to Criteria no.s 3 and 4 and the 18 year previous residency requirement (intrinsic part of the rural community), I do not consider this to be met or adequately demonstrated by the applicant. I have assessed further below (Section 7.5 – Other Issues) the appeal arguments put forward in this regard in relation to the delays in putting in an application associated with pre-planning and other factors and I do not consider the arguments persuasive. I note the current appeal must be considered in the context of the current CDP.

7.2.7. In relation to Criteria no. 6, which allows for exceptional health reasons, I note no medical evidence from a consultant has been put forward in this regard. In relation to Criteria no. 7 for provision of care for an elderly person living in an isolated rural

area and who does not have any able bodied person residing with them, I agree with the Planner's Report that the area cannot be considered to an "*isolated rural area*" given its proximity to Drogheda (c.3km) and Termonfeckin (c.3km) and that it has not been demonstrated that the house could not be extended or modified to provide residential accommodation for a carer.

- 7.2.8. The failure to demonstrate an economic or social need to live in a rural area and that the applicant is an intrinsic part of the rural community in which the development is located fails to accord with Section 3.17.4 of the Development Plan

7.3. Design, Layout and Access

- 7.3.1. I note Section 13.9 (Housing in the Open Countryside) of the CDP and I note the traditional design form of the dwelling including with simple pitched roofs and windows (including dormers) with sufficient vertical emphasis and that the scale would not be excessive for such a 1.5 storey type dwelling such that I consider the design approach to be sensitive to its receiving rural environment. The garage would be of modest scale to the side of the dwelling and of the same design form. There is a lack of detail in relation to external finishes but should permission be granted, this matter can be dealt with by way of condition for agreement with the planning authority.
- 7.3.2. The dwelling would be positioned directing facing the public road and would be setback c.10m from same with a rear garden depth of 30.4m and reasonable separation distances to the sides of the rectangular plot. Notwithstanding the removal of hedgerow required to sub-divide the site and along most if not all of the front boundary, there would be new hedgerow boundaries and the house and garage would be partly screened by this on three to four sides which I welcome to aid with integration into the rural and agricultural type landscape. Should permission be granted, I recommend that the scale of the entrance walls and pillars be reduced to better integrate with the rural setting and this can be dealt with by way of condition for agreement.
- 7.3.3. I note the modest slope of the site and that it would be set within a natural setting having regard to the landscaping and boundary proposals for new hedgerow. I note

the lack of detail submitted in relation to front boundary hedgerow removal although it would appear that it would wholly be required to be removed based on the sightline drawing submitted. I note that the hedgerow to be removed is of no noted particular value other than as general hedgerow. However a new front boundary hedgerow could be planted behind the sightlines and I do not consider the removal of hedgerow associated with the new vehicular entrance to be excessive having regard to the new hedgerow to be planted (48m on the north-west side, 54m on the south-east side and 45m on the south-west side) and that could be planted inside the front boundary, impacts on local biodiversity and the need to facilitate the dwelling. I consider that this strikes an appropriate balance in relation to Policy Objective HOU 42 and Policy ENV 39 where such hedgerow removal would be effectively necessary in this instance to facilitate such one-off rural housing if permitted in accordance with policy.

7.3.4. Section 3.17.7 (Capacity to Absorb Further Development) and Policy Objective HOU 42 are relevant in relation to the integration of the development with the wider landscape and not eroding the rural character of the area. I note the position of the dwelling relative to the existing dwelling on the site to the south and the position of other dwellings in the vicinity including to the south and across the road to the north, and in combination with the existing buildings in the vicinity, I consider that the scale of the house and garage is sufficiently modest and set back from boundaries and from the public road, that it would not appear visually obtrusive in the landscape, that it would integrate with the landscape and that it would not erode the rural character of the area.

7.3.5. I note the proposed new vehicular entrance with 75m visibility available from a 3m setback to the north-west along Belview Lane, and with sufficient visibility available in accordance with CDP Table 13.13 to the south-east to the junction with Newtownstalaban Road. I note no internal objections to this from within the Council and I note the negligible traffic volume impact that would result from a development of this scale. I note the new site boundaries and associated hedgerow proposed and that a new line of hedgerow could be put in place inside the site boundary close to the road. I do not consider the degree of hedgerow removal required fronting Belview Lane to be excessive and I consider that should permission be granted, that

sightlines and hedgerow retention matters can be provided for by condition in accordance with Drawing no. 09-09-2022 K (Line of Sight) where sightlines in both directions of 75m from 3m setback have been demonstrated. This meets the minimum requirement and is therefore acceptable for sightlines on such a road with an 80kph speed limit per Table 13.13 of the CDP.

7.3.6. In relation to drainage matters, I note the location of a proposed soakaway to the south of the site. I note no matters of significant concern and the absence of concerns from the Council's internal departments with the site capable of catering for drainage requirements on site per Section 10.2.5 of the CDP and I recommend that should permission be granted, a standard drainage condition be applied.

7.3.7. In relation to the proposed wastewater treatment system, I note the Council's Environment Section considered the submitted information to be adequate to their satisfaction. I note the submitted Site Characterisation Report per EPA Code of Practice: Wastewater Treatment Systems for Single Houses (2021) prepared by Hydrocare Environmental Ltd. This report notes that the Bedrock Aquifer is regionally important Karstified (diffuse), the soil type is Gleys Acidic and the subsoil is Sandstone shale and till. The bedrock type is Dinantian Pure Bedded Limestones. The report notes the location of a dry ditch to the south greater than 50m from the proposed WWTS. There is an existing bored well located to the south-east corner of the adjacent site and another to the south of this.

7.3.8. A 2m deep trial hole was dug with bedrock not encountered and the depth to the water table noted to be 1.6m. It was found that the trial hole displayed "*clayey topsoil and subsoil with a relatively elevated groundwater level*". The Groundwater Protection Response was noted to be R1 where an on-site system is acceptable subject to normal good practice. I note no concerns in relation the ground conditions I observed on site which are consistent with surface conditions noted in the report.

7.3.9. The standard test method found the Subsurface Percolation value to be 47.22. Based on this, the report recommends that the site is potentially suitable for a secondary treatment system and polishing filter per EPA Guidance with discharge to groundwater. A soil polishing filter of 180sq.m. is recommended. This would be

located to the north-west rear side of the plot behind the house a short distance behind the WWTP. It would be 10.4m from the rear elevation of the dwelling. A proposed bored well is to be located in the northern roadside corner of the site. Having regard to Table 6.2 of the EPA guidance, I have no significant concerns in relation to the proposed separation distances. In relation to Table 6.3 and the minimum depths I have no significant concerns. I note no significant concerns in relation to the proposed wastewater treatment system and polishing filter and its location on the site per Section 10.2.3 of the Development Plan.

7.4. Other Refusal Reasons

- 7.4.1. Louth County Council refused permission for the development for 4 no. reasons. Reason no. 1 in relation to the local rural housing need has been addressed above. Refusal reason no. 2 in relation a proliferation of one-off rural dwellings and extensive removal of hedgerow has also been addressed above where it was found that the new dwelling would integrate with the site and its surrounds. I note no issue in relation to ribbon development as this would be the third house in a row if the house on the other side of the corner is included.
- 7.4.2. Refusal reason no. 3 relates to the use of the site for machinery storage and other materials. It is stated that the proposed development would consolidate and facilitate alleged unauthorised development. I note that the removal of alleged unauthorised development of this type and scale does not generally require planning permission. Rather, enforcement authorities generally seek the restoration of sites by way of the removal of such alleged unauthorised development. I note that such removal would effectively be required to facilitate the development and I welcome the removal/cessation of alleged unauthorised development in line with the principles of sustainable development. Moreover, I fail to see how the removal of such development and the facilitating of the proposed development would consolidate and facilitate alleged unauthorised development. I do not agree with the Planning Authority rationale on this matter and I consider that the current use of the site for storage of machinery and other materials does not preclude the P.A. from granting permission for the proposed development as also confirmed below. I do not consider the previous conduct in this regard to be relevant in relation to this

application which effectively would require the cessation of the alleged unauthorised development on part of the site.

7.4.3. Refusal reason no. 4 relates to potential impacts on European sites as such impacts would arise in combination with the existing alleged unauthorised development. This arises from the Planner's Report Appropriate Assessment section where reference to a builders yard on the site is made and reference to a dry ditch within 50 metres to the south of the site is made. The report states that *"as the full scope of activities on this site is not known to the Planning Authority and on the basis of the information provided with the application, the Planning Authority is not satisfied that the proposed development in combination with the existing unauthorised development on site would not adversely affect the integrity of the Boyne Coast and Estuary SAC, the Boyne Estuary SPA, the River Boyne and River Blackwater SAC or the North West Irish Sea SPA in view of the sites' Conservation Objectives"*.

7.4.4. From the documentation available and my site visit, I note that the site operates as a type of machinery storage area associated with building and that it is partly covered in hardstanding. The Appropriate Assessment screening process is intended to assess the subject of the application. On this basis, I propose to follow a standard Appropriate Assessment screening methodology in assessing the proposed development and as a precautionary measure assessing the impact of the restoration of the site and also the impact of its transformation to facilitate the proposed development based on what is known about the alleged unauthorised development on the site and its potential impacts. This covers the impacts that can be reasonably foreseen. On the basis of my below Appropriate Assessment Screening below, I consider that refusal reason no. 4 can be set aside.

7.5. Other Issues

7.5.1. In relation to the Rural Housing Criteria 3 & 4 and the 18 year rule, the appeal seeks to effectively make the case that due to the delays experienced in making this and previous applications, purported to be outside the control of the applicant, that the 18 year prior residency rule should not apply and that the criteria under the previous Development Plan where a 10 year prior residency rule was applied should apply. It is clear from various court rulings that Planning Authorities making a decision in

respect of a proposed development must apply the Development Plan in force on the date of the decision rather the plan in force on the date of the application or on the date of pre-planning for example and there is no flexibility allowed on this matter.

- 7.5.2. I consider this approach to be reasonable both to uphold the law and to provide for the application of Development Plans properly made by elected members of Councils which have a statutory role in such plan making. I do not consider there to be an unfairness to this approach as to apply a Development Plan not in force at the time of a decision would be to disapply a Development Plan made with a democratic mandate and one made in accordance with proper and fair procedures. I do not consider it appropriate to disapply the rural housing policy provision of the current CDP or to apply the provisions of the previous plan as this would be wholly inappropriate, arbitrary and contrary to the common good which proper planning and sustainable development seeks to provide, including where it conflicts with the wishes of individual landowners and developers.
- 7.5.3. The appeal asserts that certain commitments were made in relation to meetings/conversations held in relation to pre-planning in respect of the proposed development and previous proposals. While no evidence to support this is supplied, the response of the Planning Authority and its pre-planning files show no commitments in relation to a grant of permission were given. While written pre-planning advice was given at the time the previous Development Plan was in force, this related to policy applicable at the time and it noted that a draft Development Plan had been prepared.
- 7.5.4. It is noted that pre-planning advice is only intended as a guide for applicants and is non-binding on the receiver and the giver of the advice. It is open to applicants to seek professional advice on such matters. In both planning and legal terms, pre-planning processes and advices do not bind decision makers and while I am sympathetic in relation to the delays experienced by the applicant in receiving feedback, I do not consider the issues raised in the appeal in relation to alleged commitments received or in relation to delays, to be of merit as they apply to the subject application which I am assessing 'de novo' and on its merits per legislation

and fairness principles and based on the Development Plan in force at the time of this report.

- 7.5.5. The delays which the applicant experienced in relation to the application to relocate the wastewater system for the adjacent dwelling and to alter boundaries among other matters, while unfortunate, were based on proper planning and sustainable development considerations and any knock-on impact in relation to the current application is outside the scope of this assessment.
- 7.5.6. I note the appeal has made reference to the previous reasons for refusing permission and has asserted factual inaccuracies in relation to parts of the reasons given for the decision to refuse permission under reg. ref. 23/235. Such reasons for refusal are outside the scope of this assessment with issues raised in the relation to the proposed development assessed in this report.
- 7.5.7. In relation to refusal reason no. 3 under reg. ref. 23/235 which related to an assertion that the proposal would consolidate and facilitate alleged unauthorised development, the appeal states that the material from said development were to be used in the new build. I note that, in planning terms, it is not relevant where the material for the proposed development is sourced. I have assessed the issue of the current use of the site in my assessment above and I do not see any purpose in seeking to adjudicate on this previous reason for refusal in this assessment as it has not materially impacted this aspect of my assessment.
- 7.5.8. In relation to previous refusal reason no. 4 under reg. ref. 23/235 in relation to sightlines, the appeal asserts that the entrance has been relocated and the line of sight achieved. In terms of addressing the previous reason for refusal in relation to the new access, I have considered this matter in my above assessment which notes no significant issues with the proposed vehicular access.
- 7.5.9. In relation to previous refusal reason no. 5 in terms of potential impacts on European sites, the appeal asserts that when the new house is built this would not be true. In relation to Appropriate Assessment screening, while the final operational impact of the proposed development is relevant, it is not the only relevant impact and

construction and other potential impacts are relevant and this issue is assessed in Section 9 below and above in relation to the current refusal reason given on this issue.

8.0 Appropriate Assessment Screening

Appropriate Assessment Screening Determination

- 8.1. I have considered the proposed development in light of the requirements of Section 177S and 177U of the Planning and Development Act 2000 as amended. Please see Appendix 3 – Screening for Appropriate Assessment where I conclude that the proposed development (alone) would not result in likely significant effects on the Boyne Coast and Estuary SAC (site code 001957), the River Boyne and River Blackwater SAC (site code 002299), the Boyne Estuary SPA (site code 004080) and the North-west Irish Sea SPA (site code 004236). The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project.

9.0 Recommendation

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

10.0 Reasons and Considerations

1. Having regard to the location of the site within a rural 'area under strong urban influence' as identified in the Louth County Development Plan 2021-2027 (as varied) per the site location within Rural Policy Zone 2. In such areas, National Policy Objective 19 of the National Planning Framework (2018) outlines that in such areas, single housing proposals shall be facilitated based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements. New housing in such areas is restricted to persons demonstrating a local need in accordance with Table 3.5 of the Development Plan and the applicant has failed to demonstrate that he meets the housing need qualifying criteria for a

rural one-off dwelling at this location. The failure to demonstrate an economic or social need to live in a rural area and that the applicant is an intrinsic part of the rural community in which the development is located fails to accord with Section 3.17.4 of the Development Plan and National Policy Objective 19 of the National Planning Framework and contravenes the rural housing policies of the Louth County Development Plan 2021-2027 (as varied) and is 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.

Ciarán Daly
Planning Inspector

31st January 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320619-24		
Proposed Development Summary	One and a half storey dwelling, garage, new entrance and wastewater treatment system.		
Development Address	Bellview Road, Cartown, Drogheda, Co. Louth		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Part 2, Class 10(b)(i)	Proceed to Q3.
No			Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X	Construction of more than 500 dwelling units.	Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	The proposed development is for the construction of one house relative to a threshold of 500 houses.	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)	
Yes		Screening Determination required	

Inspector: _____

Date: _____

Appendix 2 – Form 2 EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320619-24	
Proposed Development Summary	One and a half storey dwelling, garage, new entrance and wastewater treatment system.	
Development Address	Bellview Road, Cartown, Drogheda, Co. Louth	
<p>The Board carried 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.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	One and a half storey dwelling and garage, new entrance and wastewater treatment system in a rural area which is not connected to water or wastewater services.	
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The rural location of the development is not proximate to any sensitive environmental receptors and is located at a significant distance (over 2.5km) from designated sites.	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Negligible or very modest impacts likely from loss of small area of natural landscape and small area of hedgerow.	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No

There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector:

Date:

Appendix 3

AA Screening Determination

Screening for Appropriate Assessment Test for likely significant effects				
Step 1: Description of the project and local site characteristics				
Brief description of project	One and a half storey dwelling, garage, new entrance and wastewater treatment system.			
Brief description of development site characteristics and potential impact mechanisms	The site consists of part an agricultural field in grass and an area of hardstanding potentially up to half the site area. Total site area is 0.227ha. The ground floor and garage area is 152.67sqm. The area of the driveway is similar in size. The site is located c. 2.9km north-west at the Boyne Coast and Estuary Special Area of Conservation (SAC). The on-site wastewater treatment system is integral to the design.			
Screening report	None.			
Natura Impact Statement	None.			
Relevant submissions	None.			
Additional information: There is a ditch c.50m to the south of the site which links with a stream c.230m to the south of the site that flows towards the River Boyne and joins it c.3km to the south-east				
Step 2. Identification of relevant European sites using the Source-pathway-receptor model (Only potentially relevant downstream sites listed below)				
Screening Matrix				
European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
Boyne Coast and Estuary SAC (site code 001957)	Estuaries, mudflats and sandflats not covered by seawater at low tide, annual vegetation of drift lines, Salicornia and other annuals	c. 2.9km	Weak / indirect via water channels. Weak/indirect disturbance impact.	Y

	colonizing mud and sand, Atlantic salt meadows, embryonic shifting dunes, shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) and fixed coastal dunes with herbaceous vegetation (grey dunes).			
Boyne Estuary SPA (site code 004080)	Shelduck, oystercatcher, golden plover, grey plover, lapwing, knot, sanderling, black-tailed godwit, redshank, turnstone, little tern and wetland and waterbirds.	c.3.2km	Weak / indirect via water channels. Weak/indirect disturbance impact.	Y
North-west Irish Sea SPA (site code 004236)	Red-throated diver, great northern diver, fulmar, manx shearwater, cormorant, shag, common scoter, little gull, black-headed gull, common gull, lesser black-backed gull, herring gull, great black-backed gull, kittiwake, roseate tern, common tern, arctic tern, little tern, guillemot, razorbill and puffin.	c.4.2km	Weak / indirect via water channels. Weak/indirect disturbance impact.	Y

¹ Summary description / **cross reference to NPWS website** is acceptable at this stage in the report

² Based on source-pathway-receptor: Direct/ indirect/ tentative/ none, via surface water/ ground water/ air/ use of habitats by mobile species

³if no connections: N

Step 3. Describe the likely effects of the of the project (if any, alone or in combination) on European Sites

No impacts per below.

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
Sites: Name (code) QI list	Impacts	Effects
As above for 3 listed European sites.	<p>Indirect potential connection via a ditch c.50m to the south of the site that links to a stream c.230m to the south of the site that flows towards the River Boyne and joins it c.3m to the south-east. There is no direct connection from the site which project includes on site wastewater treatment system and drainage for which the site is suited.</p> <p>The European sites are too distant such that, in the absence of mitigation, any silt or pollutants that may enter local watercourses will settle, be dispersed or diluted within such watercourses and within the sea resulting in weak or no impact.</p>	No effects on the QI's from the impacts.
No	Likelihood of significant effects from proposed development (alone): N	
No	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
Site 2: Name (code) QI list	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
	Likelihood of significant effects from proposed development (alone): Y/N	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
<p>* Where a restore objective applies it is necessary to consider whether the project might compromise the objective of restoration or make restoration more difficult.</p>		
Further Commentary / discussion (only where necessary)		

Step 4 Conclude if the proposed development could result in likely significant effects on a European site
<p>I conclude that the proposed development (alone) would not result in likely significant effects on the Boyne Coast and Estuary SAC (site code 001957), the River Boyne and River Blackwater SAC (site code 002299), the Boyne Estuary SPA (site code 004080) and the North-west Irish Sea SPA (site code 004236). The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project.</p>