



An  
Bord  
Pleanála

## Inspector's Report

### ABP-321621-25

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<b>Development</b>	Construction of a house and all associated site works.
<b>Location</b>	Simonstown, Togher, County Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	24/60662
<b>Applicant(s)</b>	Emma Tuite
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Emma Tuite
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	3 <sup>rd</sup> April 2025
<b>Inspector</b>	Emma Gosnell

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located in the townland of Simonstown in Co. Louth and is accessed on its eastern side from the L-2250 local road which connects Annagassan and Grangebellew. The wider area is rural in character and is primarily in agricultural use.
- 1.2. The site is adjoined to the north by a single storey detached bungalow whose boundary is delineated by a low post and wire fence, by trees and mature hedgerows to the west, and by agricultural land to the south where its boundary is undefined. Another single storey detached dwelling is located further to the north of the appeal site.
- 1.3. The rectangular site, which comprises part of a larger agricultural parcel of land, is c. 0.24 hectares (ha) in area (that proposed under the appeal scheme is more wedge shaped and 0.33ha in area). The gradient of the site slopes gently away from its existing vehicular access onto the L-2250 which is flanked on both sides by dense hedgerows and a line of electricity/ telephone poles. There is an overhead powerline/ electricity cable traversing the rear, western portion of the site and there is also a localised drainage ditch which runs along the rear site boundary.
- 1.4. The application site is in 3<sup>rd</sup> party ownership and a letter of consent from the landowner was provided as part of the application documentation.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises of the construction of a dwelling house (c. 175sq.m), wastewater treatment system and polishing filter percolation area, new vehicular entrance onto public road and all associated site development works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission refused on 13/12/2024 for 3 no. reasons as follows:

1. Non-compliance with Policy Objective (PO) HOU42 due to the creation of a suburban linear pattern of development in a rural area on un-serviced land.

2. Prominence and visual impact of the proposal and non-compliance with PO HOU42.
3. Creation of traffic hazard on account of inadequate sightlines at entrance which is not in compliance with Section 13.9.14 and PO HOU47.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

One planning report (dated 13/12/2024) forms the basis of the assessment and recommends that permission be refused. Points of note in the report include:

- Eligibility/ need to apply for rural housing and compliance with PO HOU41/ Local Needs Qualifying Criteria (Tables 3.4 & 3.5) – applicant satisfied Criteria 4 on basis documentary evidence provided re: location and residency in area/ parental home.
- Location/ siting – proposal would create an unacceptable suburban linear pattern of development on un-serviced land in a rural area. **Refusal recommended.**
- Visual prominence – on account of the site's location, lack's screening/ natural features that could mitigate its visibility/ help it to visually integrate – when considered together with existing 2 no. residential properties to the north the cumulative visual impact would be unacceptable and not in compliance with POs HOU42 and HOU47. **Refusal recommended.**
- Private open space - arrangements are acceptable.
- Residential amenity standards - proposal meets same and would not negatively impact on neighbouring residential amenities.
- Traffic safety - proposed 75m sightlines do not take account of existing roadside boundaries and creation of required visibility splays will require significant removal of verge hedgerows etc. which is contrary to Section 13.9.4 and PO HOU47. **Refusal recommended.**
- Flooding – site not at risk of flooding.
- Water supply, wastewater and surface water management – proposals are acceptable.

#### 3.2.2. Other Technical Reports

- Environmental Compliance Section (18/11/2024) – no objection subject to conditions in respect to the siting/ layout of the percolation area and compliance with the EPA's Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses (2021).
- Placemaking and Physical Development Section (13/11/2024) – no objection subject to conditions in respect to: the provision of unimpeded 75m sightlines on either side of site entrance from a point 3m back from the edge of the L-2250 as per Table 13.13 of the LDP; ensuring public road drainage is not obstructed by the proposal; the disposal of surface water within the boundary of the site in accordance with the submitted soakaway design report; responsibility for repair of any damage to public road or spillage/ deposits on same; and, for obtaining a road opening license.

### **3.3. Prescribed Bodies**

None on file.

### **3.4. Third Party Observations**

None on file.

## **4.0 Planning History**

### **4.1. Site**

P.A. Ref. 82/97 – Application for 3 no. houses (on a larger site on the west side of L-2250 which included the application site) granted permission on 06/01/1983 subject to conditions.

P.A. Ref. 81/254 – Application for 3 no. houses (on a larger site on the west side of L-2250 which included the application site) granted permission on 08/06/1981 subject to conditions.

## 5.0 Policy Context

### 5.1. National Policy

Project Ireland 2040 – National Planning Framework (2018)

Climate Action Plan (2024) and Ireland's 4th National Biodiversity Action Plan (NBAP) 2023-2030

Our Rural Future Rural Development Policy 2021-2025

EPA Code of Practice: Domestic Wastewater Treatment Systems (2021)

Design Manual for Urban Roads and Streets (DoHLGH, 2019)

Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes and Sustaining Communities (DoHLGH, 2007)

Sustainable Rural Housing Guidelines for Planning Authorities (DoHLGH, 2005)

### 5.2. Regional Policy

Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031:

### 5.3. Development Plan

The Louth County Development Plan 2021-2027 (LCDP), as varied, applies.

#### Zoning

The appeal site is located within an area designated as Rural Policy Zone 2 'Area under strong urban influence'.

#### Rural Generated Housing Need

Sections 3.9.19 and 3.17.4 (Rural Generated Housing Need) – applicants required to demonstrate to the planning authority (PA) that they qualify with one of the criteria in the relevant Rural Policy Zone.

PO HOU41 - require applicants to demonstrate compliance with the Local Needs Qualifying Criteria relative to the Rural Policy Zone set out in Tables 3.4 and 3.5

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

- Criteria No. 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

Table 2.15 (Core Strategy Table) – Rural areas are those outside level 1-5 settlements

Section 3.17.7 (Capacity of Areas to Absorb Further Development)

PO HOU36 – discourage urban generated housing in rural areas

PO HOU44 – attach occupancy condition of 7 years to all new rural dwellings

PO CS20 – direct rural generated housing demand to rural villages/ rural nodes firstly.

#### House Siting & Design

Section 13.9 (Housing in the Open Countryside) and PO HOU47 - reinforces same

Sections 13.9.4 (Site Selection) and 13.9.5 (Ribboning)

Sections 13.9.8 (House Design – New Build) and 13.9.9 (Materials & Finishes)

PO HOU42 – requires new dwellings to be appropriately designed and located to integrate into local landscape and not negatively impact/ erode rural character of area

PO ENV38 - retain and protect significant stands of existing trees/ hedgerows

PO ENV39 – protect and preserve hedgerows in new developments

PO NGB 31 – trees and hedgerow removal allowed only in exceptional circumstances, felled trees to be replaced and works to be completed outside nesting season

PO NBG 33 – impact of development on trees and hedgerows

#### Access/ Servicing

Sections 13.19.14 (Access) and 13.16.17 (Entrances and Sightlines)

Table 13.13 (Minimum visibility standards for new entrances)

Sections 13.9.15 (Boundary Treatment) and 13.9.16 (Landscaping)

## 6.0 Natural Heritage Designations

The appeal site is not located within or adjoining any designated site.

The nearest European Sites and Natural Heritage Areas in close proximity to the appeal site are as follows:

- c. 2.5km to Dundalk Bay SPA (Site Code 004026)
- c. 2.5km to Dundalk Bay SAC (Site Code 000455)
- c. 5.8km to North-West Irish Sea SPA (Site Code 004236)
- c. 7.1km to Stabannan-Braganstown SPA (Site Code 004091)
- c. 2.5km to Dundalk Bay pNHA (Site Code 000455)
- c. 2.3km to Barmeath Woods pNHA (Site Code 001801)
- c. 6.1km to Dunany Point pNHA (Site Code 001856)
- c. 6.6km to Stabannan-Braganstown pNHA (Site Code 000456).

## 7.0 EIA Screening

Having regard to the criteria set out in Schedule 7 of the Planning and Development Regulations (2001) as amended, there is no real likelihood of significant effects on the environment based on the characteristics and location of the proposed development and types and characteristics of potential impacts. No EIAR is required. I refer the Board to Form 1 (EIA Pre-Screening) and Form 2 (EIA Preliminary Examination) in the Appendices.

## 8.0 The Appeal

### 8.1. Grounds of Appeal

A first party appeal submission was received (09/01/2025) and seeks to address the PA's reasons for refusal. The grounds of appeal can be summarised as follows:

#### Siting

- Appeal site is not carved out of an existing agricultural field/ open landscape.
- Proposal is appropriately sited at the far end of a long narrow field which is capable of visually absorbing the dwelling, will be screened by 3 no. existing boundaries



(incl. 2 no. native hedgerows) and adjoins an existing dwelling. It does not therefore conflict with PO HOU42 and would not set an undesirable precedent.

- The proposal does not meet the criteria for suburban ribbon development set out in Section 13.6.5 of the LDP and should not be assessed as such.

#### Visual Impact

- PA's determination that proposal would be detrimental to the rural landscape at this location is unfounded.
- The applicant has proposed to plant a new native hedgerow along the northern boundary in order to ensure the site's full visual enclosure and is also willing to provide for a revised southern boundary treatment to further screen the proposal if the Board deem it necessary – as per a revised Site Plan submitted as part of the grounds of appeal.

#### Assessment Issues

- The PA assessment erroneously refers to a garage and a different house plan to that lodged by the applicant and this raises questions about the validity of assessment process and decision.
- The applicant should have been given the opportunity to address the PA's concerns in respect to achievable sightlines which, notwithstanding, are refuted in the ground of appeal. The applicant clarifies that a maximum 13.5m of existing native hedging would have to be removed to facilitate safe access. An onsite survey and a revised Site Plan illustrating same is provided as part of the grounds of appeal.
- Extensive pre-application consultation engagement was undertaken with the PA prior to the application being lodged and issues raised could have been resolved via the mechanism of a further information (FI) request.

A revised Site Plan (hereinafter referred to as 'the appeal scheme') and an undated on-site survey were received by the Board on the 9<sup>th</sup> January 2025 as part of the grounds of appeal.

The differences between the 'application scheme' as refused and the 'appeal scheme' are set out below:

	<b>Application Scheme (Refused by PA)</b>	<b>Appeal Scheme</b>
<b>Site Area/ Red Line</b>	c. 0.2419 ha in a generally rectangular configuration	c. 0.329 ha in a wedge shaped configuration with greater extent of frontage to the L-2250
<b>Northern Boundary</b>	-	Density of native hedgerow proposed to adjoin this boundary has been increased.
<b>Southern Site Boundary</b>	-	Density of native hedgerow proposed to adjoin this boundary has been increased with additional tree planting also proposed. A further cluster of trees is proposed in the south-east corner of the site.

## 8.2. Planning Authority Response

Response received 04/02/2025 reiterates the PA's refusal reasoning (3 no. reasons), refers the reader their planner's planning report and seeks that their decision to refuse be upheld. The response also clarifies that the PA undertook a further site inspection in January 2025 (noting that the hedge had been further cut back) and that the PA's assessment of the proposal was based on the submitted scheme only and that their decision was objectively made on the basis of relevant planning policy on piecemeal patterns of development in rural areas.

## 8.3. Observations

None received.

## 8.4. Further Responses

None on file.

## 9.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report(s) of the local authority, 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:

- Principle of Development
- Siting and Visual Impact
- Access
- Other

### 9.1. Principle of Development

#### Appeal Site

- 9.1.1. As detailed in Section 8.1 of this report, the grounds of appeal were accompanied by a revised site plan (the appeal scheme) under which the configuration and area of the site subject to the proposed development increased to c. 0.33ha (from c. 0.24ha). The appellant provides no rationale or justification for the proposed increase in the area of the site under the appeal scheme.
- 9.1.2. I note that the proposal to provide for a denser band of hedging along the site's southern and northern site boundaries would not appear to require a greater site area be provided for, however, additional bands of trees on the south and south-east side of the site are proposed under the appeal scheme and these would necessitate a greater area of garden to the south side of the dwelling. Furthermore, whilst a greater area of garden is provided to the south/ south-east of the proposed dwelling under the appeal scheme, it proposes no change to the dwelling's design or positioning or to the site's drainage infrastructure, nor does it make any changes to the extent of boundary removal along the L-2250 adjoining its entrance.
- 9.1.3. In summary, I consider that there has been a material change in the nature and extent of the appeal site on account of the increase in the red line area of the site between the application scheme and the appeal scheme, but, crucially, not in the nature and extent of the subject proposal i.e. given that the design and siting proposed dwelling and the proposed access arrangements remain unchanged.

### Rural Housing Need

- 9.1.4. The proposed development is located on lands designated as Rural Policy Zone 2 (area under strong urban influence) in the LCDP.
- 9.1.5. The PA were satisfied that the appellant had sufficiently proven their eligibility to apply for rural housing as per Criteria No. 4 (social requirement) of the Local Housing Needs Qualifying Criteria relevant to Rural Policy Zone 2 (as per Table 3.5 of the LCDP) and their proposal was deemed compliant with PO HOU41.
- 9.1.6. Having reviewed the information on file, I consider that the appellant satisfies Criterion No. 4 of the Qualifying Criteria Rural Policy Zone 2 on account of the geographical location of their qualifying address and other documentation which proves that they have been resident in the area for at least 18 years and has therefore satisfactorily demonstrated their rural housing need.
- 9.1.7. The principle of residential development on the site is therefore acceptable subject to the proposed development being satisfactory in terms of its impact on the visual amenities of the area and the provision of safe access/ egress. These matters are considered in subsequent sections of this report.
- 9.1.8. The grounds of appeal have sought to address the reasons for refusal only. Having reviewed the documentation on file, and specifically the PA's planning and technical reports, I am satisfied that there are no other issues that need to be raised or considered as part of my assessment.

### **9.2. Siting and Visual Impact**

- 9.2.1. The PA's refusal reasons No's 1 and 2 refer to contravention of PO HOU42 (design and visual integration) and raise concerns in respect to the creation of an unduly visually prominent linear, suburban pattern of development on un-serviced rural land along the L-225, which would set an undesirable precedent.
- 9.2.2. The appellant contends that the site is not open or exposed and is capable of visually absorbing the proposal in a way that satisfies PO HOU42. It is stated in the grounds of appeal that the proposed dwelling would be screened by existing boundaries to the east, west and north with its visibility being further screened by plans to reinforce same and new proposals to enclose the site to the south via the planting of a new native hedgerow and bands of trees along this boundary (i.e. new proposals as per the

appeal scheme). Notwithstanding, the appellant has no objection to altering the nature or extent of the proposed site boundary treatments (i.e. as per the appeal scheme or otherwise) in order to satisfy the Board.

- 9.2.3. The appellant is also of the view that their proposal does not constitute suburban ribbon development as per the criteria for such development specified in the LCDP.

#### Siting

- 9.2.4. Section 13.9.6 of the LCDP deals with 'ribbon development' with the policy guidance defining it as "five or more houses on any one side of a given 250 metres of road frontage. Ribbon development does not necessarily have to be served by individual accesses nor have a continuous or uniform building line...In cases where a development would create or extend ribbon development, the proposal will not be considered favourably".

- 9.2.5. The appeal site adjoins 2 no. detached dwellings (located to the immediate north), with all three properties being located on the west side of the L-2250 (and surrounded by agricultural land) with a combined road frontage onto this local road of approx. 90m under the application scheme or approx. 100m under the appeal scheme. Whilst based on approximations, it is clear to me that the extent of road frontage under either scenario would fall significantly short of the 250m specified under Section 13.9.6. On this basis, I consider that the proposal does not constitute ribbon development.

- 9.2.6. Having examined the information on file, I am also satisfied that the site layouts provided for under both the application scheme and the appeal scheme would not generate left-over, intermediate agricultural land between the appeal site and the adjoining property to the north and therefore, would not constitute piecemeal development or a form of development that would fragment the rural landscape at this location.

- 9.2.7. Furthermore, I note that whilst the site is currently un-serviced, the development proposed under both the application and appeal schemes would give rise to its servicing via a new soakaway, new private well, new wastewater treatment system and an enhanced vehicular access. The PA's technical departments were satisfied with the applicant's infrastructure and servicing proposals and raised no objections to the proposal subject to the attachment of conditions (as detailed in Section 3.2 of this report). Having reviewed the site characterisation report and soakaway design report

submitted with the application, I am satisfied that the proposal will be appropriately serviced.

#### Visual Impact

- 9.2.8. Section 13.9.8 (House Design - New Build) of the LCDP requires that the design, scale and form of a dwelling be sensitive to the landscape in which it is situated, with prominent and/ or obtrusive design discouraged. PO HOU42 requires new dwellings to be appropriately designed and located in order to respect and integrate with the local landscape.
- 9.2.9. Refusal reason No. 2 specifically refers to the proposal's undue visual prominence and to the cumulative visual impact that would arise from the proposed development in conjunction with the existing dwellings to the north of the site and to how this would be detrimental to the rural landscape – all in contravention of PO HOU42.
- 9.2.10. The information on file details how the proposed dwelling would occupy a position at the far edge of an agricultural field next to an existing detached dwelling and that it would also be setback from the adjoining road, generally replicating the front building line of the adjoining house. This is the case for both the application scheme and the appeal scheme.

#### *View from west*

- 9.2.11. Having inspected the site and its surroundings, I note that the topography of the surrounding rural landscape is relatively flat and that it is interspersed with mature field boundaries (incl. trees and tall native hedgerows) which enclose the agricultural fields. Having regard to the nature and height of the existing field boundaries which enclose the site to the west (to the rear of the site), I am satisfied that the dwelling would not be highly visible from the rear across the adjoining rural landscape.

#### *View from east*

- 9.2.12. Having considered the existing screening provided to the site by the mature native hedging fronting the L-2250 on its east side, I am also satisfied that the dwelling would not be highly visible from the south-east or from a large portion to the east and would not have the potential to give rise to a cumulative visual impact together with the adjoining dwellings from these vantage points. However, I would have some concerns about the dwelling becoming more visible and, potentially, unacceptably visually

prominent from the east where significant hedgerow removal may be required in order to provide for safe access to and egress from the site. This matter is considered in greater detail in Section 9.3 of this report where I conclude in paragraph 9.3.11 that that the spatial extent of boundary removal along the north-eastern boundary is such that it would not render the proposal (which is single storey and reaches a max. height of 6.35m at the apex of its pitched roof) to be excessively visually prominent.

#### *View from north and south*

- 9.2.13. Having considered the enhanced southern and northern boundary proposals provided for under the appeal scheme (which are not provided for under the application scheme to the same extent), I am also of the opinion that these measures would help address the visibility of the proposal from the immediate south (when viewed from the neighbouring agricultural field); from the adjoining property to the north (safeguarding the privacy of same); and, in raking views visible as one drives north to south along the L-2250 to the north-east of the site, together helping the proposal to better and more sensitively visually integrate into the site and its rural surrounds. I consider the appeal scheme's enhanced northern boundary treatment would also help address the PAs concerns in respect to the cumulative visual impact that would arise from the proposed development in conjunction with the existing dwellings to the north of the site (i.e. when viewed travelling south to north along the L-2250).

### **9.3. Access**

- 9.3.1. The PA were not satisfied with the proposed access arrangements and refused permission on the basis of the potential to give rise to traffic hazard and non-compliance with PO HOU47 and Section 13.9.14 (Access) on account of interference with and loss of mature roadside boundaries and trees.
- 9.3.2. Table 13.13 in Section 13.16.17 (Entrances and Sightlines) of the LCDP sets the minimum visibility standards for new entrances and requires sight distances of 75m be provided in either direction on local roads i.e. such as on the L-2250, with a 3m sight distance provided from the edge of the carriageway. The preamble text to this table explains that its guidance relates specifically to roads where the speed limit is in excess of 60km/h with guidance set out under the 'Design Manual for Urban Roads and Streets' (DMURS, 2019) being applicable to roads with a design speed of 60km/h or less – with the LDP providing no guidance in this regard.

- 9.3.3. The report from the PA's Placemaking and Physical Development Section (dated 13/11/2024) recommended that a condition be attached in the event of a grant of permission to ensure that driver visibility be maintained for a minimum distance of 75m on either side of the proposed site entrance from a point 3m back from the edge of the L-2250 and over a height of 0.6m-1.05m above the level of the road (i.e. rather than the level of the site), with no impediments (i.e. hedges, trees, street furniture etc.) allowed in this 'visibility triangle'. Both the application scheme and the appeal scheme detail a proposed upgraded site access with sight distances of 75m in each direction with the achievement of this visibility splay predicated upon the removal of a portion of hedgerow along the site's eastern boundary adjoining the L-2250.
- 9.3.4. The PA's report noted that, on the basis of their visual site inspection, the road verge is in reality much closer to the existing hedgerow bounding the site than is shown on the plans submitted at application stage and, therefore, that the provision of 3m site distance from the edge of the carriageway would necessitate the removal of a much greater portion of the hedgerow than what is proposed - contrary to the requirements of Section 13.9.14 (Access). The PA's view in this regard is contested in the grounds of appeal as detailed in Section 8.1 of this report.
- 9.3.5. In February 2025, the speed limit on the L-2250, which is defined as a local rural road, was reduced from 80kmph to 60kmph in accordance with S.I. No. 618 of 2024, Road Traffic (Signs) (Speed Limits) Regulations 2024. As per paragraph 9.3.2, this means that the guidance set out under Table 13.13 no longer applies to it and that the proposed access needs to instead be assessed for compliance with DMURS.
- 9.3.6. Table 4.2 of Section 4.4.4 of DMURS requires a sight stopping distance or sightlines of 59m in the case of a road with a speed limit of 60kmph and a required sight distance back from the carriageway of 2.4m. Both the application scheme and appeal scheme provide for 75m sightlines in each direction. Similarly, both schemes provide for vehicular entrances in the same location which are both splayed by 45 degrees and provide for sight distances in excess of 2.4m from the edge of the carriageway.
- 9.3.7. Having visited the site and having consulted the site survey drawing submitted as part of the grounds of appeal, I note that the provision of a policy compliant vehicular access will necessitate the removal of a portion of the mature hedgerow bounding the eastern portion of the site. The appellant states that whilst a maximum 13.5m of this



hedgerow may need to be removed to facilitate the proposal, they are committed to replanting the same extent of hedgerow as would need to be removed. It appears to me that the proposal would necessitate the removal of a relatively minor portion of the existing mature hedging bounding the eastern side of the site which would constitute the limited removal of a small stretch of the existing hedgerow which is allowed for under Section 13.9.14 of the plan.

9.3.8. On the basis of the above considerations, I consider the proposal to be acceptable and in general compliance with the policy guidance provided set out under Section 13.9.14 (Access) of the LCDP. Notwithstanding, given the policy guidance provided for under POs NGB31 and ENV38 and ENV39, which seek to protect/ retain and, where required, replace native hedgerows, given the small scale of removal proposed I do not consider that a materially contravention of these policies arises and I consider it appropriate that a condition be attached to ensure that any hedge/ natural boundary trimming or removal works are undertaken outside the bird breeding season of 1<sup>st</sup> March to 31<sup>st</sup> August each year and that the site's southern and northern site boundaries are supplemented and reinforced with native hedging as per the appeal scheme.

9.3.9. In respect to the potential for the removal of part of the eastern site boundary to give rise to greater visibility of the dwelling from the main road as raised in paragraph 9.2.12 of this report, I do not consider that the extent of proposed boundary removal is such that it would render the proposal to be excessively visually prominent – particularly having regard to the reinforcement of the northern boundary treatment that is to be required by condition.

#### **9.4. Other**

##### **Assessment**

9.4.1. The grounds of appeal raised concerns in respect to erroneous references to planning policy guidance on domestic garages and to the inclusion of an image of a plan of another scheme, which did not form part of the application documentation and was not referenced in the public notices, within the PA's assessment. Whilst I note and appreciate the issues raised by the appellant, I have had regard to all documentation submitted both at application stage and as part of the grounds of appeal and, I am satisfied that I have assessed the proposal under the relevant policy guidance.

### Electricity Cable

9.4.2. During my site visit I observed an overhead 11kv electricity cable traversing the rear, western portion of the site which appears to conflict with the location of the proposed drainage infrastructure to the rear of the site. This powerline does not appear to be indicated on the site survey submitted as part of the grounds of appeal and is not referenced on either the application scheme or appeal scheme. I note from the appeal documentation that the appellant has committed to paying for any costs with respect to the required movement and relocation of any ESB poles in and around the site. I do not consider this matter to be an issue and I am satisfied that it can be addressed by condition where the Board is minded to grant permission.

### Public Health

- 9.4.3. As detailed in Section 3.2.2 of this report, the application was referred to the Environmental Compliance Section of Louth County Council who raised no objections to the applicant's proposed water supply (via a private well), surface water arrangements (soakaway) or foul wastewater arrangements subject to conditions in respect to the siting/ layout of the percolation area (incl. requirement that no part of the percolation area is to be within 10m of the drain along the western site boundary) and compliance with the EPA's CoP.
- 9.4.4. Having reviewed the Geological Survey Ireland's GIS Mapping, I note that the proposed wastewater treatment system has been sited over a poor Aquifer with a high vulnerability.
- 9.4.5. I refer the Bord to the submitted Site Characterisation Form (dated 24th October 2024) which shows that soil type is Gleys acidic with the subsoil being Irish Sea Till derived from Lower Palaeozoic sandstones and shales with the depth to groundwater in the 2.1m deep trial hole being 1.5m (with mottling) and no bedrock present.
- 9.4.6. Having regard to the information on file in respect to the proposed domestic wastewater treatment system's (DWWTS) siting, design, proposed installation and future maintenance regime, the EPA's Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses (2021) (CoP) indicates that the site falls with the R1 response category where an on-site system is acceptable subject to normal

good practice as per the Groundwater Protection Response Matrix for Single House DWWTs (Table E1).

- 9.4.7. The percolation tests yielded T-test (subsurface) values of 43.67 and I am satisfied that the T-test results were carried out and calculated properly and that the percolation testing was carried out in compliance with Annex C (Site Characterisation) of the CoP and that the results are consistent with the ground conditions (i.e. no evidence of ponding) I observed during my site visit and with the brown/ reddish brown soil colour and soil profile provided in the Site Characterisation Form. However, given that groundwater was encountered in the trial hole (at a depth of 1.5m), the results of the P-test also need to be considered. The Site Characterization Form states that the surface percolation (P-test) yielded a result of 39.00 which is also compliant with the guidance set out in Chapter 6 of the CoP. Overall, I am satisfied that the T-test and P-test values indicate that the site is suitable for development and having regard to the proposed secondary effluent treatment system and tertiary polishing treatment system also proposed, I am satisfied that the proposal would not give rise to a risk to public health.
- 9.4.8. Having considered the separation distances required between the DWWTS and relevant adjoining features (e.g. domestic wells, road, site boundary, trees and surface water soakaway, drainage ditch) as per the guidance set out in Table 6.2 (Minimum separation distances) of the EPA CoP, I am satisfied that the proposal meets the minimum requirements in respect of same with the exception of the separation required from the open drainage ditch which runs along the western boundary. This issue was flagged by the PA's Environmental Section who sought the attachment of a planning condition to ensure that no part of the percolation area be within 10m of this drainage feature. I consider that this matter would not warrant a refusal and that this requirement can be addressed by condition if the Board are minded to grant permission.

## 10.0 AA Screening

- 10.1. I have considered the proposal for permission for construction of 1 no. house at Simonstown, Togher, Co. Louth in light of the requirements S177U of the Planning and Development Act 2000 (as amended).
- 10.2. The subject site is located in the townland of Simonstown in Co. Louth.
- 10.3. The proposed development comprises of the construction of 1 no. residential unit and all ancillary site works.
- 10.4. The subject land is not directly adjacent to a European site. It is located c. 2.5km from Dundalk Bay SPA (Site Code 004026) and from Dundalk Bay SAC (Site Code 000455), c. 5.8km from North-West Irish Sea SPA (Site Code 004236) and c. 7.1km from Stabannan-Braganstown SPA (Site Code 004091) with no pathways between the appeal site and these receptors.
- 10.5. No nature conservation concerns were raised in the planning appeal.
- 10.6. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- The minor/ de minimus nature of the proposed development.
  - The location-distance from the nearest European site and lack of connections.
  - Taking into account the findings of the AA screening assessment by the PA.
- 10.7. I conclude that on the basis of objective information, the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects.
- 10.8. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## 11.0 Recommendation

I recommend a GRANT of permission subject to the following conditions.

## 12.0 Reasons and Considerations

Having regard to the location of the site in Rural Policy Zone 2 – Area Under Strong Urban Influence and to the planning policies, objectives and development standards of the Louth County Development Plan 2021-2027, and specifically to Policy Objectives HOU42 and HOU47 and Section 13.9.14 (Access), and to the nature, scale and design of the proposed development relative to adjoining dwellings, and to the existing pattern of development in the wider area, it is considered that subject to compliance with the conditions set out below, the proposed development is an acceptable form of development at this location, would not seriously injure the amenities of adjoining properties, and would therefore, be in accordance with the proper planning and sustainable development of the area.

## 13.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on 9<sup>th</sup> January 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>(a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter [unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant]. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>(b) Within two months of the occupation of the proposed dwelling, the</p>

	<p>applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p> <p>This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p><b>Reason:</b> To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity and to ensure an appropriate high standard of development.</p>
4.	<p>(a) the existing front boundary hedge shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.</p> <p>(b) the approved landscaping and boundary treatments submitted on the revised Site Plan received by An Bord Pleanala on 9<sup>th</sup> January 2025 (i.e. hedgerows of semi-mature species native to the area planted along the northern and southern site boundaries) shall be planted/ carried out in the first planting season following the commencement of development and permanently retained thereafter or as otherwise agreed in writing with the planning authority.</p> <p>(c) in addition, all landscaping works shall be completed, within the first planting season following commencement of development, in accordance with the plans and particulars lodged with the application, as amended by those received by An Bord Pleanala on the 9<sup>th</sup> January 2025. Any trees or hedging which die, are removed or become seriously damaged or diseased within a period of 3 years from the completion of the development, shall be replaced within the next planting season with others of a similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p><b>Reason:</b> In the interest of biodiversity and the visual amenities of the area</p>

5.	<p>(a) Prior to the commencement of development, details of the proposed boundary to the eastern (roadside) frontage and access point shall be submitted for agreement in writing to the planning authority.</p> <p>(b) Site access arrangements, and the provision and maintenance of visibility splays, shall comply with the requirements of the planning authority for such works.</p> <p><b>Reason:</b> In the interests of road safety.</p>
6.	<p>(a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.</p> <p>(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.</p> <p>(c) The percolation area serving the proposed development shall maintain a separation of at least 10m from the drainage ditch running along the western boundary of the site.</p> <p><b>Reason:</b> In the interest of traffic safety and to prevent flooding or pollution.</p>
7.	<p>The attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p> <p><b>Reason:</b> To prevent flooding and in the interests of sustainable drainage.</p>
8.	<p>(a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on 29/10/2024 and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent <math>\leq 10</math>)" – Environmental Protection Agency, 2021.</p> <p>(b) Treated effluent from the septic tank/ wastewater treatment system shall be discharged to a percolation area/ polishing filter which shall be provided in accordance with the standards set out in the document entitled "Code of</p>

	<p>Practice - Domestic Waste Water Treatment Systems (Population Equivalent <math>\leq 10</math>)” – Environmental Protection Agency, 2021.</p> <p>(c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.</p> <p><b>Reason:</b> In the interest of public health and to prevent water pollution.</p>
9.	<p>(a) where deemed necessary by the ESB, the existing overhead electrical cable which traverses the site shall be relocated underground at the developer’s expense. This work shall be done to the requirements of the relevant utility company.</p> <p>(b) all public service cables for the development, including electrical and telecommunications cables and associated equipment, shall be located underground throughout the site.</p> <p><b>Reason:</b> In the interest of visual and residential amenity.</p>
10.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> To safeguard the amenity of property in the vicinity.</p>
11.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and</p>



	<p>the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.</p>
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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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Emma Gosnell

Planning Inspector

22<sup>nd</sup> April 2025

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-321621-25		
<b>Proposed Development</b> <b>Summary</b>	Construction of a house and all associated site works.		
<b>Development Address</b>	Simonstown, Togher, County 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>	✓
		<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)?</b>			
<b>Yes</b>	✓	Part 2, Class 10(b)(i) Infrastructure – dwelling units Part 2, Class 1(a) - (rural restructuring/ hedgerow removal)	Proceed to Q3.
<b>No</b>			
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	✓		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			

<b>Yes</b>	✓	500 units – proposal is for 1 no. unit 100 hectares – site is 0.2429 ha / 0.3296 ha	Preliminary examination required (Form 2)
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<b>5. Has Schedule 7A information been submitted?</b>		
<b>No</b>	✓	<b>Pre-screening determination conclusion remains as above (Q1 to Q4)</b>
<b>Yes</b>		<b>Screening Determination required</b>

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

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	<b>ABP-321621-25</b>
<b>Proposed Development Summary</b>	Construction of a house and all associated site works.
<b>Development Address</b>	Simonstown, Togher, County Louth
<p><b>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.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b></p> <p>(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).</p>	<p>The development is for a one-off house, comes forward as a standalone project, does not require demolition works or the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<p><b>Location of development</b></p> <p>(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).</p>	<p>The development is situated on agricultural land (which is abundant in the area) and within the townland of Simonstown, Co. Louth.</p> <p>The development is removed from sensitive natural habitats, dense centres of population and designated sites and landscapes of identified significance in the County Development Plan.</p>

<b>Types and characteristics of potential impacts</b>  (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).		Having regard to the nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.	
<b>Conclusion</b>			
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>	<b>Yes</b>	<b>No</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.	✓	
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.		✓
There is a real likelihood of significant effects on the environment.	EIAR required.		✓

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

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

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

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

(only where Schedule 7A information or EIAR required)