



An
Bord
Pleanála

Inspector's Report ABP 306239-19.

Development	15 no. two-storey detached houses, to include 6 no. house type A (5 bed), 5 no. house type B (4 bed) and 4 no. house type C (4 bed), all with associated signage, site works, drainage, street lighting and landscaping.
Location	Ballyguile Beg, Ballyguile Road, Wicklow, Co. Wicklow
Planning Authority	Wicklow Co. Council.
Planning Authority Reg. Ref.	19/1077
Applicant	Wickcar Properties Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant	Wickcar Properties Ltd.
Observer	Vincent Flynn

Date of Site Inspection

18th of May 2020

Inspector

Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site is located circa 2.5km to the south of Wicklow town. It has a stated area of 1.87 hectares and is roughly L-shaped. The site is bounded by Ballyguile Road to the west. The junction between Ballyguile Road and the L1102 lies 75m to the south of the site.
- 1.2. The site is relatively steeply sloping as it lies to the south-west of Ballyguile Hill which has a summit of 188m. The site level rises from a level of circa 100m on Ballyguile Road to the 110m contour at the north-eastern corner. The roadside boundary is formed by a post and wire fence. The northern boundary is defined by fencing and mature high hedgerow. There is a large single storey detached dwelling immediately to the south of the site. The boundary between the properties is defined by a low wooden fence.
- 1.3. Avondale Court a cul-de-sac of six semi-detached dwellings is located immediately to the north of the site. Avondale Hall a scheme of 19 no. detached dwellings is situated to the north. The housing along the western side of Ballyguile Road comprises low density detached dwellings.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of 15 no. two-storey detached houses, to include 6 no. house type A (5 bed), 5 no. house type B (4 bed) and 4 no. house type C (4 bed), all with associated signage, site works, drainage, street lighting and landscaping.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for five reasons;

1. It is an Objective of the Council as expressed in Section 3.4 of the Wicklow Town-Rathnew Development Plan (Objective NH4) *'To provide for low density housing (maximum of 15 units) on lands zoned R4 at Ballyguile Beg (as*

identified on the zoning map) to be reserved for those living permanently for a period of at least 3 years in the area within 10km of the site prior to seeking of permission/purchase of a house on these lands'

Having regard to the specific zoning Objective applicable to the lands and the details submitted as part of this application which seeks the non-application of Objective NH4, it is considered that the development as proposed would materially contravene the Wicklow Town-Rathnew Development Plan 2013-2019. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the existing deficiency in the public footpath network along the Ballyguile road and the removed location of the site from Wicklow Town centre, it is considered that the development of additional dwellings at this location in the absence of a linked footpath network in the area would give rise to a health and safety hazard for future occupants of the dwellings. The proposed development would therefore be premature pending the delivery of a linked footpath network in the area and would be contrary to the proper planning and sustainable development of the area.
3. It is an Objective of the Council as expressed in Section 4.4 of the County Development Plan 2016-2022 (Objective HD3) that 'All new housing developments shall achieve the highest quality of layout and design, in accordance with the standards set out in Appendix 1: Development and Design Standards'.

Having regard to:

- (a) The semi-rural nature of the site located on the outskirts of Wicklow Town,
- (b) The topography of the lands which rise up from Ballyguile road,
- (c) The overall design and layout of the proposal which incorporates steep rises between dwellings in the lowest part of the site,
- (d) The lack of sufficient section details, including long sections through the site to fully demonstrate how the dwellings can be assimilated into the site and the relationship of dwellings to existing adjoining properties.

- (e) The design of units 1 & 15 which do not address the Ballyguile road and the extent of the setback proposed,
- (f) The positioning of first floor side windows in dwellings throughout the development which overlook adjoining amenity spaces and bedrooms,
- (g) The proposed roadside boundary treatment proposals,
- (h) The surrounding pattern of development in the area.

It is considered that the development as proposed would form a highly incongruous feature in this area, would militate against the preservation and protection of the visual and environmental amenities of the area, would give rise to the overlooking of private amenity spaces to the rear of the properties as well as the direct overlooking between the bedrooms of neighbouring properties throughout the development, which would provide a substandard level of privacy and amenity to future occupants of the dwellings.

The proposed development would therefore be contrary to the design guidelines and objectives of the County Development Plan 2016-2022 and the proper planning and sustainable development.

4. The proposed development would endanger public safety by reason of a serious traffic hazard because inadequate information has been submitted in order for the Planning Authority to fully assess the development in relation to proposed entrance details including the achievement of required sightlines, the achievement of entrance gradient requirements, the carrying out of road widening works and footpath link to the existing network, the provision of roadside drainage works, the necessity for vertical traffic calming measures within the estate, the achievement of internal road corner radii, the provision of public lighting etc. The proposed development would therefore fail to meet with the required standards and design principles of the Design Manual for Urban Roads & Streets (DMURS) and would be contrary to the proper planning and sustainable development of the area.
5. Having regard to the submitted Part V compliance proposal which consists of two large dwellings located at the rear of the estate, it is considered that the units proposed are oversized and poorly located within the development and would fail to address the identified housing need in the area. The proposal

submitted would be at variance with Wicklow County Council's Part V Policy and would be contrary to proper planning and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The report of the Planning Officer concluded that the proposed development was unacceptable on the basis that the non-application of the requirement of Objective NH4 would materially contravene the Wicklow Town Rathnew Development Plan 2013-2019. The Ballyguile Road is seriously deficient in terms of public footpath provision. The development of this site would be premature pending the delivery of a linked footpath network along this road. Inadequate information was submitted to fully demonstrate how the dwellings would assimilate into the landscape and to address the Ballyguile Road. Overlooking of amenity spaces and direct overlooking between dwellings is prevalent throughout the development. The proposed Part V units are oversized and do not address the housing need in the area. Inadequate information was submitted in relation to Roads design and entrance issues and compliance with DMURS. Permission was refused on that basis.

3.2.2. Other Technical Reports

Roads Section – Further information required in relation to a number of matters. Confirm if the applicant is proposing to provide footpath between the development and existing footpath outside Avondale Court. Provide a longitudinal profile of the road serving the development as the gradients are in excess of 1:40 for the first 6m from the edge of the public road as required by WCC. Roads layout should be designed to reduce vehicle speeds. The installation of traffic calming is not desirable. Ramps should not be located outside driveways. Road design should include cycle, pedestrian and parking facilities. Details of road widening of public road required. Sightlines to be in accordance with DMURS. Stage 2 Road Safety Audit required. Details of public lighting required. Construction Management Plan required.

Wicklow Municipal Engineer – No objections. Number of comments provided. Soak pits ok. No surface water to discharge onto the public road. Resurface a 40m section

of road at the entrance. Sightlines are acceptable. Construction Management Plan required.

Housing Section – The units proposed are far too large and do not address the need in the area. The Developer will be required to reach agreement regarding the delivery of the Part V units having regard to the Council's Part V policy.

Fire Service – Recommends the inclusion of a condition relating to the provision of an adequate firefighting water supply of 500 litres per minute.

3.3. Prescribed Bodies

Irish Water – no objections

3.4. Third Party Observations

- 3.4.1. The Planning Authority received three submissions/observations in relation to the application. The main issues raised are similar to those set out in the observation on the appeal.

4.0 Planning History

- none

5.0 Policy Context

5.1. Wicklow Town – Rathnew Development Plan 2013 – 2019

- 5.1.1. The site is zoned Objective R4 – New Residential Development: Infill / rural fringe low density, up to 10 units per ha.
- 5.1.2. Objective NH4 – To provide for low density housing (maximum of 15 units) on lands zoned R4 at Ballyguile Beg (as identified on the zoning map) to be reserved for those living permanently for a period of at least 3 years in the area within 10km of the site prior to seeking of permission / purchase of a house on these lands.

5.2. Wicklow County Development Plan 2016 – 2022

- 5.2.1. Chapter 3 – refers to Residential Development
- 5.2.2. Chapter 4 – refers to Housing
- 5.2.3. Objective HD2 – New housing development, above all other criteria, shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.
- 5.2.4. Appendix 1 – refers to Development Design Standards

5.3. Project Ireland 2040 - National Planning Framework

- 5.3.1. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to "prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location".
- 5.3.2. National Policy Objective 35 seeks "to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights".

5.4. Section 28 Ministerial Guidelines

- 5.4.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.
 - 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
 - 'Design Manual for Urban Roads and Streets' (DMURS)
 - 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices')

5.5. Natural Heritage Designations

The nearest Natura 2000 sites are;

- The Murrough SPA c.2.5km to the north-east
- The Murrough Wetlands SAC c.3km to the north-east
- Wicklow Head SPA c.2.8km to the south-east
- Wicklow Reef SAC c. 4.5km to the east
- Magherabeg Dunes SAC c3.8km to the south
- Deputy's Pass SAC c.6.7km to the south-west
- Vale of Clara (Rathdrum Wood) SAC c. 10.5km to the south-west

5.6. EIA Screening

- 5.6.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was lodged by CDP Architecture on behalf of the applicant Wickcar Properties Ltd. The issues raised concern the following;

- In relation to refusal reason no. 1 and the matter of NH4 occupancy restrictions, during the pre-planning discussions the applicant understood that a case could be put forward as to not attract a condition in relation to the NH4 occupancy restrictions.
- It is noted that the Minister for Housing has set up a 'working group' which is engaging with the European Commission regarding the Sustainable Rural Housing Guidelines (2005) in relation to the Flemish Decree ruling (2013). It is

noted that the revised guidelines are pending. However, it is contended that a refusal based on local need is contrary to the ECJ ruling.

- It is put forward in the appeal that based on feedback from local estate agents that the demand for these houses locally will not fulfil the requirement set out under the zoning objective. It is stated that the majority of the demand for detached dwellings in Wicklow town is from purchasers from South Dublin. Therefore, the developer has concern that if the houses are not capable of being sold the estate could be left unfinished. It is suggested that it could be conditioned that 20% of the units be restricted for local needs.
- It is submitted that the proposal to remove or reduce the 'local needs' requirement on the subject site is not considered to be a material contravention of the Wicklow Town-Rathnew Development Plan 2013-2019 because it solely relates to the occupancy of the site and not the residential zoning. The proposal to remove or reduce the local needs provision will not affect the site or the surrounding context.
- Should the Board consider that the removal or limiting of the provision of 'Local Needs' on the subject site is a material contravention of the Wicklow Town-Rathnew Development Plan 2013-2019, it is requested that the Board consider point (iv) of Section 37(2)b of the Planning and Development Act 2000, (as amended). Section (iv) refers to the pattern of development in the area and permissions granted within the life time of the subject Development Plan.
- Reference is made to Reg. Ref. 16/514 where permission was granted for residential development on lands to the north of the appeal site within the life time of the Development Plan. The majority of the site in that case was zoned R4. It is requested that the similarities between the two sites are noted.
- Reference is also made to Reg. Ref. 15/1008 and Reg. Ref. 15/1007 where permission was granted for housing schemes in 2016 with the lifetime of the current Development Plan. The pattern of one off housing in the area is highlighted to the Board.
- The second refusal reason refers to the existing deficiency in the public footpath along Ballyguile Road. It is noted that the Municipal District Engineer

in their report suggests a contribution towards footpath improvements along the L5102. This matter could be conditioned as part of a grant of planning permission.

- Refusal reason no. 3 refers to the design and layout of the proposed scheme. It is submitted that the proposed layout does not detract from the existing pattern of development because it reflects the curved nature of the adjoining Avondale Estate. Setbacks and landscaped areas are provided between the development and the properties to the west and south. Traditional finishes are proposed to the dwellings including stone, smooth rendering and timber. The materials proposed and overall design is considered in line with the semi-rural site location.
- Regarding the topography of the site it is noted that the report of the Planning Officer considered the layout to be a suitable approach on site given the topography, density specification and adjoining development.
- Regarding the issue of the steep rises between dwellings it is considered that the rises proposed between the properties can be achieved. The visual change in levels is softened with the proposed landscaping.
- Additional section drawings have been submitted to detail the relationship between the subject site and surrounding properties.
- The matter of first floor side windows in the dwellings and overlooking has been addressed with revised plans indicating the removal of windows to bedrooms on the gable elevations. The inclusion of additional roof lights and use of opaque glazing to ensuite windows to gable elevations is also proposed. These design modifications will mitigate concerns regarding overlooking of amenity areas and direct overlooking between properties.
- Revised proposals are provided in relation to the boundary treatment to Ballyguile Road. A low stone faced wall is proposed to tie in with the stone finishes proposed to house elevations.
- Refusal reason no. 4 refers to the inadequacy of information submitted in respect of vehicular access. A response to the matter was prepared by Lohan Donnelly Consulting Engineers.

- The proposed scheme includes a footpath along Ballyguile Road outside the development connecting to the footpath to the front of the neighbouring properties as indicated on Drawing No: 1614_C08_RevP1. The subject footpath would be located on lands outside the applicant's control. Therefore, it is stated that it is the responsibility of the Council to provide the footpath. The applicant is amenable to providing a contribution towards footpath improvements/construction.
- In relation to the required sightlines the required distance was taken from the TII geometry design at junctions as DMURS only specifies sight distances for urban roads within a speed limit of up to 60km/hr. Ballyguile Road has a speed limit of 80km/hr, guidance for rural roads was therefore required. As indicated on Drawing No: 16164_C10 sightline of 160m is provided in one direction with 120m to the other direction. The report of the Municipal District Engineer stated that the sightlines were acceptable. Sightlines of 160m and 120m are provided which is in accordance with DMURS.
- Regarding the achievement of entrance gradients a gradient of 1:40 for the first 6m measure from the edge of the public road is proposed as per Drawing No: 16164_C08. The longitudinal section of the road serving the development Drawing No: 16164_C11 shows the gradient of 1:40 for the first 6m from the junction.
- It is proposed to widen the section of Ballyguile Road in front of the development to 5.5m which will match the existing road width either side of the development. A road width of 5.5m is in line with DMURS. The proposed design includes kerbs, grass verge and footpath along Ballyguile Road. This is indicated on Drawing No: 16164_C08 and Drawing No: 16164_C12.
- In relation to roadside drainage a new 450mm pipe is proposed to be installed in the existing land drain to connect to the existing pipe either side of the development. New gullies are proposed to connect to the pipe. The surface water pipe will be increased from 225mm to 450mm.
- The revised proposals provide for corner radii of 3m at internal T junction to comply with DMURS. All other radii within the development comply with DMURS guidelines.

- Refusal reason no. 5 refers to compliance with Part V. The applicant was not afforded the opportunity to progress the Part V element of the scheme at further information stage. The applicant would be agreeable to the transfer of housing units to the Local Authority within the functional area. It is submitted that the matter can be satisfactorily addressed by condition.
- The appeal addresses matters raised in the submission made by the observer to the Planning Authority.
- Drawing No: 3.1.602 submitted with the appeal details the relationship between no.14 Avondale Hall and proposed unit no. 5. It is noted that a separation distance of 36m is provided between the two properties.
- A letter of consent from the registered owner of the site Sean Basquille was submitted with the application. It confirms he provides consent to the applicant Wickar Properties to make the application.
- The visual amenity of no. 14 Avondale Hall is not deemed to be of concern having regard to the separation distances provided between the scheme and that property. The closest property no. 4 achieves a separation distance in excess of 33m. A separation distance of over 36m is provided between no. 14 Avondale Hall and no. 5.
- Given the separation distances achieved between the existing and proposed residential properties a change of unit type is not considered to be required.
- In relation to the boundary treatment it is confirmed that a 1.8m high precast post and timber panel boundary is proposed.

6.2. Planning Authority Response

- None received

6.3. Observations

An observation was submitted by BPS Planning Consultants on behalf of Vincent Flynn. The issues raised are as follows;

- The observer Mr Vincent Flynn's property no. 14 Avondale Hall is situated to the north-east of the site.
- It is noted that road widening on Ballyguile Road has not been applied for and is located outside the red line site boundary.
- No maximum gradients have been provided for access cul-de-sac roads.
- The proposals for surface water drainage along Ballyguile Road needs to be clarified.
- It is considered that the site was inappropriately zoned for residential development under the Wicklow Town – Rathnew Development Plan 2013-2019.
- It is set out that the proposed development fails to provide a high quality new residential environment with a good layout and design.
- The proposed development fails to comply with Objective NH4 which is wholly unacceptable. The observer is not satisfied that the details provided by the applicant would justify a material contravention of the Development Plan.
- It is submitted that no's 3,4,5 and 6 within the scheme would be visually intrusive when viewed from the observer's home. Units no's 4,5,6 and 7 are located on the area of the site which is at the highest ground level. The dwellings would be located at between 108 OSD and 107 OSD.
- The closest dwelling to the observer's property at 7.217m in height is considered excessive given the existing ground level.
- It is considered that only single storey houses should be proposed to the north-eastern corner of the site.
- Concern is raised in respect of potential overlooking from units 4 and 5 to the observer's property.
- Details of the proposed boundary between the scheme and the observer's property is not clear. The submitted drawings indicate both a fence and hedgerow.
- The overall design of the scheme is of concern in terms of the proposed density on the sloping site. It is considered that excessive landscaping works

and retaining walls are proposed. It is considered that excessive cutting into the site is proposed to achieve the ground level of unit no. 5.

- There is an excessive gradient proposed to parts of the access road. The scheme fails to provide a satisfactory urban design approach to its road frontage. The scheme does not satisfactorily address Ballyguile Road.
- The height and scale of the proposed dwellings relative to the slope of the site would result in a negative visual impact. The proposed house types would appear excessively visually dominant. It is considered that the house types which are large four and five bedroom suburban style dwellings are incompatible with the semi-rural area.
- The proposed development if permitted would set a poor precedent for future development.
- The observer is concerned that the proposed development would seriously injure the amenities and depreciate the value of his property.

7.0 **Assessment**

The main issues in this appeal are those raised in the grounds of appeal and it is considered that no other substantive issues arise. The issues of appropriate assessment screening also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of development/development plan policy
- Design and layout
- Vehicular access
- Appropriate Assessment

7.1. **Principle of development/development plan policy**

- 7.1.1. The proposal comprises the development of 15 no. detached two-storey dwellings. The site is zoned Objective 'R4' – New Residential Development - Infill / rural fringe low density, up to 10 units per ha. The site is subject of a specific objective, NH4 which states that low density housing (maximum of 15 units) on lands zoned R4 at

Ballyguile Beg (as identified on the zoning map) shall be reserved for those living permanently for a period of at least 3 years in the area within 10km of the site prior to seeking of permission / purchase of a house on these lands.

- 7.1.2. The site area is 1.87 hectares. The proposed development of 15 no. houses would provide a density which would be equivalent to 8 units per hectare. The proposed development of 15 no. residential units on site is in accordance with objective NH4 in respect of the density of development.
- 7.1.3. The first reason for refusal issued by the Planning Authority states that the proposed development would materially contravene the Wicklow Town-Rathnew Development Plan 2013-2019 because the application sought the non-application of Objective NH4 which is an objective of the Development Plan which is specific to the subject site.
- 7.1.4. The appeal refers to pre-planning discussions and the applicant stated that they understood that a case could be put forward as to not attract a condition in relation to the NH4 occupancy restrictions. They put forward a case for the removal of the local need requirement on the basis on feedback from local estate agents which advised that the demand for these houses locally will not fulfil the requirement set out under the zoning objective. It is set out in the appeal that the majority of demand for detached houses in Wicklow town is from purchasers from South Dublin. The developer is concerned that if properties are not capable of being sold that the estate could be left unfinished. It is suggested in the appeal that a condition be attached to a grant of permission that 20% of the units within the scheme be restricted for local needs.
- 7.1.5. The appeal cites examples of another residential scheme which was granted permission within the lifetime of the current development plan. Under Reg. Ref. 16/514 permission was granted for a scheme of 34 no. dwellings on lands circa 500m to north of the appeal site within the life time of the Development Plan. The majority of the site in that case was zoned R4. It is requested that the similarities between the two sites are noted.
- 7.1.6. Reference is also made to Reg. Ref. 15/1008 and Reg. Ref. 15/1007 where permission was granted for single dwellings with on-site wastewater treatment in 2016 with the lifetime of the current Development Plan. These sites are situated circa

700m to the north of the appeal site. While I note these cited examples they are not directly comparable to the current application because these sites were not subject to a specific objective in relation to the occupancy of dwellings.

- 7.1.7. It is submitted in the appeal that the proposal to remove or reduce the 'local needs' requirement on the subject site is not considered to be a material contravention of the Wicklow Town-Rathnew Development Plan 2013-2019 because it solely relates to the occupancy of the site and not the residential zoning. It is argued that the removal or reduce the local needs requirement would not affect the site or the surrounding context.
- 7.1.8. Should the Board consider that the removal or limiting of the provision of 'Local Needs' on the subject site is a material contravention of the Wicklow Town-Rathnew Development Plan 2013-2019, it is requested that the Board consider point (iv) of Section 37(2)b of the Planning and Development Act 2000, (as amended). Section (iv) refers to the pattern of development in the area and permissions granted within the life time of the subject Development Plan.
- 7.1.9. Section 3.4 of the Development Plan refers to housing objectives. The R4 zoning objective which the site is subject to is designated for infill/rural fringe low density development of up to 10 units per acre. The objective specific to the site NH4 provides for a maximum of 15 units on the site with the stipulation that the dwellings be reserved for those living permanently for a period of at least 3 years in the area within 10km of the site prior to seeking of permission / purchase of a house on these lands. Given the limited scale of the proposed development i.e. 15 no. houses and the location of the site situated at the fringe of the zoned lands to the south of Wicklow town, I consider the provision of new housing for demand generated by existing residents within 10km of the site is appropriate in this context. This limited control on housing occupancy within the plan area of Wicklow Town-Rathnew provides the opportunity for residents within the catchment and meeting these criteria an opportunity to purchase the proposed detached dwellings. Other new housing development within Wicklow town-Rathnew would be characterised by different house sizes and typologies given the policy requirements to achieve higher densities and sustainable development. Therefore, I would consider that there would be locally generated demand for the proposed housing.

7.1.10. While, I note the arguments in the appeal referring to the removal of the local needs requirement, I am not satisfied that it is appropriate to do so. Objective NH4 was clearly attached to the zoning of the site to ensure that the lands would be developed to accommodate locally generated housing need. Accordingly, the proposed development would materially contravene objective NH4 of the Wicklow Town-Rathnew Development Plan, 2013-2019.

7.2. Design and layout

- 7.2.1. Refusal reason no. 3 issued by the Planning Authority refers to the design of the scheme. The Planning Authority had strong concerns in relation to the design of the scheme specifically having regard to the topography of the lands which rise up from Ballyguile Road, the design and layout which incorporates steep rises between dwellings, how the scheme can be successfully assimilated into the site and the relationship of proposed dwellings to existing adjoining properties.
- 7.2.2. Objective HD2 of the Wicklow County Development Plan 2016-2022 refers to new housing development and specifies that above all other criteria, that it shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area. Appendix 1 of the County Development Plan refers to Development Design Standards and in relation to small-medium scale housing developments it requires that visual integration and physical connectivity with the area surrounding the site will be required to be at the fore of any design model.
- 7.2.3. 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' requires that a development make a positive contribution to its surroundings and take the best advantage of its location through the use of site topography, i.e. levels, views, context, landscape, design and orientation.
- 7.2.4. The subject site is relatively steeply sloping as it lies to the south-west of Ballyguile Hill. The site level rises from a level of circa 100m on Ballyguile Road to the 110m contour at the north-eastern corner. The topography of the site has resulted in steep rises between dwellings in the lowest part of the site. A differential of circa 2m is proposed between the finished floor levels of each of the first six dwellings within the

scheme. This will result in a large extent of cutting into the site. This is clearly illustrated on Drawing No: 3.1.500 – Proposed Contextual Elevations/Site Sections. The proposed steep rises between these dwellings will result in the properties appearing highly visually obtrusive.

- 7.2.5. In relation to how the scheme integrates and physical connects with the area as detailed in the third refusal reason dwelling no. 1 and dwelling no. 15 do not address Ballyguile road. The revised proposals submitted with the appeal did not address this matter. The side of dwelling no. 1 is setback 23m from the public road and the side of dwelling no. 15 is setback 22m from the public. The siting of these dwellings does not serve to integrate the scheme into the existing streetscape. Therefore, I consider that the proposal fails to provide for an adequate urban design approach to the Ballyguile Road frontage.
- 7.2.6. The proposed dwellings are all large dormer detached properties. House type A has a proposed ridge height of 7.1m. House type B has a proposed ridge height of 7.817m and House type C has a proposed ridge height of 7.017m. Having regard to relatively steep and the elevated nature of the site and the proposed large dormer dwellings with a minimum ridge height of over 7m, I would consider that the proposed development would have an adverse visual impact at this location by virtue of the height, scale, bulk and visual dominance of the development when viewed from the surrounding area. I consider that a more appropriate design approach would be to propose single storey dwellings or split level dwellings within the scheme which would better integrate into the site and surrounding area having regard to elevated and semi-rural location of the site.
- 7.2.7. Therefore, I would consider that the proposed development would be contrary to Objective HD2 of the Wicklow County Development Plan 2016-2022 because the proposed scheme would appear highly visible and would negatively impact upon the residential amenity of the surrounding area. Furthermore, the proposed development would be contrary to the provisions of Appendix 1 of the Development Plan because the proposal would fail to satisfactorily visually integrate into the site and surrounding area.
- 7.2.8. The refusal reason also refers to the matter of potential overlooking from the positioning of first floor side windows in dwellings throughout the development which

overlook adjoining amenity spaces and bedrooms. The applicant has addressed this issue with revised proposals submitted with the appeal. The revised plans indicate the omission of windows to bedrooms on the gable elevations and their replacement with additional roof lights and use of opaque glazing to ensuite windows to gable elevations is also proposed. I am satisfied that the proposed window design modifications will mitigate concerns regarding overlooking of amenity areas and direct overlooking between properties.

7.2.9. The observation to the appeal raised the matter of potential overlooking of their property no. 14 Avondale Hall. Drawing No: 3.1.601 illustrates a separation distance of over 33m between no. 14 Avondale Hall and dwelling no. 4. Drawing No: 3.1.602 submitted with the appeal illustrates the relationship between no.14 Avondale Hall and dwelling no. 5. A minimum separation distance of 36m is provided between the two properties. Having regard to the separation distances provided between the closest dwelling in the scheme and the observer's property, I am satisfied that the proposed development would not cause any undue overlooking.

7.2.10. Refusal reason no. 5 refers to compliance with Part V of the Planning and Development Act 2000 (as amended). The refusal referred to the proposed units within the scheme being oversized and poorly located within the development and that they would fail to address the identified housing need in the area. In response to the matter it is confirmed in the appeal that the applicant would be agreeable to the transfer of housing units to the Local Authority within the functional area. I consider this satisfactory addresses the reason for refusal. Should the Board decide to grant permission a condition relating to compliance with Part V is necessary.

7.3. Vehicular access

7.3.1. The proposed layout provides for the vehicular access to scheme from Ballyguile Road. The proposed entrance is located circa 75m to the east of the junction between Ballyguile Road (L5102) and the L1102. The entrance would be located onto a relatively straight section of the road where the road width is circa 7m.

7.3.2. In relation to the proposed sightlines I note the point made appeal submission from Lohan Donnelly Consulting Engineers which stated that they took the required sightline distance for the proposed vehicular access from the TII geometry design.

This guidance was used as they noted that the 'Design Manual for Urban Road and Street' (DMURS) (2013) only specifies sight distances for urban roads within a speed limit of up to 60km/hr. Table 4.2 of DMURS provides Stopping Sight Distances for urban road. The speed limit on Ballyguile Road along the location where the vehicular entrance is proposed is 80km/hr. The road signage to this effect is located adjacent to the site. As per Table 1.3 of DN-GEO-03031 (TII – Rural Road Link Design) the desirable stopping sight distance of 160m is required for a road design speed of 85km/hr. Drawing No: 16164_C10 – Traffic Management Plan & Sight Lines indicates sightlines of 160m provided to the north with 120m provided to the south. It is noted in the appeal that the report of the Municipal District Engineer stated that the sightlines were acceptable. A calculation of Stopping Sight Distance (SSD) as per page 107 of DMURS was carried out by Lohan & Donnelly Consulting Engineers. They calculated that a SSD of 90m would be required for the Ballyguile Road with a design speed of 80km/hr.

- 7.3.3. Having regard to the details above and having inspected the site, I am satisfied that the satisfactory sightline distance is available at the proposed vehicular entrance onto Ballyguile Road.
- 7.3.4. The report of the Roads Section highlighted that the gradient of the internal roads proposed within the development appeared excessive particular at the entrance. Drawing No: 16164_C08 indicates a gradient of 1:40 for the first 6m measured from the edge of the public road. Drawing No: 16164_C11 a longitudinal section of the proposed road serving the development also shows the gradient of 1:40 for the first 6m from the junction and a gradient of 1:10 along the other sections of the road. It is confirmed in the appeal that corner radii of 3m will be provided at internal T junction to comply with DMURS and all other radii within the development comply with DMURS guidelines.
- 7.3.5. In relation to the matter of the existing deficiency in the public footpath network along the Ballyguile road. There is a footpath located along the eastern side of Ballyguile Road which serves Avondale Hall and Avondale Court situated to the north of the appeal site. The provision of an extension to the footpath outside the development along the Ballyguile Road would be located on lands outside the applicant's control. The applicant has confirmed in the appeal that while it would be the responsibility of Council to provide this section of footpath that they would be amenable to providing

a contribution towards footpath improvements/construction. I consider that this matter could be addressed by condition should the Board decide to grant permission for the scheme.

7.4. Appropriate Assessment

Stage 1 Screening

- 7.4.1. The appeal site is not in or immediately adjacent to any Natura 2000 site, so the proposed development would not have any direct effect on any Natura 2000 site. The European sites, The Murrough SPA (004186) and The Murrough Wetlands SAC (002249), are located 2.5km and 3km respectively to the east of the development site. Wicklow Head SPA (004127) is located 2.8km to the east of the site.
- 7.4.2. The qualifying interests/special conservation interests of the designated sites, are summarised as follows;

The Murrough Wetlands SAC (002249)	The Murrough SPA (004186)
Annual vegetation of drift lines [1210]	Red-throated Diver (<i>Gavia stellata</i>) [A001]
Perennial vegetation of stony banks [1220]	Greylag Goose (<i>Anser anser</i>) [A043]
Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]
Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]	Wigeon (<i>Anas penelope</i>) [A050]
Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]	Teal (<i>Anas crecca</i>) [A052]
Alkaline fens [7230]	Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]
	Herring Gull (<i>Larus argentatus</i>) [A184]
	Little Tern (<i>Sterna albifrons</i>) [A195]
	Wetland and Waterbirds [A999]

Wicklow Head SPA (004127)
Kittiwake (<i>Rissa tridactyla</i>) [A188]

- 7.4.3. The Conservation Objectives for The Murrough Wetlands SAC (002249) are to maintain or restore the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected.
- 7.4.4. The Conservation Objectives for The Murrough SPA (004186) are to maintain the favourable conservation condition of each qualifying bird species in the Natura 2000 site and to maintain or restore the favourable conservation condition of the wetland habitat at The Murrough SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.
- 7.4.5. The Conservation Objectives for Wicklow Head SPA (004127) is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
- 7.4.6. The subject site is a greenfield site. The proposed attenuation measures would reduce variations in the runoff from the site. There is no potential, therefore, for the proposed development to alter the volume or characteristics of the flows into or from the surface water sewerage system that could conceivably have a significant effect on any Natura 2000 site. The foul effluent from the proposed development would drain to the wastewater treatment system for Wicklow town. The scale of the proposed development relative to the rest of the area served by that system means that the impact on the flows from that system would be negligible and would not have the potential to have any significant effect on any Natura 2000 site.
- 7.4.7. There is no identified “source-pathway” to connect the appeal site with the Murrough Wetlands SAC, the Murrough SPA and Wicklow Head SPA or any other European Designated Site.
- 7.4.8. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. (002249), European Site No. (004186) and European Site No. (004127) or any other European site, in view of the

site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

8.1. I recommend a refusal of permission.

9.0 Reasons and Considerations

1. Having regard to the provisions of the Wicklow Town–Rathnew Development Plan 2013-2019, specifically Objective NH4 which refers to the subject site which states it is a development objective “to provide for low density housing (maximum of 15 units) on lands zoned R4 at Ballyguile Beg (as identified on the zoning map) to be reserved for those living permanently for a period of at least 3 years in the area within 10km of the site prior to seeking of permission / purchase of a house on these lands.” The subject proposal seeks the non-application of Objective NH4. Therefore, the proposed development would materially contravene a development objective set out within the Wicklow Town–Rathnew Development Plan, 2013-2019 and would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the topography of the site, the elevated positioning and height of the proposed dwellings, and the design and layout of the scheme which incorporates steep rises between dwellings in the lowest part of the site it is considered that the proposed development could not be effectively assimilated into the landscape and would, therefore, form a discordant and obtrusive feature on the landscape. The proposed development would seriously injure the visual amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area. Furthermore, it is considered that the proposed development would not accord with the prevailing character of the area or contribute positively to the public realm, would be

contrary to the “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages)” issued by the Department of the Environment, Heritage and Local Government in May, 2009, and which would also conflict with the policies of the Wicklow County Development Plan 2016-2022, particularly Objective HD2 and the provisions of Appendix 1 of the Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Siobhan Carroll
Planning Inspector

10th of June 2020