

An
Bord
Pleanála

Board Order
ABP-319340-24

Planning and Development Acts 2000 to 2022

Planning Authority: Wicklow County Council

Planning Register Reference Number: 23/919

Appeal by Vera Ungureanu and Gheorghe Topchin care of Molloy Architecture and Design Studio of 22 McCurtain Street, Gorey, County Wexford against the decision made on the 22nd day of February, 2024 by Wicklow County Council to refuse permission for the proposed development.

Proposed Development: The development will consist of:- Permission to subdivide existing six-bedroom single unit single storey dwelling unit into two number semi-detached three bedroom single storey dwelling units which shall consist of the following: (A) The construction of a party wall between units, (B) The single storey extension of each of the semi-detached units, (C) Ancillary alterations to the floor plans and external openings and finishes, (D) The removal of the existing vehicular access and to construct a shared dual access vehicular entrance at a central location, (E) The demolition of an existing unauthorised storage shed structure to the rear of the property, (F) The removal of the existing single wastewater treatment system and to construct two number individual wastewater treatment units and percolation areas, (G) The provision of an additional water supply to create two number

individual water supplies, (H) The construction of party boundaries to separate the units and all ancillary works, all at Druids Manor, Leabeg Upper, Newcastle Upper, County Wicklow.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the Wicklow County Development Plan 2022-2028, the 'Sustainable Rural Housing Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government 2005, the National Planning Framework – Project Ireland 2040 (2018) including NPO19 and NPO34, and the Code of Practice for Domestic Waste Water Treatment Systems (p.e.≤10) 2021, the Board considered that the proposal for the sub-division of an existing house to provide two semi-detached houses with extensions and separate wastewater treatment systems, subject to the conditions set out below, would provide a reasonable standard of accommodation on the site, would be acceptable in terms of environmental sustainability, would not have a significant adverse impact of the existing residential amenities of adjoining properties, would not hinder the preservation of the rural environment, and would, therefore, be consistent with the proper planning and sustainable development of the area.

The Board agreed with the Inspector that the installation of treatment systems proposals accords with the Code of Practice (CoP) for Domestic Waste Water Treatment Systems and that appropriate sightlines are available from the proposed new entrance and also agreed with the planning authority that the internal layout of the proposed dwellings would provide a good quality of residential amenity for occupants and that the design is considered to be acceptable.

In deciding not to accept the Inspector's recommendation, the Board disagreed with the Inspector's recommended reason for refusal on the basis that the proposed development represents a new dwelling in an area that is designated as Level 10 (The Rural Area) settlement and that the applicants failed to comply with the rural housing policy as set out in CPO 6.41 of the Wicklow County Development Plan 2022-2028. Having regard to the rural settlement strategy in the Wicklow County Development Plan which seeks to control development to ensure the protection of the environmental and ecological quality of the rural area and to ensure that the scenic value, heritage value and or environmental / ecological / conservation quality of the area is protected, the Board considered that the prevailing circumstances in this case are different to a proposal for an additional new dwelling in the rural open countryside as it relates to the subdivision of an extant large dwelling house, it is acceptable in terms of environmental sustainability, it will not hinder the preservation of the rural environment and would, therefore, be consistent with the proper planning and sustainable development of the area.

Conditions

1. 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 the 20th day of March 2024, 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.

Reason: In the interest of clarity.

2. (a) The proposed dwellings, when completed, shall be occupied as a place of permanent residence by the applicants, 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 applicants shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.
- (b) Within two months of the occupation of the proposed dwellings, the applicants shall submit to the planning authority a written statement of confirmation of the first occupation of the dwellings in accordance with paragraph (a) and the date of such occupation.

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.

Reason: To ensure 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.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the houses, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

4. Prior to the commencement of development, the applicants shall enter into a Connection Agreement with Uisce Éireann (Irish Water) to provide for service connections to the public water supply network.

Reason: In the interest of public health and to ensure adequate water facilities.

5. (a) The wastewater treatment systems hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with the application on the 20th day of March 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 ≤ 10)" – Environmental Protection Agency, 2021.
- (b) Treated effluent from the wastewater treatment systems shall be discharged to a percolation area which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.
- (c) Within three months of the first occupation of the dwellings, the developers shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the wastewater treatment systems and associated works are constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health and to prevent water pollution.

6. 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.

Reason: In the interest of public health.

7. Site development and building works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: In order to safeguard the amenity of property in the vicinity.

8. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including noise and dust management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and amenity.

9. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interests of reducing waste and encouraging recycling.

10. 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 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.

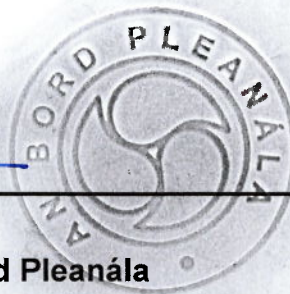
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Emer Maughan

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board**



Dated this 17th day of April

2025