

An
Coimisiún
Pleanála

Commission Order
ABP-322141-25

Planning and Development Acts 2000 to 2022

Planning Authority: Wicklow County Council

Planning Register Reference Number: 25/11

Appeal by Damien Hurley of Clonpadden, Arklow, County Wicklow against the decision made on the 3rd day of March, 2025 by Wicklow County Council to refuse permission for the proposed development.

Proposed Development: Erection of a single storey dwelling house, on-site wastewater treatment system, vehicular entrance and all associated site works at Kilpatrick, Redcross, County Wicklow.

Decision

GRANT permission 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 policies and objectives in the Wicklow County Development Plan 2022-2028 including inter alia the Settlement Strategy and location of the site in a Level 10 Rural Area Open Countryside designated area, CPO. 6.41, CPO 6.44, CPO 13.16, CPO 17.1, C.P.O 17.37 and Appendix 2 Single Rural House Design Guidelines, typography and sylvian characteristics of the site and the design and massing and low profile of the proposed dwelling house, it is considered that, subject to compliance with the conditions set out below, the proposed development would not have a significant negative impact on the character and natural heritage of the area, would not be visually obtrusive, would not unduly impact on the sylvian character of the site, would provide satisfactory standards of amenity for future occupants and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Commission agreed with the Inspector that the site is not significantly elevated nor is it exposed in the landscape on account of the mature trees covering a substantial portion of the hill surrounding the site and they also agreed with his opinion that the design of the proposed dwelling is acceptable from a rural design and materials perspective and that it would accord with Appendix 2: Single Rural House Design Guidelines of the Development Plan. The Commission does not agree with the Inspector that the works required to carry out the development would contribute to visual scarring of the site by way of loss of mature trees or that the alterations/adaptions to the natural terrain would negatively impact on the character and natural heritage of the area. The Commission considered the proposed development would not significantly alter the natural landscape and topography of the site and that the siting of the dwelling

demonstrates good integration within the wider landscape due to its position to the rear of the site on an elevated natural plateau (preventing visual impact from the public road), does not require cut and fill, the existing rock features and site levels are predominately retained, the tree loss is mainly non-native commercial forestry with the exception of two number category B (moderate value), three number category C (low value) trees and seven number cat U (trees that should be removed), the mature native woodland area to the front (north east) of the site is retained and proposed landscaping includes the planting of 72 native-species trees.

The Commission determined therefore, that the proposal would not be inconsistent with the totality of relevant development plan policies for rural housing, natural heritage and landscape and would otherwise be in accordance 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, 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 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.
- (b) Within two months of the occupation of the proposed dwelling, the 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. 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 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.

3. (a) The vehicular access, including visibility splays, shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.
- (b) The gradient of the access driveway shall not exceed 1:40 from a minimum distance of six metres from its junction with the public road unless otherwise agreed with the planning authority.
- (c) 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.
- (d) 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.

Reason: In the interest of traffic safety and to prevent flooding or pollution.

4. (a) The proposed wastewater drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice – Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.
- (b) Treated effluent from the wastewater treatment system shall be discharged to a polishing filter which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Domestic Wastewater Treatment Systems

- (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.

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

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

6. 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 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.

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

7. The landscaping scheme shown on drawing 'Planting Plan' prepared by Greenrooms Design, as submitted to the planning authority on the 21st day of January, 2025 shall be carried out within the first planting season following substantial completion of external construction works.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

8. All trees and hedgerows within and on the boundaries of the site shall be retained and maintained, with the exception of the following:
- (a) Trees which are indicated for removal on Tree Survey drawing prepared by Greenrooms Design as submitted to the planning authority on the 21st day of January 2025.
 - (b) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.
 - (c) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum radius of two metres from the trunk of the tree or centre of the shrub, and to a distance of two metres on each side of the hedge for its full length and shall be maintained until the development has been completed.

- (d) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

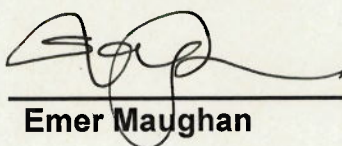
Reason: In the interest of visual amenity and to protect trees and planting during the construction period.

9. 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.

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 Coimisiún 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

**Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.**



Dated this 16th day of July 2025.