



An
Coimisiún
Pleanála

Commission Order
PL-500974-WW-26

Planning and Development Act 2000, as amended

Planning Authority: Wicklow County Council

Planning Register Reference Number: 25/60490

APPEAL by Marco Herbst against the decision made on the 18th day of February, 2026 by Wicklow County Council to refuse permission for the proposed development.

Proposed Development: A single storey dwelling, effluent disposal system to current EPA requirements, relocation of agricultural field entrance to form new residential and agricultural entrance, landscape plan, new screening earth banking and associated site works at Kilpoole Lower, Wicklow, 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:

- (a) the provisions of the Wicklow County Development Plan 2022-2028, including Objectives CPO 6.41 and 6.44 with respect to rural housing need and rural house design in an Area of Outstanding Natural Beauty,
- (b) the nature, scale, and location of the development on a site which is single storey and less than six meters in height on a site which is lower than the public road with extensive mature vegetative screening,
- (c) the measures to ensure traffic safety regarding a new shared entrance for both the house and agricultural lands to the north,

it is considered that the proposed development, subject to compliance with the conditions set out below, would be acceptable in terms of visual amenity within an Area of Outstanding Natural Beauty, would not be prejudicial to public health 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.

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. The landscaping scheme shown on drawing number 081922_LP_01, as submitted to the planning authority on the 2nd day of July, 2025 shall be carried out within the first planting season following substantial completion of external construction works.

In addition to the proposals in the submitted scheme, the existing field entrance identified on drawing number 081922_LP_01 to be closed permanently on completion of the new entrance. Appropriate hedgerow planting of native species shall be used in place of the closed entrance.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

4. (a) The existing front boundary hedge shall be retained except to the extent that its removal is necessary to provide for the site entrance.
- (b) New hedgerow planting to achieve appropriate sightlines shall be carried in accordance with the landscape scheme identified on drawing number 081922_LP_01.

Reason: In the interest of visual amenity.

5. The shared entrance shall be constructed as outlined on the site layout plan. No entrance gate, wall or piers shall be erected directly along the public road.

Reason: In the interest of traffic safety.

6. (a) The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.
- (b) The external walls shall be finished in neutral colours such as grey or off-white.

Reason: In the interest of visual amenity.

7. (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 the 2nd day of July, 2025 and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Wastewater Treatment Systems (Population Equivalent $\leq$ 10)" – Environmental Protection Agency, 2021.
- (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 Practice - Domestic Wastewater Treatment Systems (Population Equivalent $\leq$ 10)" – Environmental Protection Agency, 2021.

- (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.

- 8. (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.
- (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.

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

- 9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason: In the interests of visual and residential amenity.

10. 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 or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

11. 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.



Paul Caprani

Planning Commissioner of An Coimisiún

**Pleanála duly authorised to authenticate
the seal of the Commission.**

Dated this 15th **day of**

July

2026