



An  
Bord  
Pleanála

## Inspector's Report PL27.247666

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<b>Development</b>	House, upgrading of access route from Kilcronee Lane, parking area, wastewater treatment system and landscaping
<b>Location</b>	Kilcronee, Enniskerry, Co. Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	16/1013
<b>Applicant(s)</b>	James Ronan
<b>Type of Application</b>	Planning permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	James Ronan
<b>Observer(s)</b>	WB & MM Somerville John Ronan
<b>Date of Site Inspection</b>	24 <sup>th</sup> February 2017
<b>Inspector</b>	Mary Kennelly

## **1.0 Site Location and Description**

- 1.1.** The site forms part of a 24ha landholding in the ownership of the applicant's father. It is located approx. 1.5km to the east of Enniskerry and within a few hundred metres of the N11 (Bray south). The landholding is situated in the Dargle River Valley, which forms part of a pNHA and an AONB. A wooded section of the river valley divides the landholding into a northern and a southern section. The area is located between the R117 to the north, which links the N11 at Kilcronee Cross to Enniskerry (and Powerscourt), and by Kilcronee Lane to the south. The landholding is directly bounded to the north by Kilbride Lane, which branches off the R117, and stretches westwards from the R117.
- 1.2.** The site of the proposed dwelling has a stated area of 0.5ha. It has an elongated shape which stretches along the steeply sloping wooded valley to the south of the Dargle river. The northern section contains the main residence with which the landholding is associated, known as Dargle Cottage. This house, which has been extended to a considerable extent, is predominantly 2-storeys and is sited immediately adjacent to Kilbride Lane, behind a high stone wall. Dargle Cottage is accessed by means of a gated driveway from Kilbride Lane, over 100m to the east of the house. The landscaped gardens surrounding the house are bounded to the south by the river valley and include decorative landscape features, a swimming pool, a tennis court and a wooden bridge across the river linking the gardens to the Protected Structure known as the 'Summer House'.
- 1.3.** To the south of the river, the landholding is largely comprised of a stud farm with stables, a parade ring, flat grazing lands etc. This part of the landholding is accessed in two ways. There is a track leading from the R117, (between the N11 junction and the turn-off to Kilbride Lane, to the south of the river), and a second internal access track leads northwards from a local road, and residential cul-de-sac, leading off Kilcronee Lane. The former leads past the Gate Lodge and provides access to the stables to the south and to the summer house to the north. The latter is a tarmac private lane from which access can be gained to a wooded section of the landholding, and from here, a pedestrian track leads down a steep slope through the woods to the site. This is the path that is proposed as the main access to the site.

- 1.4.** The 'Goulding Summer House' is a cantilevered structure located on the southern banks of the river, approx.100m to the north east of the site of the proposed dwelling, and is linked to the main house by means of a pedestrian bridge. It is a Protected Structure by reason of its architectural interest. It is described in an Architect's Journal (2002) – (referenced by the Inspector in her report on PL27.204514) as “an icon of modern architecture ....and ...the most important Miesian private retreat of the 1970's in Ireland”. This structure is sited in the landscaped part of the gardens down slope of the track leading to the stables. The site of the appeal is located upslope of the same track, with established woodland on the hillside. At the southern edge of the woodland, the ground levels off before rising steeply again southwards as agricultural grassland.
- 1.5.** The proposed dwelling is sited at the southern edge of the woodland straddling the woodland path and the agricultural field, with the wastewater treatment system located to the northeast (in a separate agricultural field). The revised proposals included with the grounds of appeal show the dwelling sited a further 10m to the south-east (deeper into the agricultural field) and the wastewater treatment system relocated further to the west (closer to the proposed dwelling).

## **2.0 Proposed Development**

- 2.1.** It is proposed to construct a two-storey, part three-storey house. The design is stated to be based on a “Gandon unexecuted neoclassical design”, with a proposed floor area of 510 m<sup>2</sup>. There would be five ensuite bedrooms, four on the first floor and the Master bedroom on the second floor. The rear of the building would contain oval shaped rooms over three storeys with a dome-shaped roof and windows overlooking the wooded valley. An Architectural Design Statement, prepared by Henry J. Lyons, accompanies the application, in which a detailed description of the proposed structure is provided together with a justification for the proposed design approach. The application was also accompanied by a Planning Report from John Spain Associates, which included several technical appendices.
- 2.2.** The site was originally proposed to be accessed by means of the residential cul-de-sac from Kilcronney Lane to a parking area, and a 200m pedestrian track through the woods. However, the grounds of appeal have included an alternative access

proposal which would involve using the existing access track serving the stables, which has its entrance on the R117. The application and appeal were accompanied by engineering reports prepared by Cronin Sutton Consulting Engineers, which addressed the proposed arrangements in relation to traffic and access. These include upgrading of the existing access tracks.

- 2.3. The proposed development (as originally submitted) would necessitate the felling of three trees, (a gum tree and two cypress trees). The application was accompanied by an Arboricultural Report and by an Ecological Statement. The proposed development includes the installation of a package treatment plant and soil polishing filter and water supply is to be by means of a connection to an existing watermain through the applicant's family lands.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to refuse permission for five reasons. The main points contained in these reasons may be summarised as follows:-

1. **Contrary to settlement strategy** – proposal would not represent a “necessary dwelling” in a landscape designated as “Area of Outstanding Natural Beauty” or a first time home-owner with a rural dwelling need. It would contravene the policies to restrict rural housing development, the proliferation of which erodes the landscape value and seriously detracts from views of special amenity value, which the Development Plan seeks to preserve.
2. **Visual amenity** - Having regard to
  - (i) The location within an AONB on the side slope of the Dargle River Valley,
  - (ii) The large size and scale of the development proposed,
  - (iii) The proposed raising of ground levels to accommodate the dwelling,
  - (iv) The potential loss of trees,

it is considered that the proposed development would form a dominant and intrusive feature in the area, would impact on the Dargle River Valley pNHA, would seriously erode this fragile landscape, and would seriously impact on the visual amenities of the area.

3. **Access** - Inadequate detail regarding vehicular access for both construction and operational phases due to inappropriateness of 200m steeply sloping pedestrian access route to the dwelling from the proposed parking area. The inability to provide adequate access would be likely to give rise to a traffic hazard and would be contrary to the proper planning and sustainable development of the area.
4. **Wastewater treatment** – having regard to distance of WWTP and percolation area at over 100m from the proposed dwelling, the conflicting details contained in the engineering report regarding the type of percolation area proposed, it was considered that the WWTP system would not comply with the P.A. policies and would be prejudicial to public health.
5. **PNHA** – having regard to its location within a pNHA, the proposal would be contrary to policy BD5 of the CDP which seeks to maintain the conservation value of all proposed and future NHAs in Wicklow.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- 3.2.1.1 The Area Planner's report (02/11/16) generally reflects the decision of the Planning Authority. It was noted that CDP Objective RH14 stipulates that residential development will only be considered where certain circumstances apply. The documents submitted were noted, but it was considered that as the applicant is currently employed in the city centre, and that there are several habitable structures on the site, any additional dwelling in this area defined as Under Strong Urban influence would need to comply with the criteria. These include a requirement to demonstrate a clear proven need, which it was considered, had not been demonstrated in this case. Furthermore, it was believed that the size of the dwelling at 500sq.m did not lend support to the applicant's case.

3.2.1.2 In respect of visual impact, it was considered that the siting, scale and design would result in an excessively large dwelling which would dominate the valley. Given that the design seemed to rely on screening by means of a small number of existing trees, it was considered that these trees could easily be destroyed by storm damage or during construction. It was further considered that given the substantial land holding, there are more suitable sites on which a dwelling with a suitable design could be constructed. The proposed access via a 200m pedestrian pathway was considered to be unfeasible and unsustainable in the long term and no details were provided regarding construction traffic.

3.2.1.3 It was considered that the need for maintenance of the WWTP would not be met, due to the excessive distance (approx. 140m) from the dwelling. This would be contrary to the Council's policy for a maximum distance of 100m. There was also confusion as to whether the proposal involved a soil polishing filter or a reed bed.

### 3.2. 2 **Other Technical Reports**

The Environmental Health Officer (17/10/16) stated that two different systems were proposed in the submissions. The Soil Characterisation form proposed an Oakstown BAF (PE8) system with a Soil Polishing filter (105sqm) and the Engineering Report proposed a Biodisc Unit and a Reed Bed. It was stated that the former system would be considered appropriate but that clarification was required in respect of which system was to be used. Concern was expressed regarding the location of the soil polishing filter and percolation area outside of the site, and in particular, more than 100m from the dwelling, which would necessitate the pumping of untreated effluent over large distances. It would be preferable to the EHO if the WWTP was located closer to the dwelling and that the treated effluent was pumped to the percolation area/polishing filter.

## 3.3. **Prescribed Bodies**

### 3.3.1 **An Taisce 20/09/17**

3.3.1.1 The proposed development must be determined with regard to the Rural Housing and Amenity provisions of the Wicklow CDP and to the national policies contained in the NSS and the Sustainable Rural Housing Guidelines. These policies require applicants to establish a rural generated housing need and to ensure that key assets

in rural areas such as water quality, the natural and cultural heritage and quality of the landscape are protected.

3.3.1.2 The impact of proposed effluent treatment systems must have regard to both the individual and cumulative impact in conjunction with other existing, proposed and approved developments on both surface and groundwater to comply with the EU Groundwater Directive (80/86/EEC).

3.3.1.3 The site is located within a designated AONB, a proposed NHA and is an area which is under consideration for a Special Amenity Area Order. Development proposals must therefore be easily assimilated into the landscape and comply with the policies of the CDP.

3.3.1.4 As a previous development proposal was refused by the Board, (Ref. 236202 – P.A. Ref. 09/1007), an evaluation is required to show that all issues have been resolved.

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

**3.4.1 WB & MM Somerville (14/10/16)** – This submission is from one of the Observers on the grounds of appeal, which will be summarised later in this report. The issues raised related to inability to comply with rural housing policy, proximity and impact on Summer House, impact on visual amenity of area due to dominance and scale of development, adequacy of water services, access and parking.

**3.4.2 Hamilton Goulding (24/10/16)** - issues raised regarding adequacy of ownership of land, which it was believed would result in the proposed parking and/or access route infringing on neighbour's lands. However, this issue was subsequently resolved between the parties. Other issues raised included the following :-

- Lack of information regarding the nature/frequency of use of the private access and/or the proposals for upgrading the access track to the site of the proposed dwelling. It was pointed out that the existing pedestrian walkway would require a considerable amount of modification and drainage works which could have implications for the many fine/mature trees along the route.
- The suitability of a 200m pedestrian track along a steeply sloping wooded area was questioned as the means of accessing the site of the proposed dwelling. It was noted that emergency vehicles are to access the site via the track from the

R117 and this posed the question as to why this could not also serve as the main vehicular access to the site.

- The capacity of the Kilcronee Lane entrance was questioned in terms of adequacy of available sightlines and the existing traffic flows on this road, which is increasingly used by vehicles travelling from Enniskerry to the N11 (Southbound).

## **4.0 Planning History**

- 4.1 92/8076** – planning permission granted by P.A. in 1992 for demolition of Dargle Cottage and construction of a new dwelling.
- 4.2 92/8713** – Planning permission granted for ‘Casino House’ on grounds to south of Summer House subject to a condition requiring the permission granted for the redevelopment of Dargle Cottage (92/8076) not be implemented.
- 4.3 93/620** – permission for conversion and alterations of Dargle Cottage to a guesthouse granted in 1994.
- 4.4 96/4119** – permission for alterations to the design of the permitted alterations to Dargle Cottage (as permitted under 93/620). It is stated in the grounds of appeal that this permission has been implemented.
- 4.5 PL27.204514** – Permission was refused by the Board in 2004 following first party appeal against refusal (03/8257) for a 3-storey dwelling (673m<sup>2</sup>) located to west of ‘Summer House’, overlooking the river. This house would have been accessed from the R117 (access route to summer house). The reasons for refusal were based, firstly, on the impact on the character and setting of the PS The Summer House (due to proximity, height and mass), and secondly, rural housing policy and location of site in a designated AONB, where the policy is to restrict such development. The Board noted the prior existence of Dargle Cottage, which was separated from the proposed house by a river and to which there is a separate vehicular access, and was not satisfied that the proposal would represent a “replacement dwelling”. As such it was considered that the proposed development would materially contravene the settlement policy of the Development Plan.



**4.6 PL27.236202** – permission was refused by the Board in 2009 following a first party appeal against refusal (09/1007) for a four storey dwelling (808m<sup>2</sup>) located to south of ‘The Summer House’, (same location as 92/8713). This dwelling would also have been accessed via the R117 (access to the Summer House). The first reason for refusal was similar to that used in 204514, (impact on Summer House). The second reason was also similar to the settlement policy/AONB designation reason (204514), but also made reference to the Sustainable Rural Housing Guidelines and to the more recent CDP (2004), both of which had been adopted in the interim. The Board considered that the applicant had not demonstrated that he came within the scope of the rural generated housing need criteria for an additional dwelling within the landholding, and as such would contravene the rural housing policies for the area.

## **5.0 Policy Context**

### **5.1. Development Plan**

#### **5.1.1 Policy framework at time of P.A. decision and lodgement of appeal**

5.1.1.1 At the time that the decision was made by the planning authority, the operative Development Plan was the Wicklow County Development Plan 2010-2016. The appellant’s agent (grounds of appeal) had noted that following this decision, the Draft CDP 2016-2022 had been adopted and was due to become effective from 11<sup>th</sup> December 2016, but that no final or interim version of the plan had been published at the time of the lodgement of the appeal. However, it is stated that reference is made in the grounds of appeal to policies and provisions taken from “the Draft document having regard to the published material amendments and the transcripts of Council meetings where the amendments were decided upon”.

5.1.1.2 The current Wicklow County Development Plan 2016-2022 has since been adopted and became effective on 11<sup>th</sup> December 2016. A Ministerial Direction was subsequently issued on the 14<sup>th</sup> February 2017 which directed the P.A. to amend Objective CCE6 with regard to the Wind Energy Strategy and Objective EMP12 with regard to retail/retail warehouse uses at Kilpeddar. The Development Plan as published on the P.A.’s website has incorporated these amendments. Thus the current Plan is the 2016-2022 Wicklow County Development Plan.

## 5.2 Wicklow County Development Plan 2016 - 2022

5.2.1 Chapter 3 sets out the Settlement Strategy for the county. There are 10 levels of settlement ranging from a single 'Metropolitan Consolidation Town' (Level 1 – Bray) through various levels of growth towns and smaller towns/villages to the rural area outside of designated settlements, 'The Open Countryside' (Level 10). The site is located in Level 10 and is adjacent to the southern suburbs of Bray to the east and to the Level 5 Growth town of Enniskerry to the west. Rural Housing Occupancy Controls apply in Level 10 as set out in Chapter 4 of the Plan (Objective HD23). It is stated in respect of Level 10 that

*Development within the rural area should be strictly limited to proposals where it is proven that there is a social or economic need to locate in the area. Protection of the environmental and ecological quality of the rural area is of paramount important and as such particular attention should be focused on ensuring that the scenic value, heritage value and/or environmental / ecological / conservation quality of the area is protected.*

5.2.2 The Settlement Strategy Objectives include the following:-

**SS4** – new housing development will be required to locate on designated housing land within the boundaries of settlements.

**SS7** – seeks to strengthen the established structure of villages and smaller settlements to support local economics and to accommodate additional population in a sustainable manner.

5.2.3 Chapter 4 sets out the housing strategy and policies relating to residential development for the county, including the rural housing policy objectives.

**HD23** – Residential development will be considered in the open countryside only when it is for those with a definable social or economic need to live in the open countryside.

16 no. criteria are set out which relate to the circumstances that will be considered.

The most relevant are considered to be Criteria 1, 2 and 3 the essence of which is:-

1. A permanent native resident seeking to build a house for his / her own family and not as speculation. A permanent native resident is defined as a person who has resided in a rural area in County Wicklow for at least 10 years

2. A son or daughter of a permanent native resident of a rural area, who can demonstrate a definable social or economic need to live in the area in which the proposal relates and not as speculation.
3. A son or daughter of a permanent native resident of a rural area, whose place of employment is outside of the immediate environs of the local rural area to which the application relates and who can demonstrate a definable social or economic need to live in the area to which the proposal relates and not as speculation.

**5.2.4** Chapter 7 sets out the Tourism and Recreation policies and Chapter 10 contains the Heritage policies including the Built Heritage and Natural Heritage/Landscape policies. The Goulding Pavilion within the site (the Summer House) is listed as a Protected Structure. The site is located within a designated Area of Outstanding Natural Beauty. A detailed description of the AONB is provided in Appendix 5 of the CDP. The Dargle River Valley which runs through the landholding is designated as a pNHA (1754). The River Dargle Valley is also listed as a Geological Site (59) and described as “A stretch of river meandering from a wide and flat valley into cascades.” It is stated to be of geological importance partly because of its dramatic gorge landform. View 7 (Schedule 10.14) is listed as a View of Special Amenity Value or special interest. This view is from Cookstown Road (to the west of Dargle Cottage) towards the Great Sugarloaf Mountain.

### **5.3 Sustainable Rural Housing Development Guidelines (DoECLG 2005)**

- 5.3.1** The site of the proposed development is located within an ‘Area Under Strong Urban Influence’. The guidelines require a distinction to be made between ‘Urban Generated’ and ‘Rural Generated’ housing need. Although not specifically defined, examples are given of the types of circumstances for which ‘Rural Generated Housing Need’ might apply. These include ‘persons who are an intrinsic part of the rural community’ and ‘persons working full time or part time in rural areas’.
- 5.3.2** The guidelines state, in respect of rural areas under Strong Urban Influence, that “the housing requirements of the rural community should be facilitated on the one hand, while on the other hand, directing urban generated housing development to

areas zoned for new housing in cities, towns and villages”. It is further stated that “development driven by cities and larger towns should generally take place within their built up areas or in areas identified for new development through the planning process.”

#### **5.4 Natural Heritage Designations**

5.4.1 The site is located directly adjacent to and partly within the Dargle Valley proposed Natural Heritage Area.

5.4.2 There are 13 no. European sites within 15km of the site.

Ballyman Glen cSAC - approx. 1.9km to North.

Knocksink Wood cSAC – approx. 1.9km to North-west

Bray Head cSAC – approx. 3.5km to East.

Glen of the Downs cSAC – approx. 5km to South.

Wicklow Mountains cSAC – approx. 5.1km to West.

Wicklow Mountains SPA – approx. 5.7km to West.

Rockabill to Dalkey Islands cSAC – approx. 9.9km to North-east.

The Murrough Wetlands cSAC – approx. 10.3km to South-east.

Dalkey Islands SPA – approx. 10.8 km to North-east.

The Murrough SPA – approx. 11.4km to South-east.

South Dublin Bay and River Tolka Estuary SPA – approx. 12.3km to North

South Dublin Bay cSAC – approx. 12.3km to North.

Glenasmole Valley cSAC – approx. 14.3km to North-west.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The first party appeal was submitted by John Spain & Associates on behalf of the applicant, James Ronan. The main points raised may be summarised as follows:

- 6.1.1 Compliance with Development Plan – the proposal fully accords with the settlement strategy and housing occupancy controls for the area. The appellant reiterates that he is a ‘Permanent Native Resident’ as he has lived in his parents’ home (Dargle Cottage) for over 10 years, and as such, complies with Criteria 1. Reference is made to the documentation submitted with the application which, it is claimed, substantiates this claim, and to further documents from the Revenue submitted with the grounds of appeal. A case is also set out to demonstrate that the applicant has a “housing, social and economic need” to live in the area. This is based primarily on the applicant’s (and family’s) business interests in the area (stretching from Bray to Enniskerry) and on his interests in the continued development of the gardens contained within the family landholding. It is further submitted that the applicant wants to get married and have children in due course and needs separate accommodation to that of his parents, and that none of the other properties within the landholding (Gate Lodge and summer house) are suitable or available to him.
- 6.1.2 Visual impact of development – it is submitted that following extensive consideration to the siting and location of the proposed dwelling, the optimal location was chosen. Reference is made to the landscape and visual impact assessment, photomontages and arboricultural report which had indicated that the location was “moderately sensitive” and that tree loss would be minimal. Reference was also made to sections of the Inspectors’ reports in respect of the two previous refusals by the Board (204514 and 236202), in which it is claimed there was a general acceptance of the design and scale of the dwelling. Notwithstanding these matters, the appellant proposes to revise the siting of the dwelling a further 10m to the southeast. It is stated that the revised location is outside the pNHA and would further minimise any potential negative visual or landscape impact. An updated landscape/visual impact assessment was submitted. Reference is also made to recent developments in the vicinity such as a 3-storey dormitory block at the adjacent language school (Dublin Oak Academy) to the southeast of the site.
- 6.1.3 Vehicular access – a revised proposal for vehicular access is now proposed, which would be from the R117 adjacent to the Gate Lodge (Drawing R026-100 Rev A). This is located within the blue line and the appellant has stated his willingness to accept a condition requiring full details to be submitted to the P.A. if the Board considers this to be necessary.

- 6.1.4 Wastewater Treatment – a revised Site Characterisation form was submitted with the appeal showing the proposed wastewater treatment system relocated closer to the dwelling (Drawing R026-102). The appellant is willing to accept a condition requiring full details to be submitted to the P.A.
- 6.1.5 Siting within a proposed Natural Heritage Area – Reference is made to a submission by the applicant’s agent regarding a NPWS report in respect of 03/8257, and to a specialist report by BES on the matter, which had been cited by the Inspector in 204514, whereby it had been acknowledged that the pNHA area had been incorrectly drawn. It was submitted that the boundary had included the gardens to the south of the river (by the summer house) and the gardens associated with the nursing home on the northern side of the river, but that following a NPWS survey of the Dargle Valley in 1993, it had been recommended that these two areas be omitted. It is claimed that although located in a different part of the site, the proposed development is still within the garden area and as such, would not impact on the ecological values of the site. Notwithstanding this, it is noted that the revised dwelling location would be outside of the pNHA boundary. A further statement by the applicant’s ecologist is also included which states that the revised location of the dwelling would have no adverse ecological impact on the pNHA.

## **6.2. Planning Authority Response**

- 6.2.1 The P.A. has not responded to the grounds of appeal.

## **6.3 Observations on the grounds of appeal**

### **6.3.1 John Ronan**

A submission from the applicant’s father, John Ronan, dated 19<sup>th</sup> December 2016, confirms that James has lived at Dargle Cottage since 1997 and still continues to live at the family home, Dargle Cottage. It is submitted that this is well in excess of the 10 consecutive years required by the P.A. The submission is accompanied by written confirmation from Wicklow Co. Co. that James Ronan has been registered to vote in Enniskerry since he turned 18 years old, which it is stated proves that he has resided at Dargle Cottage for at least 10 consecutive years.

### 6.3.2 W.B and M.M. Somerville

This observation was submitted by occupants of Dargle Hill, Enniskerry (19/12/16).

The following is a summary of the main points made:-

1. The revisions contained in the appeal should properly form part of a fresh or revised planning application. These revisions relate to the revised siting of the dwelling and the effluent treatment system and to the revised vehicular access.
2. The current Development Plan which came into effect on 12<sup>th</sup> December 2016 should be taken into account.
3. The observers take issue with much of the appeal submissions regarding compliance with the rural settlement policy. Much of the submission reiterates or references the observations made in respect of the planning application.

However, some additional points were made as follows:-

- The appellant should be required to produce P60s as opposed to P21 documents from the Revenue Commissioners as they do not have the same evidential value as the contemporaneous evidence for the relevant tax year provided by a P60. The P21s can be applied for at a later date, which appears to be the case in this instance.
- The appellant fails to mention two other properties in the ownership of the family. Firstly, it is submitted that Dargle Lodge, which is directly adjacent to (and former gate lodge for) Dargle Cottage on Cookstown Road, is currently rented out. Secondly, a substantial dwelling to the north of Dargle Vale Nursing Home on the R117, close to Cookstown road junction, it is submitted has been purchased by the applicant's father and refurbished and rented out.
- Reference is made to the appellant's claim for economic need relating to a planning application for a hotel development on a large site opposite the proposed entrance to the site of the appeal. It is suggested that should planning permission be granted for the hotel and should the appellant become the manager of this hotel, the substantial dwelling at St. Valery House (which it is claimed is also owned by the

family) could provide alternative accommodation to that currently proposed.

4. Visual amenity - The P.A. refusal reason relating to the setting and visual amenity is fully supported. It is not accepted that the development would have an “imperceptible” impact from Cookstown Road or from Lover’s Leap or the Summer House. Neither is it accepted that the woodland planting would be robust enough to screen the development. The revised siting of the dwelling is considered to be of little consequence. The proposed development would also have an impact on Knockmore House and Gardens, which are open to the public in the summer.
5. Vehicular entrance - No site notice was erected at the entrance from R117, which should have been the case even if the entrance was to be used only for emergency access/construction access.
6. Effluent treatment – the proposed system at 140m from the dwelling is inappropriate and does not comply with the councils’ requirements. It is unclear as to whether the proposal is to incorporate a reed bed or a soil polishing filter.
7. Proposed Natural Heritage Area – the revised siting of the dwelling would still result in the dwelling being directly adjacent to the pNHA and would still impact upon it.

## **7.0 Assessment**

7.1. It is considered that the main issues arising from the appeal are as follows:-

- Compliance with Rural Housing Policy
- Design, Visual Impact and Landscape Impact
- Impact on proposed Natural Heritage Area
- Appropriateness of vehicular access
- Adequacy of wastewater treatment system
- Appropriate Assessment



## **7.2. Compliance with Rural Housing Policy**

- 7.2.1 The current settlement strategy for Wicklow is clearly set out in the recently adopted Development Plan for the area (2016-2022) and summarised in 5.2 above. The overall approach of the strategy is to require new housing development to locate within existing settlements and to strengthen the structure of settlements in order to support local economies and to accommodate additional population in a sustainable manner. It is acknowledged that there is a significant level of commuting to Dublin but the strategy seeks to reverse this trend. There is a strong emphasis on creating sustainable and walkable communities. It is considered that this settlement strategy is in accordance with the Sustainable Rural Housing Guidelines and with the Update of the NSS (2010) which identified a need to reduce urban generated commuting patterns and Green House Gas emissions by creating more sustainable communities and travel patterns. This approach is also consistent with many other current Government policies on adaptation to climate change and transportation strategies including the recently published draft National Planning Framework which seeks to promote sustainable settlement and transport strategies.
- 7.2.2 The site is located within the open countryside (Level 10) where strict restrictions apply to new housing development. It is however, within close proximity of Bray (Level 1 Growth Town) and of Enniskerry (Level 5 Growth Town), neither of which have restrictions on housing occupancy. It is also within easy reach of Dublin being within a few hundred metres of the N11 and close to the boundary with Dun Laoghaire Rathdown. Thus the site is clearly within an Area Under Strong Urban Pressure where the policy framework actively seeks to direct pressure for new residential development to the nearby established settlements.
- 7.2.3 The Board has considered two similar developments on the family landholding and in each case, has refused planning permission for two reasons. These were based firstly on excessive scale and associated adverse impact on the Summer House and secondly on the failure to comply with the rural housing policy. The appellant has quoted sections of the Inspectors' reports in this regard, wherein it is claimed that the principle of an additional house on the landholding had been accepted. However, it should be noted that the Board did not agree and have refused permission on settlement policy grounds, with particular reference to the location of the site in an Area Under Strong Urban Pressure and an AONB. In this regard, the first application

was submitted by the current appellant's father, (204514), and neither the Inspector nor the Board accepted that it constituted a "replacement dwelling" for Dargle Cottage. In respect of the second appeal, (236202), the Board was not satisfied that the applicant (same applicant as current appeal), came within the scope of the rural generated housing need criteria for an additional dwelling within the landholding.

7.2.4 In respect of P.A. Ref. 09/1007 (ABP Ref. 236202), I note that the planning authority reports had pointed out that the issue of an additional house on the lands had been ruled out when the applicant's father had sought to construct 'Casino House' as a new centrepiece to the entire demesne. Planning permission was granted for Casino House on condition that no other house was erected on the overall landholding of 60 acres and that a previous permission for replacement of Dargle Cottage would not be implemented. Subsequently, the permission for Casino House had lapsed, a further permission for the extension and alteration of Dargle Cottage had been granted and implemented, the Summer House had been refurbished and the applicant (or his father) had tried, unsuccessfully, to obtain permission for a further (substantial) dwelling on the landholding.

7.2.5 Since the most recent Board decision, (2010), there have been some subtle but important changes in the rural housing policy framework. However, it is worth noting at the outset that the site is still located within an Area Under Strong Urban Pressure and is still within an AONB, whereby the policy is to restrict further housing development to that required to established local housing need. Under Policy SS9 of the 2010 Wicklow CDP, it was necessary to establish that residential development in the countryside constituted a "necessary dwelling" in accordance with a number of circumstances. Under this policy, a 'Permanent Native Resident' was defined as "*A person who was either born or reared in the family home, in the immediate vicinity or had resided in the immediate environs for at least 10 consecutive years prior to the submission of the application*".

7.2.6 Under the current policy, (2016), there is a new emphasis on a "social or economic need to locate in the area". The Settlement Strategy (Chapter 3, Level 10) clearly states that "*Development within the rural area should be strictly limited to proposals where it is proven that there is a social or economic need to locate in the area.*" This is also reflected in Policy Objective HD23 which states "*Residential development will be considered in the open countryside only when it is for those with a definable*

*social or economic need to live in the open countryside*". The definition of a permanent native resident has also changed to "a person who has resided in a rural area in County Wicklow for at least 10 years in total ... or resided in the rural area for at least 10 years in total prior to the application for planning permission."

7.2.7 The applicant/appellant has submitted further evidence in support of his case that he has a rural housing need. Specifically, he is seeking to establish firstly that he qualifies as a 'Permanent Native Resident' in that he has resided at Dargle Cottage for at least 10 consecutive years prior to the submission of the application, and secondly, that he has an economic and social need to live on the landholding/in the area. The documentation includes letters from a local GP, a local Parish Priest, Powerscourt Golf Club, The Revenue and Bank of Ireland and some current bank account statements. It is noted that similar documentation was submitted in support of 09/1007, which the P.A. (and the Board under 236202), had considered was inconclusive, as it could not be confirmed that the applicant had permanently resided at Dargle Cottage for 10 consecutive years. Other matters which the P.A. had taken into account, at that time, were the fact that Dargle Cottage was not the family's only home, that the applicant was a 21 years old third level student in DIT and a single person, and that as such, the scale of the dwelling was considered to be excessive.

7.2.8 In the meantime, the applicant is now 28 years old, has graduated from college and is now working in Dublin City Centre. Further documentation has been submitted with the appeal in the form of Revenue P21 forms. I note that the P.A. and the Observer considered that P60s would have been more reliable as P21s can be applied for at a later stage, and thus do not provide as strong contemporaneous evidence. Whilst the documentation indicates that the applicant has had an address at this location for much of the period in question, I would agree with the P.A. that it remains inconclusive as to whether he currently, or in recent years, resides there and in particular, during the past 10 consecutive years.

7.2.7 Should the Board disagree with the above analysis and consider that either the applicant or the landowner qualifies as a 'permanent native resident', it is considered that the applicant must also establish a definable social and/or economic need to live in the area. I am not convinced by the arguments set out in the grounds of appeal that the applicant has such a need. Even if it were to be accepted that the applicant has such a need to reside locally, there are many other alternatives available to the

applicant. These include other houses within and adjoining the landholding, which although of a more modest scale, would be likely to fulfil such a need. I note, for example, that there were two houses currently for sale immediately adjoining the entrance to the site (accessed from Kilcronely Lane). The proximity of the site to established settlements with excellent public transport systems such as Bray and much of South County Dublin and to Enniskerry village, are also relevant considerations. I am not satisfied, therefore, that the applicant comes within the scope of the rural generated housing need criteria for an additional dwelling at this location.

- 7.2.8 In light of the fact that the site is located in an Area Under Strong Urban Pressure and an AONB, wherein the policy framework seeks to strictly control single houses in the countryside, to protect the county's pristine landscapes and to direct urban generated housing to established settlements, it is considered that the proposed development would contravene the Rural Housing policies set out in the guidelines and in the current Development Plan for the area.

### **7.3. Design, Visual Impact and Landscape Impact**

- 7.3.1 The scale of the proposed dwelling is quite substantial. It is three storeys high with a floor area of 510m<sup>2</sup> and a deep plan layout. The design is also quite unusual being described as a "Gandon unexecuted neoclassical design" and has the appearance of a grand country house. However, the landholding is also quite substantial and is partly wooded and there are many such large sites/demesnes with wooded sections and large country houses in the general vicinity. Thus in terms of the capacity of the landscape to absorb a dwelling of substantial scale, it is considered that in theory, the design and scale of the structure would not necessarily be out of place. Notwithstanding this however, the site is located within an Area of Outstanding Natural Beauty and is perched above a steep sided wooded river valley (a pNHA), which gives way to a deep gorge to the west and incorporates an internationally renowned Protected Structure on the banks of the river to the east.
- 7.3.2 The site's prominent location, combined with the large size, scale and design of the proposed dwelling, provide the potential for significant impacts on the visual amenities of the area, which are particularly sensitive due to the AONB designation and the location of a Protected Structure within the landholding. The appellants

submits that the potential visual impact on both the AONB and the PS would be mitigated by existing and proposed vegetation and in particular, by a small number of existing mature trees immediately to the north of the site. It is considered, however, that the more prominent and elevated location of the proposed dwelling would significantly increase the potential for the structure to be visible from outside the site, compared with the low-lying sites of the previous schemes. However, the Landscape and Visual Impact Assessment (MosArt) indicates that there would be an imperceptible impact on the Cookstown Road and Lover's Leap due to the presence of a number of trees in the foreground. This potential impact would be further reduced, it is stated, by the revised siting of the dwelling, 10m further away from the edge of the river valley.

7.3.3 It is considered that the siting of the dwelling upslope and at a distance of over 100m from the Summer House, together with the intervening vegetation, significantly reduces the impact of the proposed dwelling on the Protected Structure compared with the previous schemes considered by the Board, (204514 and 236202). I would also agree that the woodland vegetation to the north of the proposed dwelling would effectively screen the structure from outside of the site. I would, however, share the concerns expressed by the planning authority regarding the reliance on a small number of trees for screening and the possibility that these trees could be lost or damaged due to storms and/or construction work. When visiting the site, I noted that part of an existing gum tree to the north-east of the dwelling site had been lost during a recent storm. I also noted that the principal screening trees consist of 3 no. Douglas Fir trees. I would be concerned that these trees could be particularly vulnerable to loss or damage due to their slender, upright stature, their location on the edge of a rocky steep slope and due to the fact that the ecological restoration/management plan for the woodland area is to gradually replace conifer trees with more indigenous species. They are also located in very close proximity to the footprint of the proposed building, (approx. 10m)

7.3.4 Should the existing mature trees to the north be lost or damaged, they would be difficult to replace and it would take many years for the screening effect to be reinstated. It is considered that in the absence of the screening effect of these trees, the height, scale, bulk and mass of the proposed dwelling, would detract from the landscape and visual amenities of the area and from the setting of the Protected

Structure. I am not convinced, therefore, that effective and reliable screening could be provided to justify the siting of such a large scale building in a prominent location in a highly sensitive landscape, which is designated for protection, or that adequate efforts have been made to find a more secluded location within the large landholding.

#### **7.4. Impact on proposed Natural Heritage Area**

7.4.1 The appellant dismisses the P.A's fifth reason for refusal on the grounds of the arguments put forward by the Inspector (204514), which were based on a report by Biosphere Environmental Services (referred to as the BES report). This was, in turn, based on a survey carried by the NPWS in 1993 which had excluded Dargle Cottage and the "manicured lawns/gardens" associated with the house and the Summer House. The appellant claims that as the site of the current appeal is also located within the gardens, the same arguments should apply. However, I have reviewed the BES report which was submitted with the grounds of appeal in respect of 204514, (and was prepared for Mr. John Ronan, copy attached to this report), and note that the area that was recommended to be excluded was in fact further to the east, around Dargle Cottage.

7.4.2 The revised location of the proposed dwelling, a further 10m to the south-east, removes the structure from within the boundary of the pNHA. It would, however, be directly adjacent to it and the proposed dwelling would tower over the valley below. Its value is stated in the NPWS 1993 Survey document as being

"a superb example of scenic semi natural woodland valley...[which] contains mainly very mature Oak, also Birch, Beech, Holly, Hazel, Laurel etc. Mature conifers occur in some pockets including Douglas, Sitka, Contorta and Scots".

The Ecology report (Faith Wilson) submitted in support of the current proposal identified potential impacts on the pNHA which included damage to retained trees and the destabilisation of the stand with the loss of mature and understorey trees arising from site clearance works in the absence of protective mitigation measures. It is stated that

"there have been both historic and recent land slips in the Dargle Glen and the stability of these slopes is generally poor" (5.1.1).

7.4.3 The Ecologist proposed standard sediment control measures, minimisation of site disturbance and the avoidance of excessive cut and fill, the unnecessary clearing of

vegetation and the preservation of existing drainage patterns. However, the detailed mitigation in terms of the stability of the slope was said to be addressed in the Tree Survey report and in the Engineering Design report. The tree survey report refers to standard tree protection measures for a construction site. The Cronin Sutton Engineering report refers to limitation of the clearance of trees to the footprint of the house and to the use of piled foundations to support the super structure of the house. It is stated (9.2)

“The pile foundations shall penetrate the ground to a suitable load bearing soil strata and below any potential ground slip planes, thus removing any impact of the new structure on the valley slope. A detailed site investigation will be performed on site with any additional ground stability measure accounted for in the design.”

7.4.4 The site of the proposed dwelling is on steeply sloping ground, whereby the levels drop sharply by up to 10m. The ground levels rise steeply behind the site and fall steeply to the track above the river (approx. 25m below) and fall steeply again to the river channel (approx. 25-30m below the track). Given these particularly challenging site conditions, the scale of the proposed structure and the historical occurrences of land slippage in the Dargle Glen, it is considered that there is a significant potential risk to the woodland and the water quality of the river, (which is a designated salmonoid watercourse). It is considered that the mitigation measures proposed by the appellant have not addressed the issue of land slippage. There is, therefore, the potential for negative impacts on species and habitats listed in Annex I and II of the Habitats Directive and Annex I of the Birds Directive within the river and downstream (as set out in the Ecologist Report).

7.4.5 I would, therefore, agree with the Planning Authority’s fifth reason for refusal in this instance, but note that the relevant policy is now NH5, (2016 CDP), which is to maintain the conservation value of all proposed and future NHAs.

## **7.5 Appropriateness of vehicular access**

7.5.1 The P.A.’s third reason for refusal noted that no details had been provided of any vehicular access for the construction and/or operational phases of the development, and considered that the proposed pedestrian access from the proposed parking area at Kilcrouney Lane was inadequate due to the 200m separation distance and the steeply sloping nature of the access. I would agree with this assessment and

consider that the proposed pedestrian access was neither practical nor feasible as a permanent solution to the vehicular access to the site. The appellant has responded by proposing to provide vehicular access (operational and construction phases) via the existing site entrance from R117 and a wayleave through the landholding that is in the ownership of the appellant's father. This will necessitate the upgrading and widening of the existing track within the red line boundary.

- 7.5.2 At present there is a track which leads from the gated entrance at the R117 to the stables. It is likely that the existing track would need to be upgraded/widened on the section approaching the stables, but these works are likely to be fairly minimal. The track currently travels under an arch within the stable complex and thereafter peters out to a woodland track on unmade ground. There is an alternative track route but this is quite steep and narrow. This part of the proposed access would, therefore, require more substantial upgrading works. The Cronin Sutton Report (30/11/16) states that this will be undertaken using a "cellweb" tree root protection system. It is considered that should the Board be minded to grant permission, an appropriate condition requiring the submission of further details on the means of access through and beyond the stables complex should be attached to any such permission.
- 7.5.3 The proposed access point is located on a regional road and is within close proximity to the N11 off-ramp. However, it is an existing, established entrance which currently provides access to the Gate Lodge, the Summer House and associated gardens and to the stables/horse riding area. It has good sightlines in an easterly direction and the sightlines to the west could be improved if necessary as the lands are in control of the applicant's father. No details of the availability of sightlines have been provided. However, the Board did not consider access via this entrance to be an issue in the previous refusals. Notwithstanding this, the proposed access from the R117 is outside the red line boundary. It is considered therefore that should the Board be minded to grant permission, a condition requiring full details of the access to be submitted to the planning authority for approval, including any works deemed necessary to improve sightlines at the entrance, should be attached to any such permission.



## **7.6 Adequacy of wastewater treatment system**

- 7.6.1 The grounds of appeal have indicated that the appellant is prepared to relocate the proposed wastewater treatment system has been relocated closer to the proposed dwelling. It would now be located within 100m of the dwelling house. A revised Site Characterisation form was submitted. It is indicated that following treatment in the proposed unit, a Oakstown BAF 8 PE, the treated effluent would be discharged to a Sand Polishing Filter over a gravel distribution layer before disposal to the subsoil.
- 7.6.2 It is considered that, given the reasonably good percolation characteristics of the soil and the size of the landholding, the proposed development can be serviced by means of the proposed individual wastewater treatment system. Should the Board be minded to grant permission, it is considered that an appropriate condition should be attached requiring submission of the details of the revised system to the planning authority prior to commencement of development.

## **7.7 Appropriate Assessment**

- 7.7.1 The site is located within 15km of thirteen Natura 2000 sites. These are listed at section 5.4.2 above. A Screening Report for Appropriate Assessment (prepared by Faith Wilson Ecologist) was submitted with the planning application. The closest sites were found to be the Ballyman Glen SAC (1.9km to north) and the Knocksink Wood SAC (1.9km to the northwest). It was noted that no Natura sites lie within or directly adjacent to the Dargle Glen and that there are no hydrological links between the site and any Natura 2000 sites. It was concluded that there is no likelihood of any significant effects on any of the European sites identified as being within 15km.
- 7.7.2 Given the distances involved, and the nature and extent of the proposed development, it is considered that no appropriate assessment issues are likely to arise.

## **8.0 Recommendation**

- 8.1. It is recommended that planning permission be refused for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

- 1 The site is located in an Area Under Strong Urban Influence, as designated in the Sustainable Rural Housing Guidelines and in an Area of Outstanding Natural Beauty, as designated in the County Development Plan, within the Dargle River Valley. It is the policy of both documents to restrict further housing development to that required to such established housing need. On the basis of the information submitted in connection with the planning application and appeal, the Board is not satisfied that the applicant comes within the scope of the rural generated housing need criteria for an additional dwelling within the landholding at this location. The proposed development would, therefore, be contrary to the policies set out in the Guidelines and the development plan and would be contrary to the proper planning and sustainable development of the area.
- 2 Having regard to the prominent location of the site on a steeply sloping wooded valley overlooking the Dargle River Valley, which is designated as an Area of Outstanding Natural Beauty and a proposed Natural Heritage Area, the landscape of which it is an objective to preserve in the current Wicklow County Development Plan 2016-2022, the Board is not satisfied that the proposed dwelling, by reason of its scale, height, bulk and mass and the over-reliance of the proposal on a number of existing mature trees to the north for screening, would not result in a dominant and intrusive feature in this highly sensitive landscape which includes a Protected Structure, and would, therefore, result in serious injury to the landscape and visual amenities of the area.
- 3 Having regard to the location of the site on the edge of the Dargle River Valley pNHA, the proposed dwelling, by reason of its siting, scale and design would be contrary to Policy NH5 of the Wicklow County Development Plan 2016-2022, to maintain the conservation value of all proposed NHAs in County Wicklow.

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**Mary Kennelly**  
**Planning Inspector**  
**9<sup>th</sup> March 2017**

