



An
Bord
Pleanála

Inspector's Report PL27.248023

Development	House, wastewater treatment plant and gravity soil polishing filter.
Location	Killegar, Enniskerry, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	16/1305.
Applicant(s)	Jade Morton.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Jade Morton.
Observer(s)	None.
Date of Site Inspection	12 th May 2017
Inspector	Fiona Fair.

1.0 Site Location and Description

- 1.1. The appeal site (0.477 ha) is situated within the larger landholding associated with Valley View Stud at Killegar, Enniskerry, Co. Wicklow. The townland of Killegar lies approx. 2 Km north of Enniskerry.
- 1.2. It is located on the northern side of a private laneway which forms a junction with the LS008 local road approx. 60m to the north west of the existing entry to the Livery yard. The site has an irregular triangular shape.
- 1.3. The appeal site has a frontage of approx. 68m to the existing laneway. The southern boundary is characterised by an earthen embankment with hedging and an existing access point to the site is located at the western end of the site's southern boundary. This entrance leads to a gravel driveway which runs along the north-western boundary of the site and provides direct access to Valley View Stud, which is located to the north-east of the subject site.
- 1.4. There are a number of dwellings located within the site's surrounds, with single storey dwellings located on the southern side of the private laneway. The private laneway provides access to five number dwellings. The neighbouring dwelling located directly to the east had a 'for sale sign' at the time of my site visit.

2.0 Proposed Development

- 2.1. The proposal comprises the construction of:
 - A single storey three-bedroom dwelling (199 sq. m)
 - A waste water treatment plant and gravity soil polishing filter,
 - Alterations to site levels,
 - Alterations to existing site access,
 - Works to existing entrance,
 - Landscaping and associated site works
- 2.2. The following was submitted with the application:
 - A Rural Design Statement and Visual Impact Assessment

- Letter of consent from Paul Morton of Kilternan, D 18 (owner of the site)
- Letter of consent from Roisin Starkey to proposed modification to the existing entrance which requires modifications to the boundary of her land.
- Landscape Design Proposal
- Cover Letter which sets out:
 - Ms Morton is the owner and manager of Valley View Stud, established purpose built private livery yard.
 - Valley View Stud has operated in this location since 2012
 - Ms Morton is required to travel to the farm on a daily basis
 - Presence throughout the night is often required.
 - There has been a number of ABP decision within the surrounds of the subject site which create a precedent for the establishment of a dwelling
 - The applicant qualifies for a single rural house in accordance with Section 6.3.2 of the WDD CDP 2010 – 2016 as she is the owner and operator of an established Livery business.
 - The area has become synonymous with the breeding and training of livestock and Valley view Stud has made and continues to make a valuable contribution to the local economy.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was Refused by way of four number conditions summarised as follows:

1. The proposed development would not represent a necessary dwelling in this Landscape designated 'Area of Outstanding Natural Beauty'(AONB,) contrary to the provisions of Section 10.3.9 of the County Development Plan 2016-2022. It is considered that the applicant does not come within the scope of the

housing need criteria as set out under Objective NH23 of the County Development Plan.

2. The proposed development would endanger public safety by reason of serious traffic hazard because:
 - a) lack of appropriate sightlines at the site entrance and lack of sightlines the junction of laneway with the L5008 road and
 - b) the proposed development would generate additional traffic movement on a narrow local public road, which is substandard in width and alignment and is served by an extremely substandard junction with the R117 road.

3. The proposed development is located in an area, which is designated as a landscape Area of Outstanding Natural Beauty. The development by reason of its location on an elevated and exposed site, coupled with the loss of existing hedgerow/trees to allow for the development would materially detract from the character of the area and seriously injure the visual amenities of the area. The development if permitted would set an undesirable precedent for further similar developments, would conflict with the preservation and protection of the scenic amenities of the area and the objectives of the County Development Plan.

4. The proposed development would represent consolidation of un-authorized development on this site, having regard to the existing livery yard/stables development on site for which no permission exists the provision of such a form of development unduly impacts on the amenities of the area, public health, the amenities of adjoining properties, undermines the planning regulations and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. The Planners Report raises concerns with respect to the applicants need to live in the rural area and compliance with housing need criteria as set out in the County Development Plan. Concern is raised with respect to hedgerow removal given the location of the site within a designated landscape Area of Outstanding Natural

Beauty. Concern is also raised with respect to sightlines with the junction of the access lane and unauthorised nature of the stables/livery/stud/riding yard which has been developed on the applicants landholding.

3.2.2. Other Reports:

EHO: No objection subject to condition

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Objection submitted to the planning authority which raises traffic safety concerns and submits that the drawings submitted do not accurately depict the roadway.

4.0 Planning History

4.1. **Reg. Ref.11/4868** Permission was Refused for alterations to site levels and erection of single storey house with detached garage, 4 number stables and effluent storage facility, bored well, Balmoral CAP 6 wastewater treatment system with soil polishing filter and ancillary site works including new vehicular gateway at Killegar Eniskerry, Co. Wicklow to Jade Morton.

The three reasons for refusal are summarised as follows:

1. Endanger public safety by reason of serious traffic hazard
2. Not represent a necessary dwelling in this landscape designated AONB contrary to policy
3. Materially detract from the character of the area and seriously injure the visual amenities of the area.

4.2. **Reg. Ref.11/4513** Permission was Refused for alterations to gateway and site levels, erection of a single storey house with detached garage, 4 no stables and effluent storage facility, bored well, Balmoral CAP 6 wastewater treatment system with soil polishing filter and ancillary site works. The four reasons for refusal are similar to the reasons for refusal in the subject case notification of decision to refuse.

- 4.3. **Reg. Ref. 97/6175** Outline Planning permission refused for dwelling and septic tank to John Starr
- 4.4. **Reg. Ref. 88/3901** Planning permission Refused for dwelling and septic tank to John Marshall
- 4.5. **Reg. Ref. 90/6542** Permission granted for alterations to and provision of extensions and septic tank to Rosern Cottage located to the northeast of the appeal site.

5.0 **Policy Context**

5.1. **Sustainable Rural Housing Guidelines for Planning Authorities**

The guidelines refer to criteria from managing rural housing requirements while achieving sustainable development. Among the policy aims identified for sustainable rural housing are

- Ensuring that the needs of rural communities are identified in the Development Plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas at appropriate location necessary to sustain rural communities is accommodated.
- Expanding on the rural policy framework set out in the National Spatial Strategy, the Guidelines provide that the people who are part of the rural community should be facilitated in the planning system in all rural areas, including those under strong urban based pressures. The principles set out in the Guidelines also require that new houses in rural areas be sited and designed to integrate well with the physical surroundings and be generally compatible with:
 - The protection of water quality and the arrangements made for on-site wastewater disposal facilities.
 - The provision of a safe means of access in relation to road and public safety.
 - The conservation of sensitive sites such as natural habitats, the environs of protected structures and other aspects of heritage.

5.2. Development Plan

The site is governed by the policies and provisions contained in the Wicklow County Development Plan 2016-2022. The following sections of the Plan are of relevance and excerpts from the Plan are attached as an Appendix to this report

Chapter 4 Housing – Housing in the Open Countryside

The appeal site is located outside of the designated boundaries of the settlement identified in Level 1 – 9 of the Rural Settlement Hierarchy and is, therefore, considered a rural area, which is subject to the requirements of Objective HD22 and HD23

Objective 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.

The following circumstances are of relevance to the subject appeal case.

5. A person whose principal occupation is in agriculture and can demonstrate that the nature of the agricultural employment is sufficient to support full time or significant part time occupation.

7. A person whose principal occupation is in a rural resource based activity (i.e. agriculture, forestry, mariculture, agri-tourism etc.) can demonstrate a need to live in a rural area in order to carry out their occupation. The Planning Authority will strictly require any applicant to show that there is a particular aspect or characteristic of their employment that requires them to live in that rural area, as opposed to a local settlement.

11. Persons whose work is intrinsically linked to the rural area and who can prove a definable social or economic need to live in the rural area

14. A person whose business requires them to reside in the rural area and who can demonstrate the adequacy of the business proposals and the capacity of the business to support them full time.

Chapter 10 Heritage

Section 10.3 Natural Heritage and Landscape

Objective NH19 To encourage the retention, wherever possible, of hedgerows and other distinctive boundary treatment in the County. Where removal of a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, provision of the same type of boundary will be required of similar length and set back within the site in advance of the commencement of construction works on the site (unless otherwise agreed by the Planning Authority).

The proposed development is located in an area, which is designated as a landscape Area of Outstanding Natural Beauty (AONB), which encompass those areas which are most vulnerable and sensitive, and are considered to be of greatest scenic value as set out in County Development Plan 2016 –2022.

Section 10.3.9 Wicklow's Landscape

Objective NH49 and Objective NH50

5.3. Natural Heritage Designations

The site is not located within or immediately adjacent to any Natura 2000 site. Knocksink Wood SAC is located approx. 0.6 Km to the south west and Ballyman Glen SAC is located approx. 2 Km to the east.

6.0 The Appeal

6.1. Grounds of Appeal

Background

- Appeal sets out a description of the site, a description of the proposed development and the planning history of the site.

Compliance with Policy

- The applicant Ms Morton is the owner and manager of Valley View Stud, which is an established, purpose built livery yard, in operation since 2012

- The applicant complies with the qualifying criteria for a single rural house as per section 4.4 of the Wicklow CDP 2016 – 2022 as she is the owner and operator of an established livery business.
- The proposal is in accordance with Objective HD23 of the Wicklow CDP 2016 – 2022
- Applicant has a need to reside close to her livery business, in particular, during foaling season.
- A letter has been provided by Quinlan & Co. Chartered Certified Accountants which confirm that Ms Morton is the full and sole owner of the Stud
- Ms Morton is a sole trader and is the only beneficiary of the income generated from her business
- Confidential trading details are provided showing both the total income and the net profit / loss generated for the last three years of trading (2014, 2015, 2016)
- The business supports Ms Morton full-time and is a sustainable business which will allow her to live off the land for the foreseeable future.
- Solicitors Letter has been submitted confirming that the applicant is not the registered owner of any residential property at this time.
- Ms Morton resides at Echo, Ballycorus Road, Shankill, Dublin 18 the dwelling she has lived in her entire life with her family
- The dwelling is located approx. 2.5Km from the appeal site
- Ms Morton has a bona fide need to reside at this location and the submitted information demonstrates her bona fide economic ties to the land.
- Birth certificate confirms the address of her family home
- Letter from Kilternan Church of Ireland NS which confirms the applicant's attendance as pupil between sept 1994 – 2002
- N.S. is located within 3Km of the appeal site
- Committed to entering into a section 47 agreement with the Council

Precedent Set in the Area

- Precedent has been set by An Bord Pleanala for the establishment of a dwelling at this location
- PL27.230699 (Reg. Ref. 07/2539). Permission granted on appeal, overturning the Council's decision, for a dwelling on lands located on the same private laneway as the subject site.
- Reg. Ref. 09/308 / PL27.235014 An Bord Pleanala overturned WCC's decision and granted permission for demolition of existing timber dwelling and construction of a dormer dwelling and garage with all associated site works.
- Precedent decision PL06D.246501 in Dun Laoghaire Rathdown County Council is of relevance. ABP Overturned the Council decision and granted planning permission for a three storey stable / accommodation building to include a total of 160 horse box units, 36 studios for staff, internal and external tracks and viewing areas, an agricultural shed of 2500 sq. m, a parade circle, equine pool and exercise track.
- Valley View stud has made and continues to make a valuable contribution to the local economy

Traffic Hazard

- The proposal has been designed to ensure it would not endanger public safety by reasons of traffic hazard.
- Modifications to the existing site entry are proposed
- It is proposed to set back the existing entry by 5m from the private lane
- Existing earthen embankment and wall along the southern boundary to the east of the entry will be repositioned reinstated to the north, thereby providing sight lines to the south-east along the private laneway (distance of 26m)
- The southern boundary on the adjoining field to the north west of the entry is also proposed to be repositioned to the north providing sightlines to the north west of 16.5m
- A letter from Roisin Starkey, Vixen Lodge, Killegar (adjoining property owner) consenting to the proposed works has been submitted

- Reg. Ref. 09/308 / PL27.235014 is of relevance where ABP determined that traffic safety would not be compromised by a grant of permission and the existing entrance should be retained.
- Transport Insights, Transport Planning Consultants undertook an independent review of the proposal – supported by a traffic survey on the adjoining L5008, a site assessment, trip generation analysis and a related assessment of its traffic impacts.
- Speed limit of the L5008 is very low approx. 30 Km / h
- Very low levels of traffic on the road
- The proposal would result in a very small amount of additional trips estimated at an additional 17 trips per weekday on the L5008 travelling north and an additional 5 trips per weekday on the L5008 travelling south.
- The development would result in a weekday reduction of 10 trips by the applicant herself.

Visual Impact

- Proposal has been the subject of a carefully considered architectural response and is in accordance with the relevant policies contained within Section 10.3.9 (Wicklow's landscape) and Appendix 2 (Design Guidelines for new Homes in Rural Wicklow)
- The dwelling has been designed to complement the character of its surrounds
- No concerns of design, scale and siting have been raised
- No trees along the boundary are proposed to be removed, the existing boundary wall will be relocated and reinstated, boundary treatment will be reinstated, concerns unfounded

Existing Development at Valley View Stud

- The existing established use is in accordance with the exemption criteria for exempted development and does not unduly impact the amenities of the area, public health, the amenities of adjoining properties, undermine the planning regulations and or the proper planning and sustainable development of the area.

- The existing use falls within definition of agriculture as outlined in section 2 (1) of the Planning and Development Act 2000
- The stables and shed have been constructed in accordance with Class 6 and Class 10 of the Planning and Development Regulations 2001
- Letter of consent has been submitted by the owner of the house within 100m of the shed located to the south of the stables at Valley View Stud
- The determination by the planning authority that the stables are unsuitable on traffic safety grounds is unsupported due to a variety of factors, incl. very low traffic speeds and volume on the road, low traffic generating characteristics of the stables and collision rates on the road network.
- PL.06DRL.3363 where the Board over ruled the local authority and concluded that the development was exempt. Question related to ‘whether the erection of an unroofed fenced area for the exercising or training of horses / ponies and a drainage bed or soft surface is or is not development or exempted development at the former Kilternan Golf and Country Club.’
- The area has become synonymous with the breeding and training of livestock

Appeal accompanied with:

- A Letter of consent from Roisin Sharkey, Vixen Lodge, Killegar (adjoining property owner) to modifications to the boundary.
- Letter from Quinlan & Co. Chartered certified accountants, dated 7th February 2017, setting out the applicant’s economic ties to the area.
- Letter from McCartan & Burke Solicitors confirming that the applicant Jade Morton does not own any residential property at this time, dated 7th Feb 2017.
- Letter from Kilternan Church of Ireland N.S. stating that the applicant was a pupil at the school from sept 1994 to 2002.
- Birth Certificate for Jade Morton indicating home address as ‘Echo’ Ballycorus Road Shankill, Co. Dublin.
- Transport Technical Note dated 14th Feb 2017 from Transport Insights Ltd.
- A Letter from Landscape Design Landscape Architects

- A Photographic schedule of Valley View Stud
- Letter of consent from Ciaran O'Neill to construction of an agricultural shed to the rear of his property.

6.2. **Planning Authority Response**

- No response received.

7.0 **Assessment**

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

- **Principle of the Development and Compliance with Policy**
- **Access and Traffic Safety**
- **Visual Impact**
- **Other Issues**
- **Appropriate Assessment**

7.1. **Principle of the Development and Compliance with Policy**

- 7.1.1. The appeal site is governed by the policies and provisions contained in the Wicklow County Development Plan 2016-2022. The site is located in Level 10 'Open Countryside' / 'The Rural Area', therefore, the rural housing policies apply and the applicant must qualify for special consideration in accordance with Objective HD23 of Chapter 4 of the Plan. Objective HD23 sets out that '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.'

- 7.1.2. The proposed development is also located in an area, which is designated as a landscape Area of Outstanding Natural Beauty (AONB), which encompass those areas which are most vulnerable and sensitive, and are considered to be of greatest scenic value as set out in County Development Plan 2016 –2022.
- 7.1.3. Regard is had to the evidence submitted by the applicant with respect to Valley View Stud, which was established at this location in 2012. The applicant submits that she complies with the qualifying criteria for a single rural house as per Objective HD23 of Chapter 4 of the Wicklow CDP 2016 – 2022 as she is the owner and operator of an established livery business.
- 7.1.4. It is submitted that the applicant has a need to reside close to her livery business, in particular, during foaling season. Solicitors and accountant's letters have been submitted which state that Ms Morton is the full and sole owner of the Stud. She is a sole trader and is the only beneficiary of the income generated from her business. Sets out income and net profit / (loss) for 2014, 2015 and 2016. The applicant does not currently own any residential property at this time. It is contended that the business supports Ms Morton full-time and is a sustainable business which will allow her to live off the land for the foreseeable future.
- 7.1.5. The Board should note that it is submitted that the applicant currently resides at Echo, Ballycorus Road, Shankill, Dublin 18 the dwelling she has lived in her entire life with her family. The family home is stated as being located approx. 2.5Km from the appeal site. A birth certificate confirms the address of her family home. The applicant submits that she has a bona fide need to reside at this location and the submitted information demonstrates her bona fide economic ties to the land. The appeal is accompanied with letter from Kiltiernan Church of Ireland NS which confirms the applicant's attendance as pupil between sept 1994 – 2002. The N.S. is stated as being located within 3Km of the appeal site. The applicant submits that she is committed to entering into a section 47 agreement with the Council
- Objective HD23 sets out 16 circumstances whereby residential development will be considered in the countryside. The applicant seeks to comply with objective HD23 by reason of the following circumstances:

'5. A person whose principal occupation is in agriculture and can demonstrate that the nature of the agricultural employment is sufficient to support full time or significant part time occupation'.

'7. A person whose principal occupation is in a rural resource based activity (i.e. agriculture, forestry, mariculture, agri-tourism etc.) can demonstrate a need to live in a rural area in order to carry out their occupation. The Planning Authority will strictly require any applicant to show that there is a particular aspect or characteristic of their employment that requires them to live in that rural area, as opposed to a local settlement'.

'11. Persons whose work is intrinsically linked to the rural area and who can prove a definable social or economic need to live in the rural area'.

'14. A person whose business requires them to reside in the rural area and who can demonstrate the adequacy of the business proposals and the capacity of the business to support them full time'.

7.1.6. Regard being had to the foregoing I consider that the planning history of the site is of relevance, see section 4.0 'Planning History' of this report above. On foot of Reg. Ref.11/4868 and Reg. Ref.11/4513 planning permission was refused, on both occasions, to the applicant, Jade Morton, for alterations to site levels and erection of single storey house with detached garage, 4 number stables at Killegar Eniskerry, Co. Wicklow.

7.1.7. It is stated in the subject appeal application that the Livery Yard, (stables, sheds and riding arena) was established at this location in 2012. The Board will note the photographic record of the Livery business submitted with the first party appeal. It would appear regardless of the refusal of permissions a stables/Livery/ stud business has been developed on the applicant's family landholding. While the applicant contends that the existing use falls within definition of agriculture as outlined in section 2 (1) of the Planning and Development Act 2000. That the stables and shed have been constructed in accordance with Class 6 and Class 10 of the Planning and Development Regulations 2001 and are therefore exempted development. It is of significance that the planning authority do not agree. The fourth reason for refusal by the planning authority in the case of Reg. Ref. 16/1305 contends that the proposed development 'would represent consolidation of unauthorised development on this site'... 'undermines the planning regulations and

would be contrary to the proper planning and sustainable development of the area'. I note the serious concerns raised with regard to traffic movements on the private unsurfaced laneway, with lack of sightlines from the appeal site access to the private laneway and from the private laneway / to the L5008 local road. Access and traffic will be accessed in detail in a subsequent section of this report. However, I consider Part 1.(9) Restrictions on exemption of significance to the status of the stables/Livery/riding arena in conjunction with Class 6 and Class 9, Part 3 – Exempted Development Rural Agricultural Structures of the Planning and Development Regulations 2001 (as amended)

- 7.1.8. The Board should note that the stables/sheds/ riding arena are located outside of the red line boundary of the site, this application solely seeks planning permission for a residential development and is not a referral case whereby the question is asked whether the stables/Livery yard/riding arena are or are not development and are or are not exempted development. Enforcement action comes within the sole remit of the planning authority and it is clear that the planning authority consider the Livery business established by the applicant in 2012 is unauthorized development.
- 7.1.9. Given the foregoing, I consider that the applicant's contention that she complies with policy in particular Objective HD23 in that she has a bona fide need to reside at this location and she has bona fide economic ties to the land is tenuous.
- 7.1.10. Based on the information submitted with the application, I agree with the planning authority that the applicant has not demonstrated that she comes within the scope of the housing need criteria for a dwelling at this location as set out under Objective HD23 of the CDP.
- 7.1.11. The appeal site is located within an Area Under Strong Urban Influence, as identified in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location.
- 7.1.12. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the

efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

7.2. Access and Traffic Safety

7.2.1. A number of planning applications have been made by Ms Morton on these lands, all of the preceding applications were refused on grounds of endangering public safety by reason of serious traffic hazard. In the subject case, Reg. Ref. 16/1305, the notification of decision to refuse permission sets out that 'the proposed development would endanger public safety by reason of serious traffic hazard because:

a) lack of appropriate sightlines at the site entrance and lack of sightlines the junction of laneway with the L5008 road and

b) the proposed development would generate additional traffic movement on a narrow local public road, which is substandard in width and alignment and is served by an extremely substandard junction with the R117 road.

7.2.2. The p.a. report sets out that 'the L5008 road that accesses the 'un-surfaced access road' is narrow with dangerous bends and there is a lack of sightlines with the junction of the access lane. There is currently a lack of sightlines from the existing entrance to the stables and proposed site entrance. It is note that it is proposed to remove the existing and neighbouring roadside boundary to improve sightlines, however, this is not considered appropriate in this AONB landscape area and given the access is onto a narrow, unsurfaced substandard laneway that leads to a junction with a lack of sightlines and a narrow rural road.' I note that a letter of consent to alter the boundary from the neighbouring landowner is attached to the file.

7.2.3. Regard is had to the report carried out by Transport Insights, Transport Planning Consultants who it is submitted 'undertook an independent review of the proposal – supported by a traffic survey on the adjoining L5008, a site assessment, trip generation analysis and a related assessment of its traffic impacts'. The report submits that the suitability of the development needs to be considered in the context of:

- Very low traffic volumes on the L5008 (90 and 117 vehicles per day)

- Very low speeds on the road (the effective speed limit is approx. 30 Km/h however lower closer to the Local Access Road junction)
- The positive historic collision performance of the local road network
- The low traffic generating characteristics of the stables (11 two way trips per day) and
- The potential to further reduce weekday vehicular traffic to the site through construction and occupation of the proposed dwelling.

- 7.2.4. I note the report concludes that the roads and traffic related reasons cited by Wicklow County Council as the basis for one of its reasons for refusal ‘appears unsupported’ by the evidence presented.
- 7.2.5. From my site visit, it is clear, that sightlines at the junction of the subject site and the private access lane and the private access lane and the L5008 public road is substandard. I would also have serious concern with respect to traffic safety given the winding nature, high ditch embankments on both sides of the private access lane and lack of pull in or overtaking opportunities.
- 7.2.6. While it appears that the L5008 road is at present a lightly trafficked, low speed road, I have concern with respect to the precedent which would be established for additional traffic and turning movements along a particularly poor substandard stretch of this roadway, should permission be granted.
- 7.2.7. Regard is had to the modifications to boundaries proposed to either side of the access junction of the private lane and the appeal site access. However, I agree with the p.a. that this is not considered appropriate in a landscape area designated AONB.
- 7.2.8. The proposal does not overcome the matter that the un-surfaced substandard laneway leads to a junction with a lack of sightlines and a narrow rural road. It also does not overcome the matter that the proposed development would generate additional traffic movement on a narrow local public road, which is substandard in width and alignment and is served by an extremely substandard junction with the R117 road.
- 7.2.9. I am of the opinion that the issue in this instance is the seriously substandard nature of the private laneway and public roads accessing the site. The proposed

development would endanger public safety by reason of a serious traffic hazard because of lack of appropriate sightlines and I have concern with respect to generation of additional traffic levels and turning movements along a particularly poor substandard stretch of the L5008 public roadway.

7.3. Visual Impact

- 7.3.1. The first reason and the third reason for refusal by the Council in the notification of decision to refuse Reg. Ref. 16/1305 relate to the negative impact of the proposed dwelling upon the landscape, see section 3.0 of this report above.
- 7.3.2. The proposed development is located in an area, which is designated as a landscape Area of Outstanding Natural Beauty (AONB) and therefore the provisions of Section 10.3.9 (Wicklow's landscape) and Appendix 2 (Design Guidelines for new Homes in Rural Wicklow) of the County Development Plan 2016-2022 apply.
- 7.3.3. The development by reason of its location on an elevated and exposed site is visible from views to the north west. The site has views of the Wicklow countryside, the sugarloaf to the south and to the west the Killegar/Glencullen countryside.
- 7.3.4. The first party submits that the dwelling has been designed to complement the character of its surroundings and in accordance with the relevant policies contained within Section 10.3.9 and Appendix 2. It is also submitted that no trees along the boundary are proposed to be removed, the existing boundary wall and boundary treatment would be relocated (set back up to c. 5m) and reinstated.
- 7.3.5. I agree with the planning authority that the design of the dwelling and site layout has taken into account the AONB landscape designation. The application is accompanied with a Visual Impact Assessment as well as a detailed landscaping proposal which sets out proposals to minimise the visual impact of the dwelling in the landscape.
- 7.3.6. Concern is raised with respect to removal of a significant portion of an existing roadside hedge / embankment to accommodate sightlines. I agree with the conclusion of the planning authority, that given the site is elevated with views of the surrounding landscape, that the development would materially detract from the character of the area and injure the visual amenities of the area. I am of the opinion

that the hedgerow removal to the front boundary would be contrary to objective NH19 of the County Development Plan.

- 7.3.7. The proliferation of non-essential housing in rural landscape areas erodes the landscape value of these areas and seriously detracts from scenic amenity of the area. Given it is considered the proposed dwelling would not represent a necessary dwelling in this landscape designated AONB it is considered the proposal would unacceptably conflict with policy (10.3.9) and objectives of the current County Development Plan and set a negative precedent.

7.4. **Other Issues**

- 7.4.1. The first party submits that ABP has 'consistently overturned Council Refusals on sites in the locality'. I note the precedent cases, set out by the first party, however, I do not consider them of direct relevance in the assessment of the subject appeal case. Each planning application is dealt with on a case by case basis, (I note that the nature of the applications differ as does planning policy) and therefore I do not agree this argument is reasonable and constitutes reasonable grounds for a grant of planning permission.

7.5. **Appropriate Assessment (AA)**

- 7.5.1. The appeal site is not subject to or approximate to any natural heritage designations.
- 7.5.2. Overall I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. The subject site is located in the open countryside, in an area which would correspond to the rural area type “Area under Strong Urban Influence”, as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005, wherein it is indicated that it is policy to distinguish between rural-generated housing need and urban-generated housing need. On the basis of the documentation submitted in support of the application and the appeal, it is considered that the proposed development would represent urban-generated rural housing, and that the applicant, therefore, would not come within the scope of the housing need criteria for a house in this rural location. Accordingly, the proposed development would be contrary to these Ministerial Guidelines and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The site is located in an area which is designated in the current Wicklow County Development Plan 2016 – 2022 as an Area of Outstanding Natural Beauty (AONB) and an ‘Open Countryside’ area of special control in relation to which it is policy of the planning authority to control development in order to maintain the scenic values, recreational utility and existing character of the area and for those with a definable social or economic need to live in the ‘Open Countryside’. The designation and policy are considered reasonable. The proposed development would detract to an undue degree from the rural character and scenic amenities of the area. It is also considered the applicant does not come within the scope of the housing need criteria set out in Objective HD23 of the Wicklow County Development Plan. It is considered, therefore, that the proposed development would contravene stated policy and objectives and be contrary to the proper planning and sustainable development of the area.

3. The site is located on a private laneway which is seriously substandard in terms of surface, width and alignment, and where adequate sightlines cannot be achieved without the removal of the entire existing front boundary embankment and hedgerows of the site, to the east (c. 70m) and set back of the field boundary to the west (of 57m to Junction) to achieve sightlines. It is, therefore, considered that the proposed development would endanger public safety by reason of traffic hazard arising from the additional traffic movements that would be generated on this substandard road, and, if sightlines were to be improved, would seriously injure the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
4. The proposed development would generate additional traffic movement on a narrow local public road (L5008) which is substandard in width and alignment and is served by a substandard junction with the private laneway and with the R117 road. It is, therefore, considered that the proposed development would endanger public safety by reason of serious traffic hazard and obstruction of road users.
5. On the basis of the submissions made in connection with the planning application and appeal, it appears to the Board that the proposed development relates to a site the use of which is unauthorised for the carrying on of stables/livery/stud business and that the proposed development would facilitate the consolidation and intensification of this unauthorised use. Accordingly, it is considered that it would be inappropriate for the Board to consider the grant of a permission for the proposed development in such circumstances.

Fiona Fair
Planning Inspector

18.05.2017