



An
Bord
Pleanála

Inspector's Report ABP-300208-17

Development	A new dormer style dwelling, effluent disposal system to current EPA standards along with associated site development works and services, including a driveway, provision of a shared entrance which will include upgrading of existing entrance to family home.
Location	Rosanna Upper, Milltown Lane, Ashford, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	17/663
Applicant(s)	Rachael Ireson
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party v. Decision
Observer(s)	None.
Date of Site Inspection	23 rd April, 2018
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in the rural townland of Rosanna Upper, Co. Wicklow, approximately 1.0km southeast of Ashford town centre and 600m west of the M11 Motorway (Junction 16: Wicklow North, Rathnew), along a minor local roadway known as Milltown Lane which extends south-westwards from the R772 Regional Road. The surrounding landscape is generally characterised by undulating rural countryside interspersed with instances of one-off housing and agricultural outbuildings and in this regard the subject site is located to the immediate rear of an existing dwelling house (and associated outbuildings) which forms part of a series of 6 No. single storey bungalows that have been developed on contiguous sites in a linear / ribbon pattern along the roadside. The site itself has a stated site area of 0.69 hectares, is irregularly shaped, and presently comprises an undeveloped agricultural field set as pasture / grassland. It is bounded by mature hedgerow to the southwest and northwest whilst the remaining site boundaries are not physically defined at present. It occupies a backland location to the rear (northwest) of an existing dwelling house whilst the adjacent lands to the southwest, northwest and northeast are in agricultural use. Access to the site can be obtained via 2 No. entrance arrangements which extend through the grounds of the existing dwelling house.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a two-storey dormer style bungalow based on a 'U'-shaped plan with a stated floor area of 239m² and a ridge height of 6.749m. The overall design of the proposed dwelling house is conventional with a hipped roof detail and a generally symmetrical front elevation which includes a substantial two-storey, centrally positioned, front gable feature. External finishes will include blue / black roof slates, rendered plaster, uPVC windows, and the feature use of stonework.
- 2.2. Access to the site will be obtained via a right of way through the adjacent property (the family home) with an existing entrance arrangement onto the public road to be upgraded in order to serve both the existing and proposed dwelling houses. It is also proposed to install a wastewater treatment system which will discharge to a polishing filter whilst a water supply will be obtained from the public mains.

3.0 Planning Authority Decision

3.1. Decision

On 20th October, 2017 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 3 No. reasons:

- The proposed development would not represent a necessary dwelling in this Landscape designated Access Corridor Area contrary to the provisions of Section 4.4 of the County Development Plan 2016-2022. These provisions are required to maintain scenic amenities, recreational utility, existing character, and to preserve views of special amenity value and special interest and to conserve the attractiveness of the county for the development of tourism and tourist related employment.

The Council's settlement strategy is to encourage further growth of existing settlements and to restrict rural housing development to cases where there is a bona fide necessity to live in the rural area instead of in existing settlements. It is considered that the applicant does not come within the scope of the housing need criteria as set out under Objective HD23 of the County Development Plan as the applicant's housing need is already met. The proliferation of non-essential housing in the rural landscape erodes the landscape value of these areas and seriously detracts from views of special amenity value.

- The proposed development would endanger public safety by reason of serious traffic hazard because inadequate sightlines are available at the proposed entrance and the applicant has not indicated sufficient consent / legal interest on the necessary lands required to achieve adequate sightlines at the proposed site entrance.
- Having regard to the location of the development on lands wholly to the rear of existing houses / structures, it is considered that this development would represent substandard back-land development which would set a precedent for further undesirable patterns of development in this area and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

Details the site context, including the applicable planning policy considerations, and subsequently states that the provisions of Objective HD23 of the Development Plan are applicable in this instance given the site location in a rural area. The report proceeds to consider the submitted particulars as regards the applicant's compliance with the relevant rural housing eligibility criteria and, whilst acknowledging that she has some connections to the rural area in question, it concludes that she does not have a housing need on the basis that she presently resides in a dwelling house which is in the ownership of her partner. In respect of the traffic implications of the proposed development, the report raises concerns as regards the adequacy of the sightlines available from the proposed entrance arrangement onto the public road, with particular reference to the obstruction of same by ESB poles and the front boundary of the adjacent property to the northeast. With regard to the overall design of the proposal, whilst it is acknowledged that the proposed dwelling house will not be visible from the public road and will not result in the overlooking of adjacent lands which have been identified for future family development, the report notes that the surrounding pattern of development is characterised by roadside housing and thus the subject proposal would set an undesirable precedent for further backland development. The report subsequently concludes by recommending that the proposed development be refused permission.

3.2.2. Other Technical Reports:

Wicklow Area Engineer: Refers to the contents of the report previously prepared in respect of PA Ref. No. 16/301.

N.B. Following the receipt of a response to a request for further information, the report prepared by the Area Engineer in respect of PA Ref. No. 16/301 stated that the sightlines proposed were acceptable and that the relocation of the ESB poles would serve to improve the available sight distance.

3.3. Prescribed Bodies

Inland Fisheries Ireland: States that there is no objection to the proposed development, subject to the following conditions:

- Wastewater treatment must comply with the requirements of the '*Wastewater Treatment and Disposal Systems for Single Houses, 2009 (EPA)*'. There can be no contamination of surface or ground waters.
- Any discharge to groundwater must comply with the European Communities Environmental Objectives (Groundwater) Regulations, 2009.
- There should be complete separation of the foul and surface water drainage systems.
- The owner should enter into an annual maintenance contract in respect of the efficient operation of the proposed treatment plant.

Irish Water: No objection, subject to conditions.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. On Site:

PA Ref. No. 94/695. Was refused on 21st September, 1994 refusing Bridget Hynes permission for six houses and a treatment plant.

PA Ref. No. 95/2371. Was granted on 2nd June, 1995 permitting B. Hynes permission for the retention of an entrance and garage.

PA Ref. No. 14/2191. Was refused on 15th May, 2015 refusing Rachael Ireson permission for a new dormer style dwelling, effluent disposal system to current EPA standards along with associated site development works and services for the following 3 No. reasons:

- The proposed development would endanger public safety by reason of serious traffic hazard because:

- a) Inadequate sightlines are available at the proposed entrance and the applicant has not indicated sufficient consent / legal interest on the necessary lands required to achieve adequate sightlines at the proposed site entrance and;
 - b) The proposed access laneway to the site is substandard in terms of alignment and surfacing.
- Having regard to the location of the development on lands wholly to the rear of existing houses / structures, it is considered that this development would represent substandard back-land development which would set a precedent for further undesirable patterns of development in this area and would be contrary to the proper planning and sustainable development of the area.
 - The proposed dwelling would not represent a necessary dwelling in this Landscape Zone Designated Area of Corridor contrary to the provisions of Section 4.3 of the County Development Plan, 2010-2016. The provisions are required to maintain scenic amenities, recreational utility, existing character, and to preserve views of special amenity value and special interest and to conserve the attractiveness of the county for the development of tourism and tourist related employment.

The Council's settlement strategy policy is to encourage further growth of existing settlements and to restrict rural housing development to cases where there is a bona fide necessity to live in the rural area instead of in existing settlements. It is considered that the applicant does not come within the scope of the housing need criteria as set out under Objective RH14 of the County Development Plan as no documentary evidence proving her links to this rural area and details of the historic place of residence has not been submitted. The proliferation of non-essential housing in rural landscape areas erodes the landscape value of these areas and seriously detracts from views of special amenity value.

PA Ref. No. 16/301. Application by Rachael Ireson for permission for the construction of a dormer style dwelling, effluent treatment system to current EPA stands along with associated site development works and services including a driveway, provision of a shared entrance which would include for the upgrading of

the existing entrance to the family home. This application was subsequently withdrawn.

4.2. On Adjacent Sites:

PA Ref. No. 988297. Was granted on 20th October, 1998 permitting Mr. & Mrs. Declan Molloy permission for a 158 sq. m. extension and alterations to existing 48 sq. m. dwelling and provision of a septic tank at 'Dalmacia', 5 Milltown North, Rosanna Upper, Ashford, Co. Wicklow.

PA Ref. No. 04606. Was granted on 2nd June, 2004 permitting Declan and Felicity Molloy permission for the retention of a store and shed at 5 Milltown Lane, Rossana Upper, Ashford, Co. Wicklow.

PA Ref. No. 09747. Was granted on 17th August, 2009 permitting Declan & Felicity Molloy permission for an extension to east side of existing house and 5 no. velux roof windows, three on east elevation, one on north elevation and one on south elevation at 'Dalmacia', 5 Milltown North, Rossana Upper, Ashford, Co. Wicklow.

PA Ref. No. 141185. Application by Declan & Felicity Molloy for permission for a new 24.5sqm extension to east elevation of existing dwelling, with inclusion of 4 no. new velux roof lights, three located on south elevation one located on north elevation at 5 Milltown North, Rossana Upper, Ashford, Co. Wicklow. This application was withdrawn.

PA Ref. No. 15831. Was granted on 1st April, 2016 permitting Declan & Felicity Molloy permission for a new 25.4m² extension to east elevation of existing dwelling together with 4 velux roof lights, change of use of existing stand-alone unit to rear of site from storage to a granny flat together with the upgrade of existing effluent disposal system to current EPA standards and all ancillary site works, all at 5 Milltown North, Rosanna Upper, Ashford, Co. Wicklow.

5.0 **Policy Context**

5.1. **National and Regional Policy:**

- 5.1.1. The '*Sustainable Rural Housing, Guidelines for Planning Authorities*', 2005 promote the development of appropriate rural housing for various categories of individual as a

means of ensuring the sustainable development of rural areas and communities. Notably, the proposed development site is located in an 'Area under Strong Urban Influence' as indicatively identified by the Guidelines.

5.2. Development Plan

5.2.1. Wicklow County Development Plan, 2016-2022:

Chapter 3: Settlement Strategy:

Level 10: The Rural Area:

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 importance 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.

Chapter 4: Housing:

Section 4.3: Key Housing Principles:

Section 4.3.5: Rural Housing:

As set out in Chapter 3 of this plan, rural housing in County Wicklow requires to be managed, to protect the County's pristine landscapes and natural resources, to avoid urban generated rural housing and to ensure the needs of those with a bona fide necessity to live in the rural area are facilitated.

Section 4.4: Housing Objectives:

HD1: New housing development shall be required to locate on suitably zoned or designated land in settlements, and will only be considered in the open countryside when it is for the provision of a rural dwelling to those with a housing, social or economic need to live in the open countryside.

HD3: All new housing developments (including single and rural houses) shall achieve the highest quality of layout and design, in accordance with the standards set out in the Development and Design Standards document

appended to this plan, which includes a Wicklow Single Rural Houses Design Guide.

HD20: Urban generated housing shall not be permitted in the rural areas of the County, other than in rural settlements that have been deemed suitable to absorb an element of urban generated development (see objective HD19).

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.

Residential development will be considered in the countryside in the following circumstances:

1. A permanent native resident seeking to build a house for his / her own family and not as speculation. A permanent native resident shall be a person who has resided in a rural area in County Wicklow for at least 10 years in total (including permanent native residents of levels 8 and 9), or resided in the rural area for at least 10 years in total prior to the application for planning permission.
2. A son or daughter, or niece/nephew considered to merit the same position as a son/daughter within the law (i.e. when the uncle/aunt has no children of his/her own), 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, or niece/nephew considered to merit the same position as a son/daughter within the law (i.e. when the uncle/aunt has no children of his/her own), 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.

4. Replacing a farm dwelling for the needs of a farming family, not as speculation. If suitable the old dwelling may be let for short term tourist letting and this shall be tied to the existing owner of the new farm dwelling were it is considered appropriate and subject to the proper planning and development of the area.
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.
6. An immediate family member (i.e. son or daughter) of a person described in 5, who is occupied 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.
8. A close relative who has inherited, either as a gift or on death, an agricultural holding or site for his/her own purposes and not for speculation and who can demonstrate a definable social and / or economic need to live in the area to which the proposal relates.
9. The son or daughter of a landowner who has inherited a site for the purpose of building a one off rural house and where the land has been in family ownership as at 11th October 2004 for at least 10 years prior to the application for planning permission and not as speculation.
10. An emigrant who qualifies a permanent native resident, returning to a rural area in County Wicklow, seeking to build a house for his/her own use not as speculation.

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.
12. A permanent native resident that previously owned a home and is no longer in possession of that home (for example their previous home having been disposed of following legal separation / divorce / repossession, the transfer of a home attached to a farm to a family member or the past sale of a home following emigration) and can demonstrate a social or economic need for a new home in the rural area.
13. Permanent native residents of moderate and small growth towns, seeking to build a house in their native town or village within the 60kph / 40mph speed limit on the non national radial roads, for their own use and not as speculation as of 11th October 2004.
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.
15. Permanent native residents of the rural area who require a new purpose built specially adapted house due to a verified medical condition and who can show that their existing home cannot be adapted to meet their particular needs.
16. Persons who were permanent native residents of a rural area but due to the expansion of an adjacent town / village, the family home place is now located within the development boundary of the town / village.

In the event of conflict of any other settlement strategy objective / Landscape Zones and categories, a person who qualifies under policy HD23 their needs shall be supreme, except where the proposed development would be a likely traffic hazard or public health hazard.

With regard to the preservation of views and prospects, due consideration shall be given to those listed within the area of the National Park; and with respect to all other areas, to generally regard the amenity matters, but not to the exclusion of social and economic matters. The protection and conservation of views and prospects should not give rise to the prohibition of development, but development should be designed and located to minimise impact.

HD24: Where permission is granted for a single rural house, the applicant will be required to lodge with the Land Registry a burden on the property, in the form of a Section 47 agreement, restricting the use of the dwelling for a period of 7 years to the applicant, or to those persons who fulfil the criteria set out in Objective HD23 or to other such persons as the Planning Authority may agree to in writing.

Appendix 2: Wicklow County Council: Single Rural Houses: Design Guidelines for New Homes in Rural Wicklow.

Appendix 5: Landscape Assessment:

Section 4.5: Wicklow's Landscape Areas:

Section 4.5.4: Corridor Area: 4(a) - The N11:

This area covers the main access corridor area along the east of the County. The boundary of the eastern access corridor generally follows what is considered to be the areas upon which the greatest influence is exerted by this primary access route. This route, for the most part, runs through the more low lying and accessible tracts of land, dissects the Glen of the Downs wood in the north of the County and provides expansive coastal views north of Wicklow Town. This landscape area acts as the main connection between the major towns along the east coast of the County.

Section 5: Policy Provision:

Section 5.3.1: General Development Considerations (GDC)

Section 5.3.14: Corridor Area KDC (see Appendix 4 Map 10.13(d)):

1. To protect views and prospects from the corridor area towards the surrounding landscape areas from development that would either obstruct the views / prospect from the identified vantage point or form an obtrusive or

incongruous feature in that view / prospect. Due regard will be paid in assessing development applications to the span and scope of the view / prospect and the location of the development within that view / prospect.

2. Development proposals within this area should aim to locate within existing clusters of structures / tree stands and avoid locating new development in open fields.

N.B. The proposed development site is located within the 'Corridor area east (N11)' landscape category as detailed in Figure 4.11: 'The Landscape Category Map' and Map 10.13(d) of the Landscape Assessment.

5.3. Natural Heritage Designations

- 5.3.1. The following Natura 2000 sites are located in the vicinity of the proposed development site:

- The Murrough Wetlands Special Area of Conservation (Site Code: 002249), approximately 2.4km east of the site.
- The Murrough Special Protection Area (Site Code: 004186), approximately 2.4km east of the site.

6.0 The Appeal

6.1. Grounds of Appeal

- The applicant satisfies the relevant eligibility criteria and thus qualifies for a dwelling house at this rural location as she previously resided at Milltown Lane for 13 No. years having originally moved to the area with her parents in 1996 at 14 years of age.
- The subject application has been accompanied by substantial documentary evidence in support of the applicant's connection to this rural area.
- Whilst the applicant presently resides at an address in Arklow, Co. Wicklow, with her husband (Mr. Andrew Breen) and their young family, that property was purchased by Mr. Breen in advance of his meeting the applicant. In this respect it is submitted that the applicant's residency in Arklow was only ever

intended to be a 'stop-gap' in advance of her moving back to Milltown to build a family home on lands gifted to her by her parents.

- The assertion by the Planning Authority that the applicant does not have a housing need given her current place of residence is unfair. The applicant has had a rural upbringing all her life and it is her right to reside in a rural area to raise her family.
- The applicant was previously heavily involved in equestrian activities which was made possible due to her residency in a rural area and the availability of fields to the rear of her family home which provided grazing for her horses and ponies. Accordingly, it is the applicant's desire for her children to have a similar experience. These issues were not considered by the Planning Authority in its assessment of the subject application.
- It has always been the applicant's intention to relocate to the Milltown area given that one of her children already attends school locally in Ashford whilst a second child is on the school place list.
- With regard to the existing dwelling house in Arklow, the applicant (and her husband i.e. Mr Andrew Green) is willing to accept a condition whereby that property must be sold prior to any occupation of the proposed dwelling house.
- On a significant number of occasions, the Planning Authority has granted permission for local people to build a dwelling house in a rural area despite previous ownership of a property in an urban area e.g. PA Ref. Nos. 11/4407 & 15/365.
- It is acknowledged that the sightlines available from the existing entrance arrangement serving the application site are substandard and, therefore, it is proposed to reposition the site entrance further south-westwards whilst the written consent of the adjacent landowner has been obtained to cut back the roadside boundary of the adjoining lands to the southwest. In addition, an existing Eircom pole which served to restrict sightlines has been set back from the south-western boundary whilst confirmation has also been received from the ESB that an existing ESB pole will be relocated in order to improve the available sight distance.

- The proposed development was refused permission on the basis of inadequate sightlines despite the Roads Engineer having previously indicated in his assessment of PA Ref. No. 16/301 that the available sight distance was acceptable. Therefore, the Board is requested to overrule the findings of the case planner and to give due consideration to the report of the Roads Engineer. It should also be noted that the proposed development will greatly enhance the sightlines serving the existing family home.
- Whilst the subject proposal was refused permission on the basis that it would constitute substandard 'backland development', the report of the case planner clearly states that the proposed dwelling house '*will not be visible from the road and therefore the design is acceptable*' and that '*there would be no overlooking into the adjacent site*'.
- Contrary to the suggestion by the Planning Authority that the surrounding area is characterised by properties which are orientated to face towards the roadside, there is a backland dwelling house located to the east of the subject site which is clearly visible from the public road. It is considered that the Planning Authority failed to give due consideration to this fact in its assessment of the proposed development.
- The subject site is not visible from the public road and is also well screened from adjacent properties. The proposed development will nestle into the landscape whilst the backdrop of mature trees together with the proposed landscaping will ensure that it will not have an adverse impact on neighbouring properties.
- In support of the subject proposal, the Board is referred to the decision of the Planning Authority to grant permission for PA Ref. No. 17/38, with particular reference to the issues of housing need and backland development.

6.2. Planning Authority's Response

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development / rural housing policy
- Overall design / visual impact
- Traffic implications
- Wastewater treatment and disposal
- Appropriate assessment

These are assessed as follows:

7.2. **The Principle of the Proposed Development / Rural Housing Policy:**

7.2.1. In terms of assessing the principle of the proposed development having regard to the applicable rural housing policy it is of relevance in the first instance to note that the proposed development site is located in an 'Area under Strong Urban Influence' as indicatively identified by the 'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005' and that there is no further identification of rural area types at a county level contained in the Wicklow County Development Plan, 2016. The Guidelines also state that such areas will exhibit characteristics such as their proximity to the immediate environs or the close commuting catchments of large cities and towns (e.g. Wicklow, Rathnew & Ashford) and will generally be under considerable pressure for the development of housing due to their proximity to these urban centres or the major transport corridors accessing same (e.g. the M11 Motorway Corridor). Notably, within these 'areas under urban influence', the National Planning Framework ('Project Ireland 2040: Building Ireland's Future') states that it will be necessary for applicants to demonstrate 'a functional economic or social requirement for housing need' (with National Policy Objective No. 19 stating that the provision of single housing in rural areas under urban influence is to be based on the core consideration of a demonstrable economic or social need to live in a rural area and the siting and design criteria for rural housing contained in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements) whilst

the Guidelines further state that the housing requirements of persons with roots or links in rural areas are to be facilitated and that planning policies should be tailored to local circumstances.

- 7.2.2. Whilst the Wicklow County Development Plan, 2016 does not provide for any further detailed identification of other rural area types at a county level in accordance with the provisions of the '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*', and although this omission is regrettable and is perhaps related to the specific circumstances of the county given its proximity to Dublin City and the M11 Corridor, having conducted a site inspection, I am satisfied that the proposed development site is located within an '*Area under Strong Urban Influence*' given the prevalence of housing in the area and the site location relative to the urban centres of Wicklow, Rathnew & Ashford in addition to the M11 Motorway Corridor.
- 7.2.3. Section 4.3.5: '*Rural Housing*' of the County Development Plan emphasises the need to avoid urban-generated rural housing and to facilitate those who have a '*bona fide*' need to live in a rural area. In this respect I would refer the Board to Objective HD23 which states that residential development will only be considered in the open countryside when it is intended for use by persons with a '*definable social or economic need*' by reference to one of 16 No. qualifying criteria. Having reviewed the available information, whilst I am generally satisfied that the applicant has demonstrated that she complies with the eligibility criteria set out in Part (1) of Objective HD23 in that she has previously resided in this rural area (within the adjacent family home) for in excess of 10 No. years as evidenced by the supporting documentation which has accompanied the application, some of the submitted correspondence gives rise to conflicting details as regards her later residency arrangements. For example, there is documentation on file which implies that the applicant has resided relatively recently within the family home at Milltown Lane despite her own acknowledgement that she has not lived at this address since 2009 and is presently resident in Arklow town. Nevertheless, on balance, I am amenable to accepting the applicant's connection to this rural area on the basis of the information available and I note that further support is lent to her application by reference to her previous involvement in equestrian activities at this location and that her daughter is to attend school locally in Ashford.

7.2.4. In addition to the foregoing, I would suggest that it is appropriate to have regard to the provisions of the *'Sustainable Rural Housing, Guidelines for Planning Authorities'* which state that in facilitating housing intended to meet rural-generated needs eligible persons can include those working full-time or part-time in rural areas or persons who are an 'intrinsic part of the rural community' which are defined as follows:

'Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes. Examples in this regard might include sons and daughters of families living in rural areas who have grown up in rural areas and are perhaps seeking to build their first homes near their family place of residence.'

7.2.5. Whilst I would accept that the applicant would appear to have previously spent a substantial period of her life residing in this rural area and thus could be considered to form an *'intrinsic part of the rural community'*, it is of relevance to note that the Guidelines aim to facilitate persons who building their *'first homes'*. In this regard I would have reservations that as the applicant presently resides in a property owned by her husband she is not developing her 'first home' and does not have a 'housing need'.

7.2.6. Therefore, on the basis of the foregoing, whilst the applicant would appear to satisfy the eligibility criteria set out in Objective No. HD 23 of the Wicklow County Development Plan, in my opinion, she does not have a *'definable social or economic need'* which would warrant the development of a further dwelling house in this *'area under strong urban influence'* as defined by the *'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005'*.

7.3. **Overall Design / Visual Impact:**

7.3.1. In terms of assessing the visual impact of the proposed development it is of relevance in the first instance to note that the subject site is located within the *'Corridor area east (N11)'* landscape category as detailed in Figure 4.11: *'The Landscape Category Map'* and Map 10.13(d) of the Landscape Assessment

contained in the Wicklow County Development Plan, 2016. Within this area it is the policy of the Planning Authority to protect those views and prospects available from the corridor area towards the surrounding landscape areas from development that would either obstruct the views / prospects available from any identified vantage point or that would otherwise serve to form an obtrusive or incongruous feature within that view / prospect. It is also stated that development proposals within this landscape category should aim to locate within existing clusters of structures / tree stands thereby avoiding locations in open fields.

- 7.3.2. In a local context, the proposed development site occupies a backland position to the rear of an existing single storey dwelling house and presently comprises part of a larger undeveloped agricultural field set as pasture / grassland which is bounded by mature hedgerow. Notably, the site topography falls away from the existing dwelling house on travelling north-westwards whilst the site itself is not overtly visible from vantage points along Millmount Lane due to the screening offered by intervening vegetation and other features, including the existing dwelling and the outbuildings to the rear of same.
- 7.3.3. In relation to the actual design of the proposed dwelling house, regard should be had to the provisions of the *'Single Rural Houses: Design Guidelines for New Homes in Rural Wicklow'* as set out in Appendix 2 of the County Development Plan. In this respect I am inclined to suggest that the subject proposal involves the construction of a conventionally designed, dormer style bungalow which is typically suburban in appearance and fails to adhere to the basic design principles set out in the aforementioned guidance. In particular, I would question the overall form of the proposed dwelling house, the disproportionate extent of roof area relative to the main construction, and the inclusion of the substantial two-storey, front gable feature.
- 7.3.4. Whilst I would acknowledge that the positioning of the proposed dwelling house to the rear of the adjacent roadside property will serve to reduce its overall visual impact, I would nevertheless have reservations as regards the wider visual impact and the erosion of the rural character of the surrounding area attributable to the continued development of one-off piecemeal housing at this location. Moreover, I would have particular concerns that the subject proposal constitutes haphazard backland development which would seriously injure the residential amenities of both the existing family home and the adjacent property to the northeast by reason of loss

of privacy, noise and general disturbance. In this regard it is of further relevance to note that the submitted site layout plan includes a reference to *'future family development'* on the remainder of the landholding and thus it would appear that any grant of permission for the subject proposal would serve to establish an undesirable precedent for further disorderly and haphazard backland development at this location to the detriment of the amenity of neighbouring properties which would be contrary to the proper planning and development of the area.

7.4. **Traffic Implications:**

- 7.4.1. Access to the proposed dwelling house will be obtained via a right way of way over a new section of driveway that will extend from the existing bell-shaped entrance arrangement serving the adjacent family home. In this regard it should be noted that the applicant has submitted the written consent of the adjoining landowner to the immediate southwest to undertake certain works on their lands, including the cutting back of the roadside ditch and the lowering of the adjacent boundary wall, in order to improve the sight distance available from the aforementioned entrance whilst the ESB has also agreed to the relocation of an existing electricity pole from alongside the roadside boundary. However, whilst the Area Engineer would appear to have been satisfied with the proposed access arrangements, the case planner noted that the sightlines shown on the submitted site layout plan had not been measured to the near edge of the carriageway and thus raised concerns with regard to the overall adequacy of the sightlines, with particular reference to those available to the northeast on exiting the site, which ultimately formed in part the basis on which the Planning Authority opted to refuse permission for the proposed development.
- 7.4.2. Having conducted a site inspection, and following a review of the available information, I am inclined to concur with the case planner that the sightlines presently available in both directions from the entrance in question are substandard given the obstruction of same attributable to the existing roadside boundary treatment along the frontage of the adjacent properties to the immediate southwest and northeast. Whilst I would concede that the applicant has sought to address the foregoing deficiencies to the southwest by obtaining the consent of the neighbouring landowner to carry out certain improvement works, in my opinion, the sightlines to the northeast will continue to be deficient, although I would also acknowledge that this is an established entrance arrangement and that the proposed development

works will serve to be of benefit to both the occupants of the applicant's family home and existing road users.

7.4.3. At this point, I would advise the Board that the proposed development site and the adjacent family home are also accessible via a second vehicular access which extends from a position located at the northernmost extremity of the roadside boundary (immediately alongside the property to the northeast). It is not entirely clear from the submitted plans and particulars whether or not it is proposed to close this access point and whilst an examination of the site layout plan would appear to suggest that this entrance will be sealed off and replaced with a new boundary ditch, it should be noted that the access in question is located outside of the confines of the application site.

7.4.4. On balance, it is clear that the sightlines from the proposed entrance arrangement are substandard at present, and whilst I would acknowledge that it is proposed to undertake certain works in order to improve the sight distance available from this established access, I would have reservations that the increase in traffic turning movements at this location consequent on the proposed development (in addition to any further '*future family development*' which would likely seek to use the same access arrangement), where the available sightlines are restricted, would serve to endanger public safety by reason of traffic hazard. Furthermore, I would suggest that further clarity is required as regards any proposals for the closure of the secondary access serving this property which may serve to simplify traffic turning movements at this location.

7.5. **Wastewater Treatment and Disposal:**

7.5.1. It is proposed to install a packaged wastewater treatment system which will discharge to a soil polishing filter and, therefore, it is necessary to review the available information in order to ascertain if the subject site is suitable for the disposal of treated effluent to ground. In this respect I would refer the Board in the first instance to the submitted Site Characterisation Form which details that the trial hole encountered unspecified layers of 'topsoil', 'clayey' soil and 'stiffer' soil to the depth of the excavation at 1.9m below ground level. No rock or water ingress were recorded. With regard to the percolation characteristics of the soil a 'T'-value of

25.31 minutes / 25mm and a 'P'-value of 23.14 minutes / 25mm were recorded which would constitute a pass in accordance with EPA guidance.

7.5.2. Accordingly, on the basis of the foregoing, and the additional supporting documentation supplied by the applicant, it would appear that the subject site is suitable for the installation of a wastewater treatment system discharging to ground, subject to conditions.

7.6. However, notwithstanding the foregoing, I would have some reservations as regards the potential for groundwater contamination given the increasing proliferation of individual wastewater treatment systems in the immediate area, particularly as the submitted site layout plan includes reference to further 'future family development' elsewhere on the landholding.

7.7. **Appropriate Assessment:**

7.7.1. From a review of the available mapping, including the data maps from the website of the National Parks and Wildlife Service, it is apparent that whilst the proposed development site is not located within any Natura 2000 designation, it is situated approximately 2.4km west of the Murrough Wetlands Special Area of Conservation (Site Code: 002249) and the Murrough Special Protection Area (Site Code: 004186). In this respect it is of relevance to note that it is the policy of the planning authority, as set out in Chapter 10 of the Wicklow County Development Plan, 2016, to avoid negative impacts upon the natural environment and to promote the appropriate enhancement of the natural environment as an integral part of any development. Furthermore, Objective NH2 of the Plan states that no projects which would give rise to any significant cumulative, direct, indirect or secondary impacts on Natura 2000 sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects will be permitted on the basis of the plan (either individually or in combination with other plans or projects). By way of further clarity, Objective NH4 also states that all projects and plans arising from the Development Plan (including any associated improvement works or associated infrastructure) will be screened for the need to undertake Appropriate Assessment pursuant to Article 6 of the Habitats Directive whilst any such plan or project will only be authorised after the competent authority has

ascertained, based on scientific evidence, Screening for Appropriate Assessment, and a Stage 2 Appropriate Assessment, where necessary, that:

- 1) The Plan or project will not give rise to significant adverse direct, indirect or secondary effects on the integrity of any European site (either individually or in combination with other plans or projects); or
- 2) The Plan or project will have significant adverse effects on the integrity of any European site (that does not host a priority natural habitat type and / or a priority species) but there are no alternative solutions and the plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature. In this case, it will be a requirement to follow procedures set out in legislation and agree and undertake all compensatory measures necessary to ensure the protection of the overall coherence of Natura 2000; or
- 3) The Plan or project will have a significant adverse effect on the integrity of any European site (that hosts a natural habitat type and/or a priority species) but there are no alternative solutions and the plan or project must nevertheless be carried out for imperative reasons for overriding public interest, restricted to reasons of human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest. In this case, it will be a requirement to follow procedures set out in legislation and agree and undertake all compensatory measures necessary to ensure the protection of the overall coherence of Natura 2000.

7.7.2. In effect, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive. Accordingly, it is necessary to screen the subject proposal for the purposes of 'appropriate assessment'.

7.7.3. Having reviewed the available information, and following consideration of the 'source-pathway-receptor' model, it is my opinion that given the nature and scale of the development proposed, the site location outside of any protected site, the limited ecological value of the lands in question, and the separation distances involved

between the subject site and nearby Natura 2000 designations, the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of any Natura 2000 site. Therefore, I am inclined to conclude that the proposed development would not be likely to significantly affect the integrity of Natura 2000 sites and would not undermine or conflict with the Conservation Objectives applicable to same.

- 7.7.4. Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. Having regard to the location of the site 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, in an area proximate to the development boundary of Ashford town where new housing development will only be considered when it is for the provision of a rural dwelling to those with a housing, social or economic need to live in the open countryside in accordance with Objective HD23 of the current Wicklow County Development Plan, and on the basis of the documentation submitted with the planning application and the appeal, including the applicant’s current housing circumstances, it is considered that the applicant does not come within the scope of the housing need criteria for a dwelling at this location as set out in the ‘Sustainable Rural Housing, Guidelines for Planning Authorities’ and in the

current development plan for the area. 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.

2. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road at a point where sightlines are restricted.
3. The proposed development, because of its location and inadequate frontage, constitutes inappropriate backland development which is out of character with the pattern of development in the vicinity and would be detrimental to the character and amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

Robert Speer
Planning Inspector

22nd May, 2018