



An
Bord
Pleanála

Inspector's Report ABP 302287-18.

Development	Dwelling and effluent treatment system.
Location	Main Street, Newcastle, Co. Wicklow.
Planning Authority	Wicklow Co. Council
Planning Authority Reg. Ref.	18/54
Applicant	Ben Doyle
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant	Ben Doyle
Observer	Rachel Lippiatt
Date of Site Inspection	16/11/18
Inspector	Siobhan Carroll

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	7
5.1. Development Plan.....	7
5.2. Other Policy.....	10
5.3. Natural Heritage Designations	11
6.0 The Appeal	12
6.1. Grounds of Appeal	12
6.2. Planning Authority Response	13
6.3. Observations.....	13
7.0 Assessment.....	15
8.0 Recommendation.....	21
9.0 Reasons and Considerations.....	22

1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.7 hectares comprises the north-western corner of a larger field. It is situated circa 326m to the west of Newcastle Main Street, Co. Wicklow. Church Lane lies circa 370m to the west.
- 1.2. The site is located 40m from the defined settlement boundary of Newcastle. Racefield a development of 12 no. large dormer dwellings is situated 220m to the east of the site. There is a farmhouse and associated outbuildings approximately 150m to the north of the site.

2.0 Proposed Development

- 2.1. Permission is sought for the following;
 - Detached two-storey, three bedroom house of 244sq m,
 - Vehicular entrance from car park of Castle Inn,
 - Driveway of circa 400m over a right of way,
 - Wastewater treatment plant and percolation area,
 - Bored water well.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reasons;

1. The proposed development would endanger public safety by reason of a serious traffic hazard because the temporary nature of the entrance could render the proposed development without an entrance onto the R761, therefore to allow this development would be unacceptable in terms of traffic safety.
2. Having regard to:
 - (a) the location of the development on lands directly adjoining the development boundary of Newcastle,

- (b) the mass and scale of development and
- (c) the elongated access driveway,

it is considered that to allow this development would result in the excessive suburbanisation of the area, resulting in the blurring of the distinction between the rural and urban area, would erode the visual amenities of the area, would set a precedent for further development at this point, contrary to the settlement strategy and to the provisions of the Newcastle Town Plan, which seeks to retain the distinction between the rural and urban areas, and to ensure orderly development in this settlement, in accordance with the objectives of the Development Plan and would therefore be contrary to the County Development Plan and to proper planning and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Report dated 12/7/18 – Following submission of unsolicited further information refusal of permission was recommended for 2 no. reasons.

Report dated 16/3/18 – Refusal recommended for 4 no. reasons referring to;

- Failure to comply with Objective HD23 of the Development Plan
- Traffic hazard
- Development would result in excessive suburbanisation of the area due to location of the site adjoining the development boundary of Newcastle and the extent of the driveway
- The development would be prejudicial to public health due to insufficient details.

3.2.2. Other Technical Reports

EHO – report dated 6/2/18 – No objections subject to conditions.

EHO – report dated 12/4/18 – No objections subject to condition.

3.3. Third Party Observations

- 3.3.1. The Planning Authority received one submission in relation to the planning application. The main issues raised are similar to those set out in the observations to the appeal.

4.0 Planning History

PA Reg. Ref. 17/1009 – Permission was refused to Ben Doyle for a detached two-storey house and effluent treatment system bored water well, new vehicular entrance piers and splayed walls allowing for sufficient sightlines onto the existing lane. The site is located to the south-west of the appeal site with proposed access from Church Lane. Permission was refused for the following reasons;

1. The proposed development would not represent a necessary dwelling in this Landscape designated 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.
 2. 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 has failed to show that he is a permanent native resident of this rural area with a rural dwelling need. 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.
2. Having regard to,
- the inadequacy of the laneway serving the site in terms of width, alignment and structural condition,
 - the number of existing dwellings served by this laneway,

it is considered that the existing road network is only suitable to cater for traffic movements generated by existing permanent native residents who are local to this particular area and who are served by the Church lane and therefore to allow this development would endanger public safety by reason of a traffic hazard.

3. Objective HD3 of the County Development Plan 2016-2022 provides that 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. The proposed dwelling, due to its height, large mass and floor area together with its location on an elevated and unscreened site would form a highly incongruous and intrusive feature on the landscape, would militate against the presentation and protection of the rural and visual amenities of the area and would therefore be contrary to the design guidelines and objectives of the County Development Plan and would be contrary to proper planning and sustainable development.
4. The proposed development is located within the confines of a feature included in the Record of Monuments and Places and within the 50m buffer zone of this feature. Under Objective BH1, the Council will not permit development in the vicinity of a feature which seriously detracts from the setting of the feature or which is seriously injurious to its cultural or educational value. The applicant has not provided an Archaeological Assessment with this application to assess the impact on any archaeological remains in the area where the development is proposed to take place. To permit this development in the absence of this assessment would be contrary objective BH1 of the County Development Plan and contrary to the proper planning and sustainable development.

PA Reg. Ref. 17/306 – Permission was sought for a two storey and single storey 4 bedroom house, all associated site works and landscaping to accommodate dwelling, provision of new treatment plant and percolation area along with a bored water well, new vehicular entrance piers and splayed walls allowing for sufficient sight lines onto the existing lane. The site is located to the south-

west of the appeal site with proposed access from Church Lane. The application was withdrawn.

PA Reg. Ref. 16/1345 – Permission was sought for a two storey and single storey 4 bedroom house with detached garage, all associated site works and landscaping to accommodate new dwelling, provision of new treatment plant and percolation area along with a bored water well, vehicular entrance piers and splayed walls allowing for sufficient sight lines onto the existing lane. The site is located to the south-west of the appeal site with proposed access from Church Lane. The application was withdrawn.

5.0 Policy Context

5.1. Development Plan

5.1.1. Wicklow County Council 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.

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.

- Level 6 Settlement Plans – Avoca, Donard, Kilmacanogue, Newcastle, Roundwood, Shillelagh
- Appendix 2: Wicklow County Council: Single Rural Houses: Design Guidelines for New Homes in Rural Wicklow.

5.2. Other Policy

Sustainable Rural Housing Development Guidelines

- 5.2.1. The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. 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'.

Code of Practice: Wastewater Treatment Systems for Single Houses 2009

- 5.2.2. Sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

5.3. **Natural Heritage Designations**

- 5.3.1. The nearest Natura 2000 sites are;

- The Murrough Wetlands SAC c.1.2km to the east
- The Murrough SPA c.1.2km to the east
- Carriggower Bog SAC c.7km to the west
- Glen of the Downs SAC c.7km to north
- Bray Head SAC is located c.10km to the east of the site.
- Wicklow Head SPA c.11km to the south-east
- Wicklow Reef SAC c. 10.4km to the south-east
- Wicklow Mountains SAC is located 12.4km to the west of the site.
- Wicklow Mountains SPA is located 12.4km to the west of the site.
- Deputy's Pass SAC c. 14km to the south-west
- Vale of Clara (Rathdrum Wood) SAC c. 14.7km to the south-west

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was submitted by ARC Design Ltd. on behalf of the applicant Ben Doyle. The main issues raised are as follows;

- It is requested that the Board review the relevant planning history relating to the applicant Mr. Ben Doyle. PA Reg. Ref. 16/1354, PA Reg. Ref. 17/306 and PA Reg. Ref. 17/1009.
- The first reason for refusal issued by the Planning Authority stated that, *“the proposed development would endanger public safety by reason of a serious traffic hazard because the temporary nature of the entrance could render the proposed development without an entrance onto the R761, therefore to allow this development would be unacceptable in terms of traffic safety.”*
- It is contended that the proposed development would not endanger public safety. It is proposed to use a spur entrance off Mr. Ben Doyle’s business premises lands which is in use as an overflow car park. Permission was granted under PA Reg. Ref. 13/8890 for the car park with access from the R761. A drawing has been submitted with the appeal which indicates that traffic movements from the car park and the new spur vehicle entrance can be safely accommodated.
- The appellant disagrees with the comment that the temporary nature of the entrance could render the proposed development without an entrance onto the R761.
- It is proposed to upgrade the existing agricultural spur entrance with the provision of a new spur entrance. The applicant has been granted permanent easement for the entrance. The permanent easement is provided until such time as any new road development proposed by Wicklow Co. Council is constructed.
- It is highlighted that the applicant sought planning permission on three separate occasions for a vehicular entrance off Church Lane. It is also noted that the applicant has a right of way over Church Lane.

- The second reason for refusal refers to the location of the site directly adjoining the development boundary of Newcastle, the mass and scale of the development proposed and the elongated access driveway that would result in excessive suburbanisation of the area contrary to the settlement strategy and provisions of the Newcastle Town Plan.
- It is submitted in response that the house is proposed to be located in the rural area, it is of modest size at 244sq m and the proposed design is a traditional rural house type in compliance with the Development Plan Design Guidelines for New Homes in Rural Wicklow.

6.2. Planning Authority Response

- None received

6.3. Observations

An observation to the appeal was submitted by Auveen Byrne Associates on behalf of Ms. Rachel Lippiatt. The main issues raised are as follows;

- The validity of the application is questioned based on the description of the development. It is set out that the site map does not indicate the 25 hectare land holding in the joint ownership of the applicant Mr. Ben Doyle.
- The proposed driveway is located on lands outside the applicant's control. The applicant's brother Mr. Adrian Doyle states that he will grant Mr. Ben Doyle temporary access from his existing car park across his lands to the site. It is also stated that a permanent right of way may be provided. These proposals are considered inadequate.
- The observer raises the matter of the applicant's ownership of other lands located within the Development boundary of Newcastle. The development of such lands would not require the demonstration of compliance with policy HD23 of the Wicklow County Council Development Plan 2016 – 2022.

- In relation to compliance with policy HD23 the observer requests that the Board ensure that sufficient evidence is provided in order to determine that the applicant complies with the policy.
- It is highlighted that should permission be granted that vehicular access be from Main Street, Newcastle. Access from Church Lane is not considered a suitable alternative having regard to the poor width, alignment and surface condition of the road.
- It is contended that the applicant has not demonstrated that they have right of way over the proposed driveway.
- It is stated in the appeal that it is proposed to upgrade an existing spur entrance of the overflow car park for the Castle Inn. However, this is not the proposal before the Board. The redline site application does not include the gateway or 400m driveway.
- It is stated in the appeal that a permanent easement has been granted, however it is contended that no evidence was submitted with the application or appeal to support this.
- The observer is concerned that the proposed dwelling could therefore require vehicular access off Church Lane. It is noted that there are no proposals up upgrade Church Lane.
- The Observer has cited a number of planning decisions including a decision to refuse permission for a dwelling on Church Lane, Newcastle including PA Reg. Ref. 15/437 & PL27.245762. A number of planning applications for dwellings on Church Lane were lodged and subsequently withdrawn they include PA Reg. Ref. 10/2295, PA Reg. Ref. 11/4332. Under PA Reg. Ref

11/4902 and PA Reg. Ref. 12/6664 permission was refused for a dwelling on Church Lane on the basis of traffic hazard.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal. It is also considered however, that the matter of on-site effluent treatment should be assessed. Appropriate Assessment and Environmental Impact Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Rural Housing policy
- Design and Visual Amenity
- Vehicular Access
- Effluent Treatment
- Appropriate Assessment
- Environmental Impact Assessment
- Other issues

7.1. Rural Housing policy

- 7.1.1. With regard to compliance with rural housing policy the proposal should be in accordance with the provisions of the Sustainable Rural Housing Guidelines and the provisions of the Wicklow County Development Plan 2016 – 2022, as it relates to settlement in rural areas. The appeal site is located in an area identified as an Area Under Strong Urban Influence on Map No.1 – Indicative Outline of NSS Rural Area Types in the Sustainable Rural Housing Guidelines. These areas are typically close to larger urban centres which are under pressure for housing in the countryside and have road networks which are heavily trafficked. The guidelines suggest that certain classes of persons e.g. those occupied full time or part-time in agriculture, forestry, those who are an intrinsic part of the rural community, sons/daughters of farmers and returning emigrants, may be considered for housing in the countryside. Section

4.3.5 of the 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.

- 7.1.2. Objective HD23 of the Wicklow County Development Plan 2016 – 2022 refers to housing in the open countryside and it states 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. There are sixteen categories set out under Objective HD23, whereby residential development will be considered in the countryside. The Planning Authority in their assessment determined that the applicant did not come within the scope of this policy.
- 7.1.3. As set out in the appeal submission and accompanying documentation the applicant is Mr. Ben Doyle. Mr. Doyle is originally from Drummin East, Delgany, Co. Wicklow. He lived there from birth in 1983 until 2007 when he moved to Grange, North, Newcastle, Co. Wicklow. Grange, North is located in the rural area to the south of Newcastle. This is the applicant's current residence. Mr. Doyle is a business owner of the Castle Inn, Newcastle and it is stated in the supporting documentation that he has farmed lands at Church Lane, Newcastle since 2005 and that he is currently studying for a Farming Green Certificate with Teagasc Kildalton College, Co. Kilkenny. It is stated in the application form that the applicant does not own a home.
- 7.1.4. 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, I am generally satisfied that the applicant has demonstrated that he complies with the eligibility criteria set out in Part (1) of Objective HD23 in that he has resided in the rural area of Grange, North, Newcastle for in excess of 10 No. years as evidenced by the supporting documentation which has accompanied the application.
- 7.1.5. On the basis of the information submitted with the application and the appeal I would consider that the applicant meets the qualification criteria to build a rural dwelling at this location in accordance with the provisions of the Development Plan and the provisions contained in the Rural Housing Guidelines.

7.2. Design and visual amenity

- 7.2.1. The second reason for refusal referred to the design and scale of the dwelling, the elongated nature of the access drive and the location of the site directly adjoining the development boundary of Newcastle. The proposed dwelling has a floor area of 244sq m. It is two-storey with a ridge height varying from 6.94m to 7.58m. The proposed house design is akin to a traditional farm house and therefore is a design type cited as appropriate in Appendix 2 of the County Development Plan: Single Rural Houses: Design Guidelines for New Homes in Rural Wicklow.
- 7.2.2. The proposed driveway runs for over 400m across agricultural land. While the site and surrounding lands are relatively low lying having regard to the nature and extent of the driveway I consider that it would unduly impact upon the visual amenities of the rural area and would create a precedent for a similar character and pattern of development in the area.
- 7.2.3. The site is situated 40m from the defined settlement boundary of Newcastle as set out in the Newcastle Settlement Plan which forms part of the Wicklow County Development Plan 2016-2022. Newcastle is a Level 6 settlement under the provisions of the Development Plan. Under Section 2 of the Level 6 Settlements Plans it refers to tertiary lands and peripheral the vision seeks to protect and provide from agriculture and amenity in a manner that protects the physical and visual amenity of the area and demarcates the urban and rural boundary. The site lies to the south of tertiary development area and east of secondary development area within the settlement boundary of Newcastle.
- 7.2.4. Having regard to the site location and the configuration and layout of the access drive and lack of frontage, I consider that the development would constitute inappropriate backland development which would be out of character with the pattern of development in the vicinity. I would conclude that the current proposal represents development which would be contrary to the provisions of the Newcastle Settlement Plan and Wicklow County Development Plan 2016-2022 which seeks to retain the distinction between the rural and urban areas and protect the visual amenities of the rural landscape.

7.3. Vehicular access

- 7.3.1. It is proposed to access the subject site via an upgraded agricultural access from the car park to the rear of the Castle Inn. The Castle Inn is owned by the applicant Mr. Ben Doyle and there is an existing agricultural gate which provides access to the agricultural lands to the west of Main Street, Newcastle. The proposed access drive would run for over 400m across existing agricultural land. The applicant has submitted a document with the application which states that he has a right of way across the lands in the ownership of his brother Mr. Adrian Doyle, at Newcastle Middle, Co. Wicklow from the site to the temporary access from the car park and that a permanent right of way is provided over any future entrance/exit that may be opened on Mr. Adrian Doyle's lands.
- 7.3.2. The Planning Authority refused permission on the basis that vehicular access arrangements would represent a traffic hazard due to the temporary nature of the proposed vehicular entrance which could render the proposed development without an entrance onto the R761.
- 7.3.3. In response to the matter the first party contends that the proposed development would not endanger public safety. It is argued in the appeal that proposed entrance is off the car park which received planning permission under PA Reg. Ref. 13/8890 including access from the R761 and therefore would provide a safe vehicular entrance. A drawing indicating the existing and proposed vehicular entrance detail was submitted with the appeal Drawing No: 05. The drawing illustrates 16m sightline to the east at the entrance. The proposed entrance is also 16m from the car parking entrance onto the R761. Regarding the issue of the temporary nature of the proposed vehicular entrance I would concur with the assessment of the Planning Authority that the entrance is indeed temporary in nature.
- 7.3.4. The submitted drawings including the site location indicate the red line boundary of the site and the proposed access drive over which the applicant has a right of way indicated in yellow however the driveway ends at the car park and there is no direct access proposed to the R761. While the Castle Inn and the car park are presently in the ownership of the applicant it is feasible that ownership of the property could change. Therefore, the current proposal does not provide for a permanent vehicular

access from the site to the public road. In the absence of such proposals I would agree with the Planning Authority that the proposal would represent a traffic hazard.

- 7.3.5. The matter of potential access off Church Lane to the west of the site has been raised in the appeal. The site is located circa 370m to the east of Church Lane. The applicant has sought permission previously for a dwelling with access off Church Lane and permission was refused on the basis of traffic hazard due to the inadequacy of the Church Lane in terms of width, alignment and structural condition. In the absence of proposals to upgrade Church Lane this location would be unsuitable for additional vehicular entrances.

7.4. Effluent treatment

- 7.4.1. It is proposed to install a Euro Bio secondary wastewater treatment system and polishing filter. It is proposed to locate the treatment plant circa 35m to the west of the dwelling and the percolation is located on the layout plan 40m to the west of the dwelling. It is proposed to locate a well 17m to the east of the dwelling. Table 6.1 of the EPA Manual – Treatment Systems for Single Houses sets out the minimum separation distances, the minimum distance from a watercourse or stream to a percolation area is stated as 10m and the minimum distance from a road to the percolation area is stated as 4m. There is a stream located 16m to the north of the percolation area. Bedrock and the water table was not encountered up to a depth of 2m below ground level during the site testing. The groundwater protection response for the area is R2¹ which means the site is suitable for an on-site system subject to normal good practice. However, where domestic water supplies are located nearby particular attention should be given to the depth of subsoil over bedrock.
- 7.4.2. The site suitability assessment indicates that a T value of 7.22 was recorded on site. Table 6.3 of the EPA Manual – Treatment Systems for Single Houses sets out the interpretation of percolation test results. A T value which is less than greater than 3 and less than 50 means that the site is suitable for the development of a septic tank system or a secondary treatment system discharging to ground water.
- 7.4.3. P tests were also carried out and a P value of 11.22 was recorded. Table 6.3 of the EPA Manual advises that where the P value is greater than 3 and less than 75 then the site is suitable for a secondary treatment system with polishing filter at ground surface or overground. It is proposed to construct a raised polishing filter with 0.9m

of unsaturated subsoil. The percolation pipes would cover 50 linear metres. It is proposed to discharge the treated effluent to ground water. The report of the Environmental Health Officer had no objection to the proposed on-site effluent treatment system subject the soil polishing filter being setback 10m from the stream and site boundary.

- 7.4.4. Having regard to the information submitted including the site characterisation report, reports of the EHO and the proposal to install a secondary treatment system with mounded sand polishing filter, I consider that site is suitable for the proposed on-site secondary effluent treatment system subject to the system being constructed and maintained in accordance with the details submitted.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the development and its location relative to European sites, I consider it is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on a European Site.

7.6. Environmental Impact Assessment

- 7.6.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore be excluded at preliminary examination and a screening determination is not required.

7.7. Other Issues

Validity of application

- 7.7.1. The observation to the appeal raised the validity of the application and specifically in relation to the proposed vehicular access to the site. In relation to this matter, I note that the Planning Authority deemed the application valid. The applicant has submitted that documentation which states that he has a right of way over the proposed access driveway.

7.7.2. The Planning and Development Act 2000, as amended, requires that the applicants have sufficient legal interests in the lands to carry out the development. Furthermore, I note that it is not within the remit of the Board to determine legal interests and/or obligations held by the applicant, in relation to such lands. Section 34(13) of the Planning and Development Act, 2000, as amended, relates as follows: “A person shall not be entitled solely by reason of a permission or approval under this section to carry out a development.” This subsection makes it clear that the grant of permission does not relieve the grantee of the necessity of obtaining any other permits or licences which statutes or regulations or common law may necessitate.” Accordingly, I do not consider that these matters are reasonable and substantive grounds for refusal of the proposed development.

8.0 **Recommendation**

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

9.0 Reasons and Considerations

1. Having regard to the temporary nature of the proposed vehicular entrance and in the absence of a direct vehicular entrance onto the public road the R761, proposed development would endanger public safety by reason of traffic hazard.
2. The proposed development, because of its location on lands directly adjoining the development boundary of Newcastle, lack of frontage and elongated access driveway, would constitute inappropriate backland development which would be out of character with the pattern of development in the vicinity and would seriously injure the character and visual amenities of the area. Furthermore, the proposed development would be contrary to the provisions of the Newcastle Settlement Plan and Wicklow County Development Plan 2016-2022 which seeks to retain the distinction between the rural and urban areas. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area and

Siobhan Carroll
Planning Inspector

17th of December 2018