



An  
Bord  
Pleanála

## Inspector's Report ABP-303-598-19.

---

<b>Development</b>	Importation and deposition of subsoil and topsoil.
<b>Location</b>	Boleynass Upper, Ashford, County Wicklow.
<b>Planning Authority</b>	Wicklow County Council.
<b>Planning Authority Reg. Ref.</b>	18/833.
<b>Applicant</b>	Ger Devlin Haulage and Plant Hire Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Ger Devlin H&PH Ltd
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	9 <sup>th</sup> May 2019.
<b>Inspector</b>	Philip Davis.

# Contents

1.0 Introduction .....	3
2.0 Site Location and Description.....	3
3.0 Proposed Development.....	4
4.0 Planning Authority Decision .....	4
4.1. Decision.....	4
4.2. Planning Authority Reports.....	5
4.3. Prescribed Bodies.....	6
4.4. Third Party Observations.....	6
5.0 Planning History.....	7
6.0 Policy Context.....	7
6.1. Development Plan.....	7
6.2. Natural Heritage Designations.....	7
7.0 The Appeal.....	7
7.1. Grounds of Appeal.....	7
7.2. Planning Authority Response .....	9
7.3. Observations .....	9
8.0 EIAR .....	9
9.0 Assessment.....	9
10.0 Recommendation.....	19
11.0 Reasons and Considerations .....	20

## **1.0 Introduction**

This appeal is against the decision of the planning authority to refuse permission for a landraising operation on low quality agriculture west of the village of Ashford in County Wicklow. The grounds of refusal relate to a absence of an EIA and NIS, plus impact on wetlands in addition to impacts on wildlife, landscape, and traffic.

## **2.0 Site Location and Description**

### **2.1. Boleynass Upper, Ashford, County Wicklow**

Boleynass Upper townland is located approximately 6 km west north west of the village of Ashford, in the eastern foothills of the Wicklow Mountains. It is two km south of the Vartry reservoir and is within the catchment of the Vartry River. The landscape is hilly with levels falling to the south into a wide valley, with the Devils Glen glacial spillway linking to the coastal plain of Wicklow. The area is mostly around 190 metre AOD and is characterised by upland grazing with forestry on hilltops. It is served by a pair of L-roads connecting the R763 Ashford to Laragh Road to the south and the R746 Ashford to Roundwood Road to the north.

At Annagolan Bridge over the Vartry to the south of the townland there is a near continuous stretch of individual houses to the junction with the R763, otherwise the area is settled by farms and individual dwellings, many taking advantage of the fine views to the east. The area is drained by a minor un-named stream which flows from the uplands just east of the Vartry dam, joining the main Vartry River to the south at the entrance to the Devils Glen. The upper reaches of this stream appears to be partly channelled into the Vartry Reservoir. The Tiglin Adventure Centre is within woodland about 1 km to the south-east of the townland.

### **2.2. Appeal site**

The appeal site is a low-lying irregularly shaped area of farmland on the east side of the country L-road, just under a kilometre north-east of Annagolan Bridge and the junction with the R763. The site area is given as 3.09 hectares in the application form and is part of a larger agricultural landholding of 10.132 hectares. The site is currently a mix of rough scrubby grassland with gorse/heath with levels rising to the south and west from the base of a small stream. The northern and eastern

boundary is marked by a stream running south – this stream is a tributary of the Vartry – it joins this river about 1.5 km to the south next to the Devils Glen. The western boundary of the site runs along the road, where there is an intermittent high hedge and ditch. There are two detached dwellings opposite the road to the west, and another dwelling on the south-western corner of the site (not part of the landholding). It is bounded to the south by remnant ditches and hedges. There are faintly discernible boundary ditches running through the site. There are a number of drains running across the site and small mounds that appear to be the result of past drain construction.

There are no recorded ancient monuments, structures on the NIAI, or other protected features on the site.

### **3.0 Proposed Development**

The proposed development is described on the site notice as permission for the importation and deposition of inert subsoil and topsoil for land profiling and recontouring purposes, construction of a new entrance, installation of temporary site office and canteen, portaloo and temporary wheelwash, including all ancillary site works. The stated purpose is to improve the site for agriculture.

### **4.0 Planning Authority Decision**

#### **4.1. Decision**

The planning authority decided to refuse permission for six stated reasons, I would summarise as follows:

1. It would have required the submission of an EIAR on the basis of the filling of an area that supports in parts a wetland habitat and population of Marsh Fritillary.
2. It is contrary to Objectives NH1 and NH8 of the CDP 2016 as the site is considered important to the conservation of a habitat that supports the Marsh Fritillary.

3. It is contrary to Objective BD3 of the 2000 (*sic*) County Development Plan and the DoE AA guidelines with regard to the potential for impacts on the Murrough Wetlands SAC.
4. The works would have a negative impact on the visual amenities of the area which would be contrary to objective NH51 of the 2006 Development Plan.
5. The proposed development would endanger public safety by reason of serious traffic hazard because the existing road network is inadequate.
6. It is considered that the proposal may give rise to increased flooding and impact on the integrity of the stream.

## 5.0 Planning Authority Reports

### 5.1. Planning Reports

Two planning reports are on file, the second one following a request for further information.

First report:

- Notes policy on waste, heritage and design standards. Landscape category is 'High Amenity Area'.
- Notes details in the submission – total of just over 77,000 tonnes of material, with existing ground levels raised by 5.52 metres over the 4 years of operation. This equates to 8 truck movements per day.
- Notes comment of DoCHG with regard to wetland habitats and Annex II species on site.
- It is noted that the quantities of material to be imported are under the 25,000 tonnes per annum threshold under Schedule 5, Part 2, 11(b) of the 2001 Regulations.
- Having regard to the comments of the Department and Inland Fisheries Ireland, it is considered that the Screening for EIAR indicates that it warrants the submission of an EIAR (separate EIAR screening document attached).
- Having regard to the comments of Inland Fisheries Ireland it is considered that the conclusion of no adverse effects in the AA screening is insufficient.

- It is considered that sightlines are achievable and acceptable, but more details required on the access design.
- It is considered that due to the temporary nature and the low nature of the site there would not be any impact on visual amenities.
- A Supplementary Report attached noted other concerns and policy considerations in addition to those raised in the main report.

Second report:

- Notes reduction in the area of the proposed works (to 2.54 hectares and increase in buffer area to 15 metres).
- Notes response from the applicant but concludes that key issues are not addressed.
- Refusal recommended for six stated reasons.

## **5.2. Other Technical Reports**

**Executive Scientist:** No objections.

## **5.3. Prescribed Bodies**

**Inland Fisheries Ireland** – notes the site is bordered by the Knockfadda Stream, a salmonid tributary of the River Vartry (it notes that salmon are listed under Annex II and V of the Habitats Directive). States that it is considered that there is insufficient information to fully assess the proposal.

**Department of Culture, Heritage and the Gaeltacht:** Notes that it is upstream and within the catchment of the Murrough Wetlands SAC and SPA. It is noted that the AA screening report does not consider the network of drains and streams within the site. It is thought the proposed development supports wetlands habitats and supports a population of the Marsh Fritillary, an Annex II species under the Habitats Directive.

## **5.4. Third Party Observations**

None on file.

## 6.0 Planning History

No previous records on file. The Board will note a number of recent appeals and decisions for inert material disposal in the Wicklow area in the past year – for example current file **ABP-302727-18**. Other relevant appeals include **ABP-303182-18** and **ABP-302439-18**.

## 7.0 Policy Context

### 7.1. Development Plan

The site is in open countryside with a ‘High Amenity Area’ landscape designation, a general designation for much of the uplands of Wicklow. Otherwise it is a rural area without any specific zoning designations. A number of relevant policies are set out and discussed in the assessment below.

### 7.2. Natural Heritage Designations

There are no EU habitats within the immediate vicinity, but the stream running through the site is a tributary of the Vartry River which ultimately discharges to the Murrough SAC and SPA on the coast just north of Wicklow Town. The woodland area just south of the site around the Devils Glen is a proposed NHA.

## 8.0 The Appeal

### 8.1. Grounds of Appeal

Reason 1:

- It is argued that this reason is in error – the proposed development, it is submitted, is well below the threshold level and the proposed reductions in scale with the FI submission ensures that there would be no impacts on wetlands or on the Marsh Fritillary.

Reason 2:

- It is argued that the proposed development would result in the permanent protection of the wetland part of the site, as it will allow proper management of the overall landholding, in particular by reducing scrub. It is proposed to produce a Floodplain Management Plan and the applicant would welcome a condition to this end.

Reason 3:

- It is submitted that the reason is invalid as the operable plan is now the 2016-2022 Plan. It is also argued that the reason for refusal is contrary to guidelines as it is the responsibility of the planning authority to state if the AA Screening report is inadequate. It is submitted that no mitigation measures are proposed and as such the People over Wind case does not apply.

Reason 4:

- It is denied that any boundary trees or hedgerows will be removed apart from those necessary for the entrance. It is argued that due to the small size of the site and the limited biodiversity this reason for refusal is not proven – it is argued that the parts valuable for the Marsh Fritillary can be left unmanaged as part of the proposed development.

Reason 5:

- It is argued that this reason for refusal is unjustified as sight lines are adequate and the nature of the works is temporary – it is submitted that the road is suitable – it is also noted that there was no submission to the application by the Council Road Engineer.

Reason 6:

- It is argued that the integrity of the floodplain will be maintained in full, and it is stated that a condition would be acceptable such that the extent of the floodplain would be independently determined, and the disposal area adjusted accordingly.

As a final point, it is argued that the planning authority did not have full account of the benefits of the proposed development by way of the improvement to the



agricultural land, the potential for protecting the floodplain and the habitat of the Marsh Fritillary, plus the employment created and the outlet for soil and stone in the area.

### **8.2. Planning Authority Response**

The planning authority did not respond to the grounds of appeal.

### **8.3. Observations**

None

## **9.0 EIAR**

The proposed development is sub-threshold, but the planning authority refused for the reason that it was considered that it needed an EIA. I will address the arguments submitted in my assessment below.

## **10.0 Assessment**

Having inspected the site and reviewed the file documents I consider that the proposed development can be addressed under the following general headings:

- EIA
- Appropriate Assessment
- Principle of Development (planning policy)
- Habitat protection
- Visual impact
- Flooding
- Traffic
- Other issues

## 10.1. EIA Screening

The planning authority refused for the reason that it is considered that the development would have required the submission of an EIA Report on the basis of its identification as a wetland within the County Wicklow Wetland Survey: October 2011.

The proposed development involves the importation and deposition of material for land profiling and recontouring purposes, for a site just over 3 hectares. I note from previous Board decisions (e.g. **ABP-303182-18** and **ABP-302439-18**) that this type of operation is considered to be a waste operation for the purposes of EIA Screening (even if not described as such on the application notice). Under Schedule 5, Part 2, 11(b) of the regulations:

*Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule.*

I note also that under Schedule 5, Part 2, 1(c) of the Regulations:

*Development consisting of the carrying out of drainage and/or reclamation of wetlands where more than 2 hectares of wetlands would be affected.*

The proposed development is sub-threshold for both development types. The planning authority considers on the basis of its screening that having regard to the presence of the site of Marsh Fritillary (*Euphydra Aurina*), an Annex II species under the Habitats Directive and the location, scale and limited timeframe for the works, it would be of a significant scale such that it warrants the submission of an EIAR.

Schedule 7 of the Regulations sets out the criteria for determining whether development listed in Part 2 of Schedule 5 should be subject to an EIA. Although the decision notice does not specifically state which part of S.7 they were referring to, I assume the assessment was related to Schedule 7 2(c)(i) – i.e. the absorptive capacity of the natural environment, with particular attention to wetlands and riparian areas.

The site is within the shallow valley of a stream which follows what seems to be a relatively natural course. The area is described by the planning authority as wetlands – the definition of Wetlands in the Regulations is as follows:

**“natural or artificial areas where biogeochemical functions depend notably on constant or periodic shallow inundation, or saturation, by standing or flowing fresh, brackish or saline water.”**

The land is likely subject to occasional partial inundation and has visible wetland vegetation, but is largely wet grassland and dry scrub. Its most unusual feature – referred to in the refusal – is the known presence (identified by Wicklow CC in a previous survey) of the Marsh Fritillary butterfly, an Annex II (Habitats Directive) species. This species is widespread in Ireland but uncommon and is Ireland's only Annex II invertebrate. It is entirely dependent on one foodplant species, the Devils Bit Scabious, a common plant of both wet and dry grassland. So, while the butterfly does tend to be associated with wetlands, it is not exclusively so, it can be found on a variety of other types of grassland and heath.

The site is grazing land with some furze scrub away from the river, and is progressively drier further away from the river, although a number of wet ditches (largely overgrown) criss-cross the land. The applicant has argued that the works would not impact on the wetland element, but given the scale of the works and the nature of the site I would consider it difficult to say that wetlands would not be significantly impacted without significant alteration to the proposals. I would also note the potential for downstream impacts during heavy rains, even with standard precautions in place.

I would not consider any particular one 'issue' in this regard to justify a requirement for sub-threshold EIA, but in this case I note quite a few cumulative issues of concern, most notably potentially vulnerable habitats downstream of the site and their absorptive capacities, the overall nature of the site and wetland, and the identified Annex II species (Marsh Fritillary), in addition to the other general concerns with such a large disposal operation in a relatively unspoilt and quiet rural location.

I would therefore concur with the planning authority in this reason for refusal.

## 10.2. Appropriate Assessment

The planning authority did not accept the conclusion of the submitted AA Screening which 'screened out' the potential impact of the proposed development on the Murrough Wetlands SAC and refused for this reason.

There are no designated habitats close to the appeal site, but the stream discharges to the Vartry which in turn discharges to the sea north of Wicklow into the Murrough Wetlands, a lagoon between a permanent sandbar and the original coast. The wetlands are also a designated SPA. The SAC is designated for the following qualifying interests:

Annual vegetation of drift lines [1210]
Perennial vegetation of stony banks [1220]
Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritimae</i> ) [1330]
Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) [1410]
Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]
Alkaline fens [7230]

The Conservation Objective is to maintain or restore the favourable conservation status of those habitats.

The SPA is designated for the following species:

Red-throated Diver ( <i>Gavia stellata</i> ) [A001]
Greylag Goose ( <i>Anser anser</i> ) [A043]
Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046]
Wigeon ( <i>Anas penelope</i> ) [A050]
Teal ( <i>Anas crecca</i> ) [A052]
Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) [A179]
Herring Gull ( <i>Larus argentatus</i> ) [A184]
Little Tern ( <i>Sterna albifrons</i> ) [A195]
Wetland and Waterbirds [A999]

The Conservation Objective is to maintain or restore the favourable conservation condition of the above species.

The Lagoon is clearly a feature created by the interaction of the inflow of the Vartry with tidal deposition – it is the only significant watercourse running directly into the

Lagoon and as such should be considered an integral part of the designated habitats.

I note that the butterfly species identified on the site is an Annex II species but is not associated with the qualifying interests or conservation objectives of either designated habitat.

While I accept the submission by the applicant that the works do not directly impact on the watercourse and there is very significant attenuation between the site and the two designated habitats, there is a clear potential pathway for pollution from the site to the designated area. While the potential for an impact is minor, the legislative requirements relating to EU habitats requires a very high degree of certainty for screening out potential impacts, in particular for a large-scale development such as that proposed, and with the potential for pollution associated with any such disposal and landraising operation.

I therefore conclude that on the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site No. 002249, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

### 10.3. Principle of Development (planning policy)

Although the application does not provide much detail on sources or the nature of the material to be used, the proposed development involves the use of inert soil material much of which could be considered waste material – Wicklow is within the functional area of the **Eastern Midlands Region Waste Management Plan 2015-2021**. The Plan states that as of 2012 there was in the region of 2 million tonnes of C&D waste arisings, although that figure was rising rapidly. Section 11.2.4 of the Plan outlines some of the specific issues with tracking and monitoring these wastes, specifically the problem of misclassification. While the material is described in the application as 'soil', I would consider it most likely comes under the general classification of C&D material.

More specific quantities and policy recommendations are set out in the report commissioned by the three waste management planning regions of the south and west – **Construction and Demolition Waste – Soil and Stone Recovery / Disposal Capacity** (December 2016). This policy notes there is one soil recovery facility in County Wicklow, at Fassaroe near Bray, with a capacity of 550,000 tonnes per annum (although the report states that at the time of writing it did not appear to be currently active). The report states that there is a shortfall of capacity for such wastes in the three waste planning regions, with significant amounts of this waste being accepted in licensed MSW sites such as Drehid and Ballyragan. With regard to future proposals it concludes (Section 6.1):

*‘It is concluded from the analysis that the preferred solution for providing secure and longer term outlets for soil waste recovery. Under the current system this can only be achieved through the waste licensing system. The lack of a consistent supply of licensed capacity across the regions is an issue. Alternative solutions are needed for areas which cannot support the investments required to develop these sites.*

*Secure and long term sites for soil recovery facilities are preferred. Locations which offer these benefits include exhausted quarries or pits. Many existing licensed sites are sited at such locations. This approach is favoured by the regional waste management plan with policy preference for large central sites which require restoration through the placement of clean soil returning the site back to its original profile.’*

There are no figures available for Wicklow specifically, although the report states (page 30), that ‘*The region appears to have a reasonable balance in the make-up of facilities*’. Longford, Louth, Laois and Offaly are identified as the local authorities with a very low level of permitted capacity.

The **Wicklow County Council 2016-2022 County Development Plan** has a number of waste specific objectives (Chapter 9.3), although none relate specifically to this type of excess soil use. General policies are set out as follows:

### 9.3.2 Solid Waste Management

It is the policy of the Council, as set out in the Regional Waste Management Plan, to:

- prevent or minimise the production of waste in the first instance;
- reduce, re-use and recycle to the maximum extent possible;
- endeavour to recover energy from waste where possible; and
- ensure the efficient and safe disposal of any residual waste.

The role of a land-use plan in the achievement of these objectives is somewhat limited, but it will play a role in guiding the location of new facilities and services that are necessary to implement the Waste Management Plan

#### Solid Waste Management Objectives

WE1 To require all developments likely to give rise to significant quantities of waste, either by virtue of the scale of the development or the nature of the development (e.g. one that involves demolition) to submit a construction management plan, which will outline, amongst other things, the plan for the safe and efficient disposal of waste from the site.

WE2 To require all new developments, whether residential, community, agricultural or commercial to make provision for storage and recycling facilities (in accordance with the standards set out in Development & Design Standards of this plan).

WE3 To facilitate the development of existing and new waste recovery facilities and in particular, to facilitate the development of 'green waste' recovery sites.

WE4 To facilitate the development of waste-to-energy facilities, particularly the use of landfill gas and biological waste.

WE5 To have regard to the Council's duty under the 1996 Waste Management Act (as amended), to provide and operate, or arrange for the provision and operation of, such facilities as may be necessary for the recovery and disposal of household waste arising within its functional area.

WE6 To facilitate the development of sites, services and facilities necessary to achieve implementation of the objectives of the Regional Waste Management Plan.

There is relatively little specific relevant guidance or information within either the Regional or Development Plan as to the appropriateness of this type of use for material, or site selection criteria, or information on sources of this material or whether there is a shortfall of this type of facility. WE6 is probably the only relevant specific policy as it does set a requirement to facilitate appropriate facilities, but I would note that the Regional Plan is largely silent on inert materials such as those proposed for this site.

There is no detailed information provided on the sourcing of material for the site. It seems unlikely that there is sufficient construction or related activity in the immediate area to supply such a large quantity, and the site is some distance from major urban areas under growth pressures.

The **Construction and Demolition Waste – Soil and Stone Recovery / Disposal** report highlights a shortfall of appropriate sites for soil and construction waste treatment and disposal in the overall region. It identifies the need for more such facilities across the three regions with a stated policy preference for larger, more centralised facilities (section 6.1, 'Conclusions' quoted above).

Notwithstanding the policies relating to landscape and ecology (discussed above and below, in terms of general waste and agricultural policy I would conclude that the proposed development is within something of a neutral policy environment and should best be judged on its own merits.

#### 10.4. **Habitat protection**

The second reason for refusal related to the potential impact on the habitat of the Marsh Fritillary. In the absence of a more up to date survey, it is difficult to ascertain the importance of the site for this species. The NPWS states the following about this species on its website:

***This attractive butterfly is the only Irish insect listed on Annex II. It is a colonial butterfly with most individuals remaining in discrete patches of habitat. The***



*adults have a short flight period in May and June and, as they do not wander far from where they emerged, can easily be overlooked. The best time to survey for the species is in September and October when the caterpillars can be found within silken webs on the leaves of the foodplant. Colonies can occur in a wide variety of habitats including sand dunes, calcareous grassland, fens, bogs and upland heaths and grasslands. The presence of its foodplant Devil's-bit Scabious, Succisa pratensis is an essential habitat component.*

*The Marsh Fritillary is still widespread in Ireland, but knowledge of its precise distribution is hampered by lack of information on the location of occupied sites and little long-term monitoring. The population of the butterfly fluctuates enormously in a cyclical manner. Colonies need a sufficient area of habitat so that the species can survive natural habitat change and the effect of parasites. Individual sites are thought to exist as part of a network of neighbouring sites that are used periodically as conditions permit. If the habitat patch is large enough, colonies may persist for many years.*

I note from this that it is possible that it is present on the entire site, not just the wetland part. As such, any works to the site have the potential to impact upon the species if it is still present. The relevant policies in the Development Plan (as varied) are as follows:

**NH1** To ensure that the impact of new developments on biodiversity is minimised and to require measures for the protection and enhancement of biodiversity in all proposals for large developments.

**NH8** To protect non-designated sites from inappropriate development, ensuring that ecological impact assessment is carried out for any proposed development likely to have a significant impact on locally important natural habitats or wildlife corridors. Ensure appropriate avoidance and mitigation measures are incorporated into development proposals as part of any ecological impact assessment.

The applicant proposes to set the works back from the stream, but having regard to uncertainties about the importance of the site to this species, and its apparent preference for a variety of habitats, not just wetlands, I would consider that there is

insufficient evidence that alterations would minimise any impact on this species – I would therefore concur with the planning authority that the proposed works would be contrary to policy objectives NH1 and NH8. This issue could possibly be addressed through condition, but I would note that in the context of the issues of EIAR and AA discussed above, the application should be addressed as submitted, and I would conclude that there is sufficient information available to conclude that even with additional mitigation any such impacts could be reduced to acceptable levels.

#### 10.5. Visual impact

The appeal site designated as 'High Amenity'. With regard to such areas, policy NH51 states:

**NH51** To resist development that would significantly or unnecessarily alter the natural landscape and topography, including land infilling / reclamation projects or projects involving significant landscape remodelling, unless it can be demonstrated that the development would enhance the landscape and / or not give rise to adverse impacts

The site is within the attractive transitional uplands east of the Wicklow Mountains, although it is not a high tourism area and there are no specific tourist or recreational facilities nearby. The site is visible from public areas only from the adjoining road – as there is a distinct dip in both directions as the road goes down to the small shallow valley there are relatively clear views over the site, especially from the north. The works would be a significant intrusion during the main period of activity, but in the longer term, post restoration and vegetation, I do not consider that the alteration in the landform would be particularly significant to the overall landscape.

#### 10.6. Flooding

The stream is a tributary of the Vartry River, which is partly controlled via the Vartry Reservoir. OPW information indicates that there have been downstream flood events in the past, in particular around the town of Ashford. I would concur with the view of the planning authority that works of this scale and nature directly within the catchment of the river could potentially have downstream impacts on flooding – I

would consider it inappropriate to grant permission in the absence of modelling information on flood impacts.

#### **10.7. Traffic**

The appeal site is located on a relatively straight section of narrow third-class L-road. The road dips down to the valley which gives generally good views for drivers approaching in either direction, and the stone arch bridge may act as a type of informal traffic calming measure due to its discernible narrowing of the carriageway. There are no speed limitations on this part of the road. The road does not appear to be heavily trafficked, it mostly appears to serve the dwellings and farms along its length, it does not directly link any settlements. The nearest Regional roads are the R764 and R763, both of which run east to west, one north, and one south of the townland and these roads are the main routes between the nearby villages of Laragh, Roundwood and Ashfort.

The planning authority refused on the basis that the road is inadequate in terms of width/alignment to cater for the traffic movements that would be generated. I am inclined to agree that it would attract a level of heavy traffic that is very much out of character with such a quiet rural area. It would seem that adequate sight lines could be achieved for the works, but having regard to the proximity of a number of dwellings, especially to the south, I would consider that in the absence of a clear justification for the use of this site, it is sub-optimal from the point of view of traffic generation. I therefore concur with the planning authority in their reason for refusal.

#### **10.8. Other issues**

There are no recorded ancient monuments or protected structures on or near the vicinity of the site. I do not consider that there are other issues raised in this appeal.

### **11.0 Recommendation**

I recommend that the proposed development be refused planning permission for the reasons and considerations set out below.

## 12.0 Reasons and Considerations

1. Having regard to the size of the site upon which development is proposed, to the thresholds set down in Classes 11b of Part 2 of Schedule 5 to the Planning and Development Regulations 2001, to the criteria set out in Schedule 7 of those Regulations, and to the cumulative impact of the development in conjunction with previous and other proposed development in the area, it is considered that the proposed development would be likely to have significant effects on the environment and should be subject to an environmental impact assessment within the meaning of Part X of the Planning and Development Act, 2000 as amended. The proposed development would, therefore, require an Environmental Impact Assessment which should contain the information set out in Schedule 6 of the said Regulations.

In these circumstances, it is considered that the Board is precluded from giving further consideration to the granting of permission for the development the subject of the application.

2. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site No. 002249, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.
3. Having regard to the evidence of the presence on the site of a species listed under Annex II of the Habitats Directive, the Marsh Fritillary, it is considered that in the absence of detailed information on the importance of the local habitat to this species and to an adequate management plan for the works the proposed development would thus materially contravene policies NH1 and NH8 of the Wicklow County Development Plan 2016-2022 which seek to protect non-designated habitat sites from inappropriate development.
4. The development would generate a significant volume of traffic, including a high number of movements by heavy goods vehicles, which the road network

in the vicinity of the site is not capable of accommodating safely due to the restricted width and capacity of the minor country road in the vicinity of the site. The proposed development would, therefore, give rise to traffic congestion and would endanger public safety by reason of traffic hazard.

---

Philip Davis

Planning Inspector

27<sup>th</sup> June 2019