



## **Development**

A single storey dwelling which would contain three bedrooms, a combined kitchen / dining / living area and a home office, as well as ancillary bathroom, walk-in wardrobe, utility and hallway accommodation. This application includes a garage, a well, a proposed secondary treatment system to current EPA guidelines, a new percolation area, the use of an existing agricultural entrance off a private laneway for domestic as well as farming purposes, the erection of three stable blocks and the use of an existing farm building as stable accommodation for equestrian storage purposes. The development, which includes the establishment of a horse-breeding business, includes measures for equine waste, which is to be taken off-site by licensed contractors, comprising a storage area for equi-skips containers and an underground effluent storage tank.

<b>Location</b>	Clonmannon, Ashford, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	19/61
<b>Applicant(s)</b>	Alex Devereux & Lauren O'Connell
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party v. Decision
<b>Appellant(s)</b>	Alex Devereux & Lauren O'Connell
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	19 <sup>th</sup> June, 2019
<b>Inspector</b>	Robert Speer

## 1.0 Site Location and Description

- 1.1. The proposed development site is located in the rural townland of Clonmannon, Co. Wicklow, to the east of the M11 Motorway, approximately 3.4km northeast of the town of Ashford and 1km west of the coastline, where it occupies a well-screened position accessible via a private roadway that extends eastwards from the R761 Regional Road. The surrounding landscape is generally characterised by gently undulating rural countryside interspersed with instances of one-off housing and agricultural outbuildings, although Clonmannon House and a former retirement village are located further east along the access road serving the application site. The site itself has a stated site area of c. 0.4 hectares, is irregular in shape, and presently comprises part of an enclosed paddock area used for the grazing of horses, an agricultural passageway, a number of outbuildings located further west, and that section of the access roadway between the public road and the site entrance. It is bounded by mature tree planting and hedgerow to the north whilst the remaining site boundaries are defined by varying combinations of fencing and hedgerow.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a single storey bungalow-style dwelling house based on a 'L'-shaped plan with a stated floor area of 159.26m<sup>2</sup> and a ridge height of 5.25m. The overall design of the proposed dwelling house is conventional although the use of features such as the narrow building plan and vertically emphasised fenestration evoke aspects of more the traditional / vernacular style. External finishes will include blue / black roof slates, nap plaster, and the feature use of natural stone cladding.
- 2.2. The proposal also includes for the construction of a detached, double garage (floor area: 39.75m<sup>2</sup>) adjacent to the dwelling house, the erection of 3 No. stable blocks (comprising 15 No. individual stables), and the use of an existing farm building as stable accommodation for equestrian storage purposes (with associated works including the provision of a storage area for equi-skips and an underground effluent storage tank).

2.3. Access to the site will be obtained via a right of way over the private laneway that extends eastwards from the R761 Regional Road and an existing agricultural entrance arrangement. 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 a new bored well on site.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On 12<sup>th</sup> March, 2019 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 2 No. reasons:

- The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005 and in an area where housing is restricted to persons demonstrating social and economic local need in accordance with the Wicklow County Development Plan 2016-2022, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. The proposed development, in the absence of any satisfactory identified locally based social and economic 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 “Sustainable Rural Housing Guidelines for Planning Authorities” and to the proper planning and sustainable development of the area.
- No information is available on the number of horses to be housed in the stable, the management of waste from the stabling of horses, the provision of sanitary facilities and water supply for operation of the stables and therefore to permit the proposed development in absence of such information would be

contrary to proper planning and sustainable development and would be prejudicial to public health.

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

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

Details the site context, planning history, and the applicable policy considerations before analysing the proposal and recommending that permission be refused for the reasons stated.

#### 3.2.2. ***Other Technical Reports***

*Environmental Health Officer:* Recommends that clarification be sought as regards the sanitary facilities and water supply points for staff involved with the stables.

*Water & Environmental Services:* Recommends that further information be sought in respect of the management of dung / bedding and seepage from the proposed stables, the number of horses to be housed, the construction of the stable blocks, and the precautions / procedures that will be put in place to contain any accidental spills from either commercial or domestic fuel sources.

### 3.3. **Prescribed Bodies**

None.

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

None.

## 4.0 **Planning History**

### 4.1. *On Site:*

PA Ref. No. 06/6025. Was refused on 6<sup>th</sup> October, 2006 refusing Jacqui & Larry Devereux permission for a two storey dwelling and associated site works with wastewater treatment system and soil polishing filter in accordance with EPA 2000:

- The proposed development constitutes sporadic development in an Area of Outstanding Natural Beauty Landscape Zone contrary to the provisions of the County Development Plan 2004-2010. 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 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 SS9 of the County Development Plan. 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. 07945. Application by J. & L. Devereux for permission for a two-storey detached dwelling and associated site works with wastewater treatment system and soil polishing filter in accordance with EPA 2000. This application was withdrawn.

PA Ref. No. 18/860. Application by Lauren O'Connell & Alex Devereux for permission to construct a dwelling, garage, well, secondary treatment system to current EPA guidelines, new percolation area, entrance off existing private laneway and all associated site works. This application was withdrawn.

## 5.0 Policy and 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 where 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 11<sup>th</sup> October 2004 for at least 10 years prior to the application for planning permission and not as speculation.
10. An emigrant who qualifies as 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 11<sup>th</sup> 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.

*Chapter 5: Economic Development:*

*Section 5.6: Objectives for Wicklow's Rural Economy:*

*AGR1:* To facilitate the development of environmentally sustainable agricultural activities, whereby watercourses, wildlife habitats, areas of ecological importance and other environmental assets are protected from the threat of pollution, and where development does not impinge on the visual amenity of the countryside. Developments shall not be detrimental to archaeological and heritage features of importance.

*AGR2:* To encourage and facilitate agricultural diversification into suitable agribusinesses. Subject to all other objectives being complied with, the Council will support the alternative use of agricultural land for the following alternative farm enterprises:

- Specialist farming practices, e.g. organic farming, horticulture, specialised animal breeding, deer and goat farming, poultry, flower growing, forestry, equine facilities, allotments, bio-energy production of crops and forestry, organic and speciality foods; and
- suitable rural enterprises.

*Chapter 10: Heritage:*

*Section 10.3: Natural Heritage and Landscape:*

*Section 10.3.9: Wicklow's Landscape:*

*NH49:* All development proposals shall have regard to the County landscape classification hierarchy in particular the key landscape features and characteristics identified in the Wicklow Landscape Assessment (set in Volume 3 of this plan) and the 'Key Development Considerations' set out for each landscape area set out in Section 5 of the Wicklow Landscape Assessment.

*NH50:* Any application for permission in the AONB which may have the potential to significantly adversely impact the landscape area shall be accompanied by a Landscape / Visual Impact Assessment, which shall include, inter alia, an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape, a series of photos or photomontages of the site / development from clearly identified vantage points, an evaluation of impacts on any listed views / prospects and an assessment of vegetation / land cover type in the area (with particular regard to commercial forestry plantations which may be felled thus altering character / visibility). The Assessment shall demonstrate that landscape impacts have been anticipated and avoided to a level consistent with the sensitivity of the landscape and the nature of the designation.

*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.

*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 4.5.2: Coastal Areas: Area of Outstanding Natural Beauty: 2(a) - The Northern Coastline:*

The northern coastline comprises of the lands between Wicklow Town/Rathnew and Greystones. The northern coastline provides intermittent views of the sea from the coast road with this area being somewhat more developed than the southern coastline. This landscape category includes a number of key environmental features such as the Murrough SAC/SPA (a designated Natura 2000 site) and Natural Heritage Area (NHA). While this section of the Wicklow coastline is not as heavily utilised from a tourist perspective compared to the southern coastline, it does act as

a significant recreational resource to the local residential population the use of which must be managed in an appropriate manner.

Section 5: *Policy Provision:*

Section 5.3.1: *General Development Considerations (GDC)*

Section 5.3.6: *Northern Coastal Area Key Development Considerations:*

1. To promote the opening up of views from the coast road to the sea and to restrict development on the sea-ward side of the road where it would be injurious to the beach setting or injurious to tourism or where it would be visible between the road and the sea except where settlements already exist. Particular protection will be afforded to the coastal areas - The Breaches, Newcastle Beach, the East Coast Nature Reserve and the northern section of The Murrough.
2. To take cognisance of and respect historical development patterns in the area, in particular the historical layout and building form of demesnes along the coast road between Newcastle and Rathnew.

The proposed development site is located within the '*Coastal Area: Area of Outstanding Natural Beauty*' landscape category as detailed in Figure 4.11: '*The Landscape Category Map*' and Map 10.13(b) of the Landscape Assessment.

### **5.3. Natural Heritage Designations**

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

- The Murrough Wetlands Special Area of Conservation (Site Code: 002249), approximately 300m east of the site.
- The Murrough Special Protection Area (Site Code: 004186), approximately 700m southeast of the site.
- The Wicklow Head Special Protection Area (Site Code: 004127), approximately 6km southeast of the site.

## 5.4. EIA Screening

- 5.4.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, and the separation distance from the nearest sensitive location, 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- From a review of the planning history of the application site (PA Ref. Nos. 06/6025, 07/945 & 18/860), it can be established that the subject lands can satisfactorily accommodate a building and that there is no objection to the principle of a dwelling house being constructed thereon given that the site is served by a long-standing entrance arrangement and can accommodate a wastewater treatment plant in accordance with current standards.
- No objection has been raised by the Planning Authority as regards the design or position of the proposed dwelling house whilst the new structure will not be unduly prominent in the landscape. Furthermore, the decision to refuse permission does not concern the planned equestrian business nor does it criticise either the use of the land for equine purposes or the proposed provision of stables. Therefore, it is submitted that the subject appeal relates solely to the issue of compliance with the rural housing policy.
- The first clause of Policy HD23 of the Development Plan seeks to accommodate persons who have resided in rural Co. Wicklow for at least 10 No. years, or who have lived in the rural area for at least 10 No. years in total, prior to the application for planning permission. It is common case that the co-applicant (Mr. Alex Devereux) was raised in Broomhall, Rathnew, and lived in this family dwelling for a period in excess of the duration specified in the applicable test. It has also been accepted that he is seeking to a build a

permanent year-round home on lands which have been in his family's ownership for c. 15 No. years and that the proposal does not constitute speculative development.

- In its determination of a previous planning application made on site under PA Ref. No. 18/860, the Planning Authority opposed the proposal partly on the basis that the separation distance of 4km between the Devereux family home and the site was excessive in terms of compliance with Policy HD23 of the Development Plan. In this regard it is submitted that the details provided in support of the subject application (including several precedent cases determined by the Board) suggest that a 4km separation distance is within the bounds of normal tolerance.
- With regard to the reference by the case planner to the Board's previous determination of ABP Ref. No. 300077 in order to support the contention that the current applicant (Mr. Devereux) does not satisfy the requirements of Policy HD23 on the basis of the separation distance, it is submitted that such an approach is unsustainable, particularly in light of the precedent cases and other arguments set out in the supporting details provided with the application.
- In its assessment of PA Ref. No. 18/860, the Planning Authority suggested that although the applicant's homestead was originally '*outside the urban area*' of Rathnew, his home was subsequently subsumed into that settlement. Accordingly, it was opined that as Mr. Devereux had been '*raised in the urban area*' he failed to qualify for a dwelling house on his family lands in the countryside. The assessment of the subject proposal by the case planner endorses this view and states the following:

*'Having regard to the original location of the applicant's homestead on the edge of the urban area and the enlargement of the Wicklow / Rathnew boundary, it is considered that the applicant was raised in the urban area and his immediate family and social ties are in the main in the urban area . . .*

*. . . given that the applicant was not raised in a rural area, it is considered that the development is urban generated. Objective HD20 of the County Development Plan states that 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’.*

This approach would seem to be at variance with Criterion No. 16 of Policy HD23 of the Development Plan which expressly aims to accommodate persons who were originally living in the countryside but whose home(s) was later subsumed into a town or village i.e. *‘Persons who were permanent native residents of a rural area but due to the expansion of an adjacent town / village, the family homeplace is now located within the development boundary of the town / village’.* The inclusion of this provision differs from other development plans in the Greater Dublin Area and, therefore, the Board is requested to place weight on this fact.

Furthermore, contrary to the report of the case planner, the applicant (Mr. Devereux) was born in 1993 and was ten years old when the first of a succession of permissions were issued in respect of housing developments within Rathnew. Aside from the fact that his homestead comprised a dwelling on a holding of 8 No. acres (which his father worked), Mr. Devereux had already attained the status of ‘permanent native resident’ before these lands were enveloped by suburban housing and thus he is eligible under the relevant provisions of Policy HD23 for a dwelling house at the subject site.

- The applicant satisfies the occupational eligibility criteria of the rural housing policy in that he plans to establish an equestrian business, specifically in horse-breeding, adjacent to the proposed dwelling house. In this regard the application was accompanied by supporting documentation which explained as follows:

*‘Alex Devereux, having worked with his parents on their farm since he was a schoolboy, now plans on establishing his own small-scale, full-time, rural (equestrian) business from his new home on the subject site. In preparation for this proposed commercial venture, which is to take place on a landholding which is already in family ownership, the applicant has undertaken a series of legal, financial and administrative steps and indeed, there are no further measures of this nature which could reasonably have been carried out by him in advance of this development actually beginning on site’.*



- No objections have been raised to the proposal to establish an equestrian business on site and no concerns raised as regards the financial arrangements set out in the submitted business plan. Moreover, no part of the Council's assessment has suggested that the proposed equine enterprise can be undertaken on a commercial basis from a suburban location elsewhere in the county. Therefore, it can be concluded that Mr. Devereux satisfies Criterion No. 14 of Policy HD23:

*'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'.*

- The case planner has opposed the applicant's claim of compliance with Criterion No. 14 of Policy HD23 on the basis that the lands in question have hitherto been used as a hobby farm by the applicant's father. This analysis proceeds to determine that, although Mr. Devereux would be operating a sustainable business of a type encouraged by the Development Plan, his eligibility for a rural home must fail because neither he nor his father are already full-time farmers.

In response, it is submitted that whilst the farm has been run on an amateur basis by the applicant's father, he has not lodged the subject application and has not sought permission on the basis of Criterion 5 of Policy HD23.

Therefore, the nature of Mr. Devereux (Snr)'s involvement in agriculture is not relevant to the subject application. Furthermore, the reference to the applicant not being '*fully involved in agriculture*' is of no relevance as he has not sought permission under the applicable clause and has instead founded the proposal on compliance with Criterion No. 16 of Policy HD23 (which has not been addressed in the report of the case planner).

- The assertion that the subject proposal would set an undesirable precedent for similar development conflicts with the pro-agriculture provisions of the Development Plan which promote operations such as that proposed. Indeed, the strong link between the success of the planned business and the need for a dwelling house at this location is evident by reference to the applicant's father

having been unable to properly work the land due to the fact that he did not live on the holding.

- With regard to the second reason for refusal, which derives from the report of the Water and Environmental Services Section of the Local Authority, it is considered that these issues could be addressed by way of suitable conditions in the event of a grant of permission.
- The applicant (Mr. Devereux) complies with Policy HD23 on the basis that he is a '*permanent native resident*' of the area and as he plans to establish a small-scale, full-time, rural business on his family lands.

## 6.2. Planning Authority Response

None.

## 6.3. Observations

None.

## 6.4. Further Responses

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
- Other issues

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 detailed identification of rural area types at a county level pursuant to 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 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 (and Objective HD1) 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, including the grounds of appeal, it is clear that the rationale for the selection of the subject site derives solely from Mr. Devereux's connections to the wider area / landholding with no reliance being placed on the circumstances of the co-applicant i.e. Ms. Laureen O'Connell. Accordingly, it is necessary to consider whether he satisfies any of the qualifying criteria set out in the Development Plan whilst also taking cognisance of the requirements of the National Planning Framework and the '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*'.

7.2.4. The proposed development site forms part of a larger c. 12 hectare non-residential farm / land holding in the ownership of the applicant's father (Mr. L. Devereux) which would appear to have been previously used for a combination of horticultural (a nursery business) and agricultural (equine / horse breeding) activities. In this respect the applicant has indicated that he will assume control of the landholding and that it is his intention to develop a full-time commercial equine / horse breeding enterprise on the lands (please refer to the business plan provided with the initial application documentation). Various supporting correspondence etc. has been supplied to establish the applicant's connections to the area and the viability of his plans for the lands in question whilst signed declarations have also been submitted to confirm that neither of the co-applicants have previously purchased or built a dwelling house / apartment.

7.2.5. At this point, I would suggest that it is appropriate to note 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.'*

(For the purposes of clarity, and in reference to the grounds of appeal, I would advise the Board that Circular letter PL 2/2017: '*Sustainable Rural Housing Guidelines for Planning Authorities 2005 – Local Needs Criteria in Development Plans*' clearly states that the '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*' remain in place and thus form the current 'default' position (as supported by the National Planning Framework) pending the publication of revised guidance by the Department).

- 7.2.6. With regard to Mr. Devereux's connections to this rural area, from a review of the available information, including that supplied with PA Ref. No. 18/860, it can be confirmed that his family home is located at Springview, Broomhall, Rathnew, Co. Wicklow, approximately 4km south of the application site, and that he would seem to have resided at this address all his life since 1993. In this regard it is of relevance to note that whilst his family home was originally located within a 'rural' area it was subsequently subsumed into the town of Rathnew following the extension of the urban boundary in 2001. Notably, the original family landholding at Rathnew was seemingly used for nursery / horticultural purposes, however, those lands would appear to have been disposed of as a result of the development pressure from the town and, therefore, in 2005, the lands at Clonmannon were acquired by the applicant's father in an effort to continue the nursery / horticultural business.
- 7.2.7. Whilst the applicant has sought to emphasise that he is originally from a rural part of Co. Wicklow in relatively close proximity to the application site and that Criterion No. 16 of Objective HD23 of the Development Plan makes express provision for persons who would have qualified as '*permanent native residents of a rural area*' save for their family home having been subsumed into the development boundary of a town / village, I would have some reservations in accepting that this would necessarily translate into a need to reside at the subject site. In the first instance, the applicant's rural connections do not derive from the non-residential holding in question which

was only acquired by his father in 2005 to accommodate a continuation of an established business. Secondly, his family connections to the site location would appear to be limited to his aunt / uncle's ownership of nearby lands. Moreover, given the availability of housing within the wider surrounds of Rathnew itself, potentially in closer proximity of the applicant's family home, and as the applicant has actually spent most of his life residing within the confines of the town, I am unconvinced of the applicant's definable need to reside at the subject site given his more tangible social / family connections to lands elsewhere.

- 7.2.8. In further support of the subject proposal, the applicant has asserted that he satisfies the eligibility requirements of Criterion No. 14 of Objective HD23 in that it is his intention to establish a small-scale, full-time, equine / horse-breeding business on the lands and thus he will have an economic and functional need to reside on the landholding. In this respect a business plan has been submitted which outlines how the existing part-time use of the wider landholding for equine / horse-breeding purposes (presently undertaken by the applicant's father) will be developed into a sustainable full-time enterprise. Additional supporting details include copies of the registration of 'Devereux Equine' as a business in November, 2018 and the applicant's membership of the Irish Thoroughbred Breeder's Association (January, 2019). Reference has thus been made to the necessity to reside on site in order to manage the new business, particularly as the applicant's father had been unable to properly work the land previously due to the fact that he did not live on the holding.
- 7.2.9. The applicant's purported functional need to reside at the subject site derives solely from his planned / proposed equine business venture given that he is presently employed in an architectural practice based in Wicklow town (based on the information previously provided with PA Ref. No. 18/860 and as Mr. Devereux is identified in the subject planning application as the person responsible for the preparation of the submitted drawings). The applicant is, therefore, not currently engaged in any business that requires him to reside in the rural area in question. In my opinion, the submission of a business plan etc. setting out an intent to operate a future enterprise at this location is insufficient grounds on which to justify the construction of a rural dwelling house on site. In this regard, I would suggest that the wording of Criterion No. 14 of Objective HD23 is intended to be interpreted as requiring an individual to have a tangible and bona fide business interest which has

an explicit requirement to reside in a rural location due to the nature of that business. In the subject instance, the justification for the proposed dwelling house would seem to be inextricably linked to the future success / viability of a proposed equine business, however, I would have serious concerns as regards the overt reliance being placed on a prospective business endeavour, particularly as the success (or implementation) of any such venture is by no means assured and may not prove sufficient or sustainable to support the applicant's needs.

7.2.10. Given the nature of horse-breeding activities, whilst I would acknowledge that certain benefits may arise from the operator's residency on site, it is my opinion that until such time as the proposed equine business has become established, the case for the provision of a dwelling house in conjunction with same is somewhat flawed. In effect, I am not convinced that on site accommodation would be essential at the outset to manage the proposed business. Moreover, given the proximity of the landholding in question to the urban centres of Rathnew, Wicklow & Ashford, I am inclined to suggest that these existing settlements would likely serve the applicants' residential needs should his venture proceed, although I would accept that there may be a case at a future date for accommodating residency on site should the demands of the business require same. In this context, it is my opinion that the applicants do not meet the criteria set out under Criterion No. 14 of Objective HD23.

7.2.11. Regard must also be had to the overarching policy objectives at both national and local level regarding rural housing need and the principles of environmental sustainability. For example, in the Board's previous determination of ABP Ref. No. PL27.249099, the reporting inspector expressly considered the principle of sustainability and set out that to permit a dwelling in association with a very small agricultural holding would set an undesirable precedent and would be utilised to support many applications for one off houses in the countryside, with potential far reaching consequences. Comparisons may also be drawn between the subject proposal and the assessment of ABP Ref. No. ABP-300644-18 wherein the reporting inspector raised concerns as regards placing an undue reliance on a non-existent business (i.e. a future proposition) in order to justify a rural dwelling house by stating that '*if the Bord were to grant a house on the basis of a future potential small scale limited horticultural venture, the consequences would be far reaching and environmentally unsustainable in terms of the precedent it would set*'.

7.2.12. On balance, whilst I would accept that the applicants would appear to have a housing need on the basis that they have never previously owned or built a dwelling house / apartment, they do not have any direct social links to the landholding in question (other than for its acquisition in 2005 by Mr. Devereux's father). Furthermore, I am not satisfied that the mere prospect of the operation of an equine business on these lands is sufficient justification at this stage to warrant the development of a dwelling house on site, particularly as the limited scale of any such business at the outset could perhaps be reasonably serviced while residing in a nearby town or village in the immediate vicinity. Therefore, it is my opinion that the applicants do not have a defined social or economic need to live in this area of strong urban influence and thus the development would be contrary to Objective 19 of the NPF, the guidance set out in the Sustainable Rural Housing Guidelines, and Objective Nos. HD1 and HD23 of the Wicklow County Development Plan.

### 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 '*Coastal Area: Area of Outstanding Natural Beauty*' landscape category as detailed in Figure 4.11: '*The Landscape Category Map*' and Map 10.13(b) of the Landscape Assessment contained in the Wicklow County Development Plan, 2016. Within this area it is the policy of the Planning Authority to promote the opening up of views from the coast road to the sea and to restrict development on the sea-ward side of the road where it would be injurious to the beach setting or injurious to tourism or where it would be visible between the road and the sea except where settlements already exist. It is also stated that cognisance will be taken of the need to respect historical development patterns in the area, in particular the historical layout and building form of demesnes along the coast road between Newcastle and Rathnew.
- 7.3.2. In a local context, the proposed development site occupies a position set away from the public road (the R761 Regional Road) and presently comprises part of a larger undeveloped agricultural field set as pasture which is well-screened from view along its northern boundary with an adjacent private roadway / laneway by mature tree planting and hedgerow. The site topography is generally flat with the result that the property is not overtly visible from vantage points within the wider area due to the screening offered by intervening vegetation and other features.



- 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 whilst the subject proposal involves the construction of a somewhat conventional single-storey bungalow, the use of features such as the narrow building plan, vertically emphasised fenestration, the 'clustering' of structures, and the palette of external finishes, evoke aspects of more traditional / vernacular design.
- 7.3.4. On balance, whilst I would acknowledge that the proposed development site is located within the *'Coastal Area: Area of Outstanding Natural Beauty'* landscape category, given site context, the absence of any impact on protected views or prospects, the screening and backdrop provided by the mature planting along the northern perimeter site boundary, the overall design and layout of the proposal, and subject to the implementation of a suitable landscaping plan, it is my opinion that the visual impact of the subject proposal will be within tolerable limits and will not unduly detract from the rural character of the surrounding landscape.

#### **7.4. Traffic Implications:**

- 7.4.1. Access to the proposed dwelling house (and the associated stables etc.) will be obtained via a right way of way over an existing private roadway, which extends eastwards from its junction with the R761 Regional Road, and by way of an existing agricultural entrance which serves a series of farm / outbuildings. In this regard, I am satisfied that the junction arrangement of the private roadway with the R761 Regional Road has the capacity to accommodate the additional traffic movements consequent on the proposed development and that the sightlines available from same onto the main carriageway are adequate. Furthermore, whilst the existing laneway is heavily potholed between its junction with the public road and the site entrance, it should be noted that this is in private ownership and thus it is the responsibility of the relevant landowner and other interested parties to effect the necessary repairs.
- 7.4.2. With regard to the proposed use of an existing agricultural entrance and passageway to access the dwelling house etc., given the site location along a shared private road, the established nature of the existing access, the limited traffic volumes and speeds

along this section of roadway, and the available sightlines, I am amenable to the proposal as submitted.

#### **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 300mm of topsoil overlying 1,100mm of 'gravel silt stoney' subsoil with the remainder of the excavation to a depth of 1.8m below ground level comprising a darker coloured 'gravel silt stoney' soil. No rock or water ingress were recorded. With regard to the percolation characteristics of the soil a 'T'-value of 9.81 minutes / 25mm was recorded which would constitute a pass in accordance with EPA guidance.
- 7.5.2. Whilst I would suggest that the terminology used in the description of the trial hole excavation and the variation in soil characteristics is somewhat vague and lacking in detail, on the basis of the details provided, 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. Appropriate Assessment:**

- 7.6.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

#### **7.7. Other Issues:**

- 7.7.1. With regard to the additional details sought by the Planning Authority in relation to waste management and the water supply for the proposed stables, I would suggest that such matters could be addressed by way of a request for further information or as a condition of a grant of permission.

## 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. The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005 and in an area where housing is restricted to persons demonstrating social and economic local need in accordance with the Wicklow County Development Plan 2016-2022. Furthermore, the subject site is located in a rural area that is under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area. Having regard to the proximity of existing settlements to the subject site, from which daily supervision of the subject lands and of any potential future agricultural enterprise on these lands could be undertaken, and having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, notwithstanding the provisions of the current Wicklow Development Plan, and would, be contrary to the proper planning and sustainable development of the area.

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Robert Speer  
Planning Inspector

8<sup>th</sup> July, 2019