



An
Bord
Pleanála

Inspector's Report ABP-305400-19

Development	A single storey dwelling with chimney, a 6 person Euro Bio Treatment unit & 50 linear metre of soil polishing filter, a new driveway and entrance onto the R117 using the existing entrance that accesses a private road and ancillary works above and below ground to facilitate development.
Location	Monastery, Enniskerry, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	19207
Applicant(s)	Padraic Hayden & Nicola Mitchell
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party v. Decision
Appellant(s)	Padraic Hayden & Nicola Mitchell
Observer(s)	None.
Date of Site Inspection	20 th November, 2019
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in the rural townland of Monastery, Co. Wicklow, approximately 1.8km north of Enniskerry and 3.2km south-southeast of the village of Kiltiernan, where it occupies a position to the west of the R117 Regional Road and is accessed via a private roadway that presently serves a number of properties / enterprises, including the Beechhill Farm Allotments, the former Killegar landfill, a municipal water storage plant, and adjacent farmlands. Whilst the site surrounds are generally characterised by an undulating rural landscape interspersed with instances of one-off housing and agricultural outbuildings that gradually rises on travelling towards the Wicklow Mountains further west / southwest, there is a considerable concentration of one-off residential development located along roadways in the wider area. The site itself has a stated site area of 0.20766 hectares, is generally rectangular in shape (exclusive of the proposed access road), and presently comprises part of a larger agricultural field which is bounded by a mature coniferous tree stand alongside the regional road to the east, an existing dwelling house to the north, and by a series of allotments to the west and south.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a single storey bungalow-style dwelling house based on a rectangular plan with a stated floor area of 281m² and a ridge height of 7.2m (the Board is advised that although the schedule of drawings provided with the application refers to a first floor plan, the Planning Authority has confirmed that no such drawing was submitted with the application and thus the proposal is of a single storey construction as per the description of the development. Furthermore, the floor area stated on the application form does not correspond with that of the single storey construction proposed). The overall design of the proposed dwelling house is uncomplicated with a conventional pitched roof construction. The elevational treatment will be dominated by the extensive use of vertically emphasised fenestration. External finishes will include a traditional render.
- 2.2. Access to the site will be obtained via an existing private roadway that extends from the R117 (Kiltiernan – Enniskerry) Regional Road. It is also proposed to install a

wastewater treatment system which will discharge to a soil 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 15th August, 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 is located within a Mountain and Lakeshore AONB as designated in the current Wicklow County Development Plan where non-essential residential development will be strictly controlled. 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 does not have a definable social or economic need to reside in the area. Taken in conjunction with the existing development in the immediate vicinity, it is considered that the proposed development would further diminish the rural character of the area and would seriously injure the visual amenities of the area. The proposed development would, therefore, conflict with the Development Plan policy and would be contrary to the proper planning and sustainable development of the area.
- The proposed development would endanger public safety by reason of a serious traffic hazard because:
 - a) The proposed access arrangement would interfere and conflict with existing traffic movements at an existing busy entrance, where there are high traffic volumes and speeds on the R117.
 - b) The laneway currently caters for the existing traffic movements generated by the users of the allotments and for maintenance access, and would not be considered suitable for shared residential access, and
 - c) The use of a locked gateway which is managed by way of keycode / phone operated by a separate owner is considered inappropriate in the long-term for permanent residential use.

To permit this development would endanger public safety by reason of a serious traffic hazard, would be contrary to County Development Plan policy and contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

An initial report details the site context, planning history, and the applicable policy considerations before analysing the proposal and concluding that there has been no change in the applicant's circumstances since the refusal of PA Ref. No. 17/888 as regards his ineligibility for a dwelling house at this rural location. With respect to the overall design and visual impact of the development given its location within an Area of Outstanding Natural Beauty, it is stated that the proposal accords with the requirements of the Wicklow County Council Single Rural House Design Guidelines and will not result in an overly visible or strident feature on the landscape. In terms of traffic safety, concerns are raised as regards the proposal to utilise the gated entrance, which already serves a number of allotments and the Enniskerry municipal water storage facility, due to its siting along the heavily trafficked R117 Regional Road and the difficulties in ensuring the appropriate management of such an access arrangement. The report thus concludes by recommending that permission be refused for the reasons stated.

Following the receipt of unsolicited additional information, a further report was prepared which reiterated the foregoing position.

3.2.2. Other Technical Reports:

Environmental Health Officer: No objection, subject to conditions.

Bray Engineer: No objection, subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. *On Site:*

PA Ref. No. 17888. Was refused on 3rd January, 2018 refusing Nicola Mitchell & Padraic Hayden permission for a single storey dwelling with chimney, a 6 person Euro Bio Treatment Unit and 50 linear meter of soil polishing filter, a new driveway and entrance onto the R117 using the existing entrance that accesses a private road and ancillary works above and below ground to facilitate development.

- The site is located within a Mountain and Lakeshore AONB as designated in the current Wicklow County Development Plan where non-essential residential development will be strictly controlled. 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 does not have a definable social or economic need to reside in the area. Taken in conjunction with the existing development in the immediate vicinity, it is considered that the proposed development would further diminish the rural character of the area and would seriously injure the visual amenities of the area. The proposed development would, therefore, conflict with the Development Plan policy and would be contrary to the proper planning and sustainable development of the area.
- The proposed development would endanger public safety by reason of a serious traffic hazard because:
 - the laneway serving the site is inadequate in terms of width, alignment, gradient and structural condition
 - the laneway currently only caters for the existing traffic movements generated by the users of the allotments and for maintenance access and would not be considered suitable for shared access for residential access and
 - the proposed access arrangement would interfere and conflict with existing traffic movements at an existing busy entrance, where there are high traffic volumes and speeds on the R117;

- the laneway servicing the site is inadequate in terms of drainage requiring remedial works over and above what would be considered reasonable to serve the nature and scale of the proposed development
 - absence of details submitted in relation to maintenance of the laneway.
 - the private access road and laneway are served by a substandard junction with the Regional Road
- 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 design (which incorporates a number of features and elements alien to the Irish rural landscape such as a low gradient pitched hipped roof, use of stone cladding and double deep block plan form), and house position and siting on an elevated and unscreened site in a Landscape Area of Outstanding Natural Beauty, would form a highly incongruous feature in this landscape area, would militate against the presentation and protection of the rural and visual amenities of the area and would therefore be contrary to the guidelines and objectives of the County Development Plan and would be contrary to proper planning and sustainable development.

4.2. *Other Relevant Files:*

PA Ref. No. 071531 / ABP Ref. No. PL27.227479. Was refused on appeal on 22nd August, 2008 refusing Padraic Hayden permission for the construction of a single-storey courtyard type dwelling with chimney, a septic tank and attendant percolation area, a new road entrance and ancillary works above and below ground to facilitate the development, all at Killegar, Enniskerry, Co. Wicklow.

- The site is located in a rural 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. Having regard to the location of the site in an exposed open field in a Landscape Zone designated as an Area of Outstanding Natural Beauty, as defined in the Wicklow County Development Plan 2004-2010, it is considered

that the proposed development of an additional dwelling not linked to an essential rural housing need at this location, would add to the proliferation of development threatening to degrade the landscape along this section of rural road and consequently would result in the erosion of the area's existing rural character and scenic quality. The proposed development would, therefore, be contrary to the development plan and the proper planning and sustainable development of the area.

- It is considered that the proposed development would endanger public safety by reason of traffic hazard because the proposed development would generate additional traffic movements on a narrow local public road that has an extremely substandard junction with the regional road R117.

PA Ref. No. 09607. Was refused on 6th July, 2009 refusing Padraic Hayden permission for single storey courtyard type dwelling with chimney, a septic tank and attendant percolation area, a new road entrance and ancillary works above and below ground to facilitate development.

- The site is located in a rural 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. Having regard to the location of the site in an exposed open field in a Landscape Zone designated as an Area of Outstanding Natural Beauty, as defined in the Wicklow County Development Plan 2004-2010, it is considered that the proposed development of an additional dwelling not linked to an essential rural housing need at this location, would add to the proliferation of development threatening to degrade the landscape along this section of rural road and consequently would result in the erosion of the area's existing rural character and scenic quality. The proposed development would, therefore, be contrary to the development plan and the proper planning and sustainable development of the area.
- Having regard to the location of the proposed car parking at a point over 30m from the dwelling, it is considered that such access arrangements are unacceptable and would give rise to traffic movements off of Killegar Lane and would endanger public safety by reason of a serious traffic hazard

because the proposed development would generate additional traffic movements on a substandard local road network, that is deficient in width, horizontal alignment and serviced by an extremely substandard junction with the R117 Regional Road.

PA Ref. No. 141407 / ABP Ref. No. PL27. 244176. Was refused on appeal on 9th April, 2015 refusing Padraic Hayden permission for a single storey courtyard type dwelling, wastewater treatment system to current Environmental Protection Agency standards, with access proposed from Killegar Road by means of a shared access with the existing access to the applicant's parents' house 'Capistrano' and also new access onto the Quarry Road to the south, at Killegar, Enniskerry, Co. Wicklow.

- The site is located in a rural 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. Having regard to the designation of the site in an exposed open field in a Landscape Zone designated as a Mountain and Lakeshore Area of Outstanding Natural Beauty, a landscape category designated as highly vulnerable in the Wicklow County Development Plan 2010-2016, it is considered that the proposed development of an additional house not linked to an essential rural housing need at this location would add to the proliferation of development threatening to degrade the landscape along this section of rural road and consequently would result in the erosion of the area's existing rural character and scenic quality and be contrary to the said Ministerial guidelines. The Board is not satisfied that the proposed dwelling is required to be located in a rural area. The proposed development would, therefore, be contrary to the said development plan and would be contrary to the proper planning and sustainable development of the area.
- It is considered that the proposed development would endanger public safety by reason of traffic hazard because the proposed development would generate additional traffic movements on a narrow local road that has an extremely substandard junction with the Regional Road R117.
- It is considered that the option to provide an access off Quarry Road to the south of the application site would due to the intense development pressure

for one off rural housing in the area and the existing deficiencies in the local road network set an undesirable precedent for similar forms of development on this private road which would result in the suburbanization of this rural area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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 11th October 2004 for at least 10 years prior to the application for planning permission and not as speculation.
10. An emigrant who qualifies a permanent native resident, returning to a rural area in County Wicklow, seeking to build a house for his/her own use not as speculation.
11. Persons whose work is intrinsically linked to the rural area and who can prove a definable social or economic need to live in the rural area.
12. A permanent native resident that previously owned a home and is no longer in possession of that home (for example their previous home having been disposed of following legal separation / divorce / repossession, the transfer of a home attached to a farm to a family member or the past sale of a home following emigration) and can demonstrate a social or economic need for a new home in the rural area.
13. Permanent native residents of moderate and small growth towns, seeking to build a house in their native town or village within the 60kph / 40mph speed limit on the non-national radial roads, for their own use and not as speculation as of 11th October 2004.
14. A person whose business requires them to reside in the rural area and who can demonstrate the adequacy of the business proposals and the capacity of the business to support them full time.
15. Permanent native residents of the rural area who require a new purpose built specially adapted house due to a verified medical

condition and who can show that their existing home cannot be adapted to meet their particular needs.

16. Persons who were permanent native residents of a rural area but due to the expansion of an adjacent town / village, the family home place is now located within the development boundary of the town / village.

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

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

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

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.

Section 10.3.10: Views and Prospects

NH52: To protect listed views and prospects from development that would either obstruct the view / prospect from the identified vantage point or form an obtrusive or incongruous feature in that view / prospect. Due regard will be paid in assessing development applications to the span and scope of the view / prospect and the location of the development within that view / prospect.

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 4.5.1: *The Mountain and Lakeshore Area of Outstanding Natural Beauty:*
1(d) - The North Eastern Valley/Glencree:

This area is situated along the northern extremities of the County and is based around the drainage pattern of the Glencree and Dargle Rivers and the surrounding road network. This area is very scenic, with attractive views and number of tourist attractions such as Powerscourt House and Demesne, Charleville Demesne and Glencree Drive. This landscape provides for extensive forested areas made up of both coniferous and deciduous woodlands.

Section 5: *Policy Provision:*

Section 5.3.1: *General Development Considerations (GDC)*

Section 5.3.6: *Glencree / Glencullen Key Development Considerations:*

1. To protect listed views and vantage points across the valley and to resist development proposals that would negatively impact on the valley setting and views from the west at Glencree towards the Great Sugar Loaf.
2. To maintain and preserve views across the valley towards the Wicklow Mountains.
3. Through appropriate siting and design to ensure that developments along local roads will not be conspicuous or have a disproportionate or dominating visual impact on the surrounding environment as seen from the local scenic routes and settlements.
4. To protect and facilitate the conservation of structures, sites and objects which are part of the County's cultural heritage, whether or not such structures, sites and objects are included on the Record Protected Structures.

The proposed development site is located within the '*Glencree / Glencullen 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.

5.2.2. *Bray Municipal District Local Area Plan, 2018 – 2024:*

Chapter 2: Overall Vision & Development Strategy:

Section 2.2.1: *Role and function of settlements in the Bray MD: 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.

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 Ballyman Glen Special Area of Conservation (Site Code: 000713), approximately 500m southeast of the site.
- The Knocksink Wood Special Area of Conservation (Site Code: 000725), approximately 900m south of the site.
- The Wicklow Mountains Special Area of Conservation (Site Code: 002122), approximately 3.3km southwest of the site.
- The Wicklow Mountains Special Protection Area (Site Code: 004040), approximately 3.7km west-southwest of the site.
- The Bray Head Special Area of Conservation (Site Code: 000714), approximately 5.7km 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

- The particulars submitted in support of the application comprehensively demonstrate compliance with the requirements of the *‘Sustainable Rural Housing, Guidelines for Planning Authorities, 2005’* and the National Planning Framework.
- The Planning Authority is required to assess the merits of individual planning applications on a case by case basis, particularly as sites in different rural areas or different sites in the same area can differ markedly as regards their suitability for development due to a range of factors. Therefore, the decision to refuse permission, by invoking dated and redundant considerations from earlier planning applications relating to different sites at a time when the social and economic circumstances of the applicants were also very different, is questionable.
- The *‘Sustainable Rural Housing, Guidelines for Planning Authorities, 2005’* recommend that planning authorities define rural area types and tailor their policies to respond to the different housing requirements of urban and rural communities and the varying characteristics of rural areas. These distinctions are necessary to ensure that the housing requirements of persons with roots or links in rural areas are facilitated in all such areas and that planning policies also respond to local circumstances whether these relate to areas experiencing economic and population decline or to areas under substantial pressure for development. More particularly, the Board is referred to Section 3.2.3: *‘Rural-Generated Housing’* of the Guidelines and the need to accommodate *‘persons who are an intrinsic part of the rural community’* and *‘persons working full-time or part-time in rural areas’*.
- The National Planning Framework: Project Ireland 2040 states that it will be necessary for applicants to demonstrate *‘a functional economic or social requirement for housing need in areas under urban influence’*. It is further states that the assessment of proposals will be *‘subject to siting and design considerations’*.

The report of the case planner has confirmed that the design and siting of proposed development is acceptable as follows:

‘Having regard to the location of the site, the design of the dwelling, the landscaping proposals and the pattern of development in the area, I do not consider that the proposal will result in an overly visible or strident feature on the landscape’.

- The Board is referred to National Policy Objective 19 of the National Planning Framework which states:

‘Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and larger towns and centres of employment, and elsewhere:

In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstratable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements’.

- Having regard to Section 6.4: ‘Older People’ of the National Planning Framework, the Board is requested to note the contents of the letter dated 20th May, 2019 from a local GP.
- In terms of establishing a rural-generated housing need, it is submitted that the applicants:
 - have demonstrated a *bona fide* necessity for their family to continue to live in this rural area;
 - have demonstrated compliance with those provisions that define the characteristics of rural-generated housing need and have detailed the social and economic circumstances that qualify the family to continue to live in their native rural area; and
 - that they should be facilitated by reference to Section 4.3.5 of the County Development Plan.

- Various third parties have provided verification in support of the subject application and are willing to supply additional information if so required.
- During the determination of a previous planning application on site (PA Ref. No. 17888), it is submitted that the applicants were advised by the Planning Authority that they had adequately established a rural housing need and thus merited planning approval by reference to the relevant provisions of the Development Plan, however, that decision to refuse permission derived from an earlier appeal and the need for the Board to adjudicate favourably on the issue in order to allow the Planning Authority to grant approval. The relevant decision of the Board refers to a different site in another location when the applicants' circumstances differed. Accordingly, it is submitted that the subject proposal should be assessed on its merits and by reference to the applicants' compliance with the current housing need provisions.
- The Area Engineer inspected the site and is satisfied that the proposal does not pose a traffic hazard.
- The existing entrance arrangement and access road (in addition to parking facilities) were approved by the Planning Authority under PA Ref. No. 86/2647 and this infrastructure was used over a decade by HGVs accessing the Killegar landfill.
- The proposed access arrangements will not interfere or conflict with existing traffic movements.
- The established and expansive entrance cannot accurately be described as busy with the accompanying survey undertaken by L/K Consultants showing only limited usage.
- In addition to the allotments, the Wicklow County Council reservoir, and 2 No. dog training enterprises, the existing private road provides access to a residential property which comprises rented accommodation in a large dwelling house and ancillary buildings as approved under PA Ref. No. 07/863.
- Access through the electronic gates at the existing entrance is generally obtained remotely by users via mobile phone with use of the keycode being rare. Long-term use for residential purposes is well established and the

subject proposal would not add a new category of road user as has been suggested.

- Consideration should be given to the accompanying verification on the absence of accidents at this location which is attributable to the existing road signage and markings.
- A continuous white centreline prohibits overtaking from the site entrance to Enniskerry with a 50kph speed limit in place at the village boundary.

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
- Archaeological considerations
- Appropriate assessment

These are assessed as follows:

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

- 7.2.1. In terms of assessing the principle of the proposed development, having regard to the applicable rural housing policy it is of relevance in the first instance to note that the proposed development site is located in an 'Area under Strong Urban Influence' as indicatively identified by the 'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005' and that there is no further identification of rural area types at a county level contained in the Wicklow County Development Plan, 2016. The Guidelines also state that these areas will exhibit characteristics such as their proximity to the immediate environs or the close commuting catchments of large cities and towns (e.g. Dublin) 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 M50 & 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 Bray and Dublin in addition to the M50 & M11 Corridors.
- 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.

7.2.4. Having reviewed the available information, including the grounds of appeal, it is clear that the rationale for the selection of the subject site derives from Mr. Hayden's connections to the wider area with no reliance being placed on the circumstances of the co-applicant i.e. Ms. Nicola Mitchell. 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'*.

7.2.5. Although the proposed development site is stated to be within the applicants' ownership, it would appear to have previously formed part of a larger non-residential farm / land holding in the ownership of a third party which is presently used for agricultural purposes as well as the Beech Hill Farm Allotments. However, it has been established that Mr. Hayden is originally from the locality and that both he and his family (including Ms. Mitchell) presently reside in the family home with his elderly parents a short distance away along the Killegar Road. Various supporting correspondence etc. has been supplied to establish the applicant's connections to the local area whilst a signed declaration has also been submitted to confirm that neither of the co-applicants have previously purchased, built or inherited a dwelling house.

7.2.6. 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.'

- 7.2.7. With regard to Mr. Hayden's connections to this rural area, from a review of the available information, and noting the relevant planning history, it can be confirmed that his family home (and current place of residence) is located at 'Capistrano', Killegar, Enniskerry Co. Wicklow, approximately 320m west of the application site, and that he would seem to have resided at this address during both his childhood and in later years. Accordingly, the applicant has sought to emphasise that he is originally from a rural part of Co. Wicklow in close proximity to the application site and that Criterion No. 1 of Objective HD23 of the Development Plan makes express provision for permanent native residents seeking to build a house for his / her own family where they have resided in a rural area in Co. Wicklow for at least 10 No. years in total (or have resided in the rural area for at least 10 years in total prior to the application for planning permission)
- 7.2.8. In further support of the subject proposal, the applicant has asserted that he has an economic and functional need to reside at this rural location by reference to his recruitment by the Nijinsky Property Company (as part of the Comer Group) to develop and manage a nearby hotel, leisure & equine complex presently under development at 'The Scalp' (c. 1.6km from the site). In this respect, correspondence has been submitted by a director of the Nijinsky Property Company which serves to outline Mr Hayden's role in the development of its facility whilst referring to the group's employment policy which does not permit its senior managers to reside at a remove from their place of employment. The applicant has also sought to reference his need to live in close proximity to his elderly parents in order to provide continued support to them given their ill health.
- 7.2.9. 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 and that Mr. Hayden has social / familial links to the locality in question thereby satisfying Criterion No. 1 of Objective HD23 of the Development Plan, it is also apparent that the applicants' purported functional need to reside at the subject site derives from Mr. Hayden's employment locally and his desire to live close by his

family. Given the proximity of the subject site to the urban centres of Enniskerry and Kilternan (and the outer suburbs of Dublin City), and noting that Mr. Hayden's current employment does not expressly necessitate him to reside in the rural area in question, I am inclined to suggest that these existing settlements (or others in the locality) would likely serve to satisfactorily address the applicants' residential needs. Furthermore, having regard to the site location within the visually vulnerable *'Mountain and Lakeshore Area of Outstanding Natural Beauty: 1(d) - The North Eastern Valley/Glenree'*, and in light of the Board's previous determination of ABP Ref. Nos. PL27.227479 & PL27.244176 (wherein it was held that the proposed development of an additional dwelling house on nearby lands that was not linked to an essential rural housing need would add to the proliferation of development threatening to degrade the local landscape thereby eroding its rural character and scenic quality contrary to the *'Sustainable Rural Housing, Guidelines for Planning Authorities'*), I am not satisfied that the applicants circumstances require the provision of a new dwelling within this sensitive rural area, particularly as it may be more appropriate for such a dwelling to be located within any of the designated settlements in the surrounding area.

7.2.10. Therefore, on the basis of the foregoing, it is my opinion that the need for an additional dwelling at this location within an area under strong urban influence has not been adequately justified and thus the development would be contrary to Objective 19 of the NPF and the guidance set out in the Sustainable Rural Housing Guidelines.

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 *'Glenree / Glencullen 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 protect listed views and vantage points across the valley and to resist development proposals that would negatively impact on the valley setting and views from the west at Glenree towards the Great Sugar Loaf; to maintain and preserve views across the valley towards the Wicklow Mountains; through appropriate siting and design to ensure that

developments along local roads will not be conspicuous or have a disproportionate or dominating visual impact on the surrounding environment as seen from the local scenic routes and settlements; and to protect and facilitate the conservation of structures, sites and objects which are part of the County's cultural heritage, whether or not such structures, sites and objects are included on the Record Protected Structures.

- 7.3.2. In a local context, the proposed development site forms part of a larger undeveloped agricultural field which rises steeply over the public road to the east (the R117 Regional Road). In this regard, although the proposed dwelling house is to be located on those more elevated lands towards the western extent of the application site, it will nevertheless benefit from the screening provided by the mature evergreen tree planting alongside the regional road. Whilst the actual site boundaries at present offer no significant screening, with the possible exception of the mature hedgerow shared with the adjacent dwelling house to the immediate north, in general, views of the site from within the immediate locality will be limited given the presence of the roadside planting and other intervening features, although it is possible that the site will be visible within those views available from longer-range vantage points.
- 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 concur with the Planning Authority that whilst the subject proposal involves the construction of a conventional single-storey bungalow, it is of a modest scale whilst its overall design and form is simple and uncomplicated.
- 7.3.4. Having considered the foregoing, whilst I would acknowledge that the subject proposal is not as elevated or exposed as those developments previously refused permission under ABP Ref. Nos. PL27.227479 & PL27.244176 and that the visual impact of the proposed dwelling will be somewhat limited in a local context, I am nevertheless cognisant of the site location within an *'Area of Outstanding Natural Beauty'* (the most sensitive and visually vulnerable designation within the hierarchy of landscape classifications set out in the Development Plan) which is under considerable pressure for development given its proximity to Dublin city. In this regard, I would have serious reservations as regards the wider visual impact and the continued erosion of the rural character of the surrounding area attributable to the

continued development of one-off piecemeal housing. Accordingly, whilst the visual impact of the proposed development could be held to be somewhat limited, given the site context and the prevalence of existing housing in the wider area, I am inclined to suggest that any further continuation of the existing pattern of development could only be held to be detrimental to the visual amenity and rural character of the surrounding scenic landscape.

7.4. Traffic Implications:

- 7.4.1. It is proposed to access the subject site by way of a new access road that will extend from the existing private roadway which leads from the R117 (Kiltiernan – Enniskerry) Regional Road to serve a dwelling house, a municipal water storage plant, the Beech Hill Farm Allotments, and adjacent farmlands. In this respect, it is of relevance to note that whilst the main access roadway is in a reasonable condition as regards its overall construction and surface treatment, access to the application site will also be reliant on use of those laneways / tracks which serve a considerable number of the neighbouring allotment plots. Whilst I would accept that these access tracks are in private ownership and that it would be the responsibility of the applicant and other interested parties to effect the necessary repairs / upgrading works in order to accommodate the additional traffic movements consequent on the proposed development, I would nevertheless have reservations as regards the appropriateness of introducing a residential development into an area presently used for horticultural purposes given the substandard nature of the access tracks in question and the potential for conflicting traffic types / movements.
- 7.4.2. Further concerns arise as regards the potential for the subject proposal to set an undesirable precedent for similar forms of development along this private roadway which would result in further suburbanisation of this sensitive rural area. Moreover, Objective TR27 of the Development Plan states that new means of access onto regional roads will be strictly controlled and thus cognisance must be taken of the potential for further development to give rise to the intensification of use of this access point onto a heavily trafficked regional road where traffic speeds are high.
- 7.4.3. With regard to the junction of the existing access road with the heavily trafficked R117 Regional Road, I am generally satisfied that it has adequate capacity to accommodate the additional traffic movements consequent on the proposed

development, however, during the course of my site inspection it was noted that the available sightlines to the north were obstructed in part by existing vegetation. Whilst the applicant has indicated on Drg. No. 001 (*'Existing Survey and Proposed Sightline Site Layout'*) that it is proposed to remove a number of trees and to lower a section of the grassed margin in order to achieve unobstructed sightlines of 120m in both directions, this will necessitate the carrying out of works on lands outside of the application site (it should also be noted that the subject site is located within an 80kph speed limit and that sightlines of c. 160m would be accepted practice).

(For the purposes of clarity, and in the interests of completeness, I would also advise the Board that those drainage improvement works proposed along the allotment access roadway as shown on Drg. No. 002, including the installation of gulleys, pipework and soakaways, will similarly involve works outside of the proposed development site as outlined in red).

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 650mm of GRAVEL SILT with the remainder of the excavation to a depth of 1.8m below ground level comprising a CLAY SILT. No rock or water ingress were recorded. With regard to the percolation characteristics of the soil a 'T'-value of 16.25 mins / 25mm and a 'P'-value of 16.03 mins / 25mm were 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, and although parts of the Site Characterisation Form remain incomplete (e.g. (e.g. the classification and vulnerability of the underlying aquifer), on the basis of the details provided, and noting that the Environmental Health Officer has raised no objection to the proposal, it would appear that the subject site is suitable for the installation of a wastewater treatment system discharging to ground, subject to

conditions. However, I would make some reservations that the submitted site layout plan has failed to identify the locations of those wastewater treatment systems serving neighbouring housing (particularly that located upgradient of the site) given the proposal to install a private well on site.

7.6. Archaeological Considerations

- 7.6.1. The proposed dwelling house is located within the 'Zone of Notification' associated with Recorded Monument No. WI003-029 (enclosure), however, no responses have been received from the notified prescribed bodies.
- 7.6.2. Whilst this feature is no longer visible at ground level and would appear to be located within the private rear garden area of a neighbouring property, in the absence of any further investigation, the potential for the disturbance of any subsurface items of archaeological interest cannot be dismissed.

7.7. Appropriate Assessment:

- 7.7.1. 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.

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 of Outstanding Natural Beauty as designated in 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 viability of smaller towns and rural settlements. Having regard to the documentation submitted with the application and appeal, and to the recent planning history relating to the same applicants, the Board is not satisfied that the applicants have a demonstrable economic or social need to live at this specific site in this rural area and that their housing needs could not be satisfactorily met in an established smaller town or other settlement proximate to the site. It is considered, therefore, that the applicants do 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 and that to add an additional dwelling not linked to an essential rural housing need at this location would add to the proliferation of development threatening to degrade this sensitive landscape and would result in the continued erosion of the area's rural character and scenic quality. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, having regard to the relevant provisions of the Wicklow County Development Plan 2016-2022, which record that the subject site is located in an area where housing is restricted to persons demonstrating social and economic local need. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

28th November, 2019