



An
Bord
Pleanála

Inspector's Report ABP-306339-20

Development	Construction of 3 part single storey part 1 ½ storey houses and new vehicle entrance, new connection to public sewer along with all associated site works.
Location	Kirikee, Greenane, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	19356
Applicant(s)	S. McGleenan
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party v. Decision
Appellant(s)	Tom Byrne & Michelle De Lacey
Observer(s)	None.
Date of Site Inspection	5 th May, 2020
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in the small rural village of Kirikee, Co. Wicklow, which occupies a position to the south of Kirikee Mountain in the Glenmalure Valley, approximately 6km west of Rathdrum and 9.5km north of Aughrim. The prevailing topography is dominated by a steep incline falling north-south towards the valley floor and the Avonbeg River whilst the village itself has broadly developed along an east-west axis and is generally characterised by a linear configuration of conventional detached and semi-detached single storey housing along the southern side of the roadway (Local Road No. L-6126-0). Local services and amenities are limited to a former schoolhouse which has been converted to use as a local community / parish hall although the village is also served by a wastewater treatment plant.
- 1.2. The application site has a stated site area of 0.88 hectares, is irregularly shaped, and presently comprises a vacant plot of land bounded by mature trees and hedgerow which is bisected east-west into two parts by a further tree line. The lower more southerly lands adjoin the Avonbeg River whilst the northern extent of the site (upon which the proposed housing is to be sited) gradually rises towards the public road. To the immediate west the site adjoins a narrow laneway which extends from its junction with the main road and leads to Strand Bridge whilst the lands to the east are occupied by a single storey bungalow and associated outbuildings, containers etc.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of 3 No. partial single storey / storey and a half, detached dwelling houses (2 No. three-bedroom and 1 No. four-bedroom units) arranged in a linear-type format alongside the roadway to the immediate north. Each of the individual house designs is based on a contemporary interpretation of the traditional vernacular and will utilise a palette of external finishes including off-white render, horizontal timber cladding, and dark grey corrugated metal sheet roofing. The proposed dwelling houses will each be provided with a large garden area whilst the lower part of the site will function as a shared open space with

access to the river for future residents of the development and locals remaining unchanged.

- 2.2. Access to the scheme will be obtained directly from the adjacent public road via a new shared entrance arrangement positioned centrally along the roadside. Each of the proposed dwelling houses will be provided with an on-site bored well and will be serviced by way of a new connection to the public mains sewer. Surface water runoff will be disposed of to soakpits.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Following the receipt of a response to a request for further information, on 4th December, 2019 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 15 No. conditions. These conditions are generally of a standardised format and relate to issues including occupancy, external finishes, drainage and water services, construction management, and development contributions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

An initial report detailed the site context, planning history, and the applicable policy considerations before stating that the principle of the proposed development was acceptable in view of the indicative housing growth targets for Kirikee and the site location substantially within the village development boundary. In design terms, it was considered that the overall form and layout of the proposal was in keeping with the established character of the village, although concerns were raised as regards the external finishes (i.e. timber cladding and corrugated metal sheet roofing). It was also stated that whilst the site is within an 'Area of Outstanding Natural Beauty', any visual impact on the wider landscape character would be localised and could be satisfactorily mitigated. However, concerns were raised as regards the adequacy of the sightlines from the proposed entrance arrangement and the gradient of the new

access roadway. Furthermore, additional details were considered necessary as regards the proposed water supply / well arrangements for the development.

With respect to the issue of flood risk identification, it was noted that the site was bounded by the Avonbeg River to the south and that the southernmost extremity of the lands were within Flood Zone 'C'. However, upon consideration of the site topography, the planning history of the area, and the Strategic Flood Risk Assessment appended to the County Development Plan, it was determined that the proposed development would be unlikely to result in flooding.

The report thus concluded by recommending that further information be sought in respect of a number of items, including the available sightlines and the proposed on-site wells.

Following consideration of the applicant's response to a request for further information, a final report was prepared which recommended a grant of permission, subject to conditions.

3.2.2. Other Technical Reports

Arklow Area Engineer: No objection to the proposed development from a roads and drainage perspective.

Environmental Health Officer: An initial report did not recommend a grant of permission unless the applicant could connect to the public mains water supply as future maintenance of the proposed well pumps etc. and routine chemical and microbiological testing of the water supply was considered to be potentially problematic.

A subsequent report stated that there was no objection to the proposed development, subject to connection to the public sewer and the proposed wells both complying with Table 3: '*Recommended Minimum Distance between a Receptor and a percolation area of polishing filter - Groundwater Protection Responses for On-Site Wastewater Systems for Single Houses*' and being constructed in accordance with EPA Drinking Water Advice Note – No. 14: '*Borehole Construction and Wellhead Protection*'.

3.3. Prescribed Bodies

Irish Water: No objection, subject to conditions.

3.4. Third Party Observations

3.4.1. A total of 3 No. submissions were received from interested parties and the principle grounds of objection / areas of concern raised therein can be summarised as follows:

- Construction within a floodplain and the associated exacerbation of flood events, including the displacement / directional flow of flood waters and stormwater runoff towards neighbouring lands / properties.
- Concerns as regards the capacity of the existing wastewater treatment plant and incidences of odorous emissions.
- The inadequacy of the secondary treatment provided at the Kirikee wastewater treatment plant to protect downstream water quality and protected species.
- The proposed development could contribute to the receiving waters for the Kirikee wastewater treatment plant failing to achieve 'good' status as required by the Water Framework Directive.
- The existing wastewater treatment plant floods with the result that untreated sewage flows into neighbouring lands.
- The water supply from the Kirikee Water Plant is failing and inadequate to cater for the demands of the proposed development. The supply well only remains operational due to it being refilled by water tankers at least once a day.
- The potential detrimental visual impact in an Area of Outstanding Natural Beauty.
- The site notice was not erected on the correct date.

4.0 Planning History

4.1. *On Site:*

PA Ref. No. 17998. Was refused on 10th October, 2017 refusing S. McGleenan permission for 4 No. single storey houses and new vehicle entrance, new connection to public sewer along with all associated site works for the following 4 No. reasons:

- Given the location of the development within the small village of Kirikee, in an area which is characterised by plaster finish single storey dwellings which address the public road, with long back gardens, it is considered that the layout and design of the proposed development would not accord with the character and pattern of development within the small village of Kirikee, would be contrary to the requirements of Objective HD3 and Appendix 1: Development and Design Standards of the County Development Plan 2016-2022 which seeks to ensure that new multi house developments in small villages are consistent with the existing pattern and grain of development within the village, would be contrary to the amenities of the area and to proper planning and sustainable development.
- The proposed development is located adjoining the Avonbeg River in an area where flooding has been reported. Objective FL4 of the County Development Plan 2016-2022 provides that:

Where a development is proposed in an area identified as being at low or no risk of flooding, where the Planning Authority is of the opinion that flood risk may arise or new information has come to light that may alter the flood designation of the land, an appropriate flood risk assessment maybe required to be submitted by an applicant for planning permission.

It is considered in the absence of a detailed flood impact study it is not possible to assess whether the site will flood or add to flooding in the area, and to permit the proposed development in the absence of that report would be contrary to the objectives of the County Development Plan 2016-2022, to the safety of future residents and to proper planning and sustainable development.

- The proposed would endanger public safety by reason of serious traffic hazard because the laneway serving the site is substandard, and its junction with the L-6126-0 is deficient in terms of its gradient and the proposed sightlines to the east.
- Having regard to the:
 - a) Lack of information on the capacity and quality of the water supply source

- b) Inadequate source protection zoned for the water supply source
- c) Lack of proposal for the ongoing maintenance of the water supply source
- d) Potential pollution arising from the location of the drainage to serve the proposed houses in proximity to the river flow path and floodplain.

It is considered that the proposed development would be prejudicial to public health and would be contrary to proper planning and development.

4.2. *On Adjacent Sites:*

PA Ref. No. 052994. Was granted on 9th February, 2006 permitting Michelle Delacy permission for a bungalow, effluent treatment system and garage at Kirikee, Rathdrum, Co. Wicklow.

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.
- 5.1.2. The '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' acknowledge the importance of smaller towns and villages and their contribution towards Ireland's identity and the distinctiveness and economy of its regions. It is accepted that many of these smaller towns and villages have experienced significant levels of development in recent years, particularly residential development, and that concerns have been expressed regarding the impacts of such rapid development and expansion on the character of these towns and villages through poor urban design and particularly the impact of large housing estates with a standardised urban design approach. In order for small towns and villages to thrive and succeed, their development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past.
- 5.1.3. The '*Planning System and Flood Risk Management, Guidelines for Planning Authorities*' published by the Department of the Environment, Heritage and Local

Government in November, 2009 introduce comprehensive mechanisms for the incorporation of flood risk identification, assessment and management into the planning process. The core objectives of the Guidelines are to:

- Avoid inappropriate development in areas at risk of flooding;
- Avoid new developments increasing flood risk elsewhere, including that which may arise from surface water run-off;
- Ensure effective management of residual risks for development permitted in floodplains;
- Avoid unnecessary restriction of national, regional or local economic and social growth;
- Improve the understanding of flood risk among relevant stakeholders; and
- Ensure that the requirements of the EU and national law in relation to the natural environment and nature conservation are complied with at all stages of flood risk management.

In achieving the aims and objectives of the Guidelines the key principles to be adopted should be to:

- Avoid the risk, where possible,
- Substitute less vulnerable uses, where avoidance is not possible, and
- Mitigate and manage the risk, where avoidance and substitution are not possible.

The Guidelines outline the need to identify flood zones and to categorise these according to their probability of flood events. Notably, these should be determined ignoring the presence of flood protection structures as such areas still carry a residual risk of flooding from overtopping or breach of defences and as there is no guarantee that the defences will be maintained in perpetuity.

A staged approach to Flood Risk Assessment is advocated with only such appraisal and / or assessment as is needed to be carried out for the purposes of decision-making at the regional, development and local area plan levels, and also at the site specific level. Stage 1 entails the identification of flood risk by way of screening of the plan / project in order to determine whether there are any flooding or surface

water management issues related to the area or the site that may warrant further investigation. This is followed by Stage 2 (Initial flood risk assessment) which seeks to confirm the sources of flooding that may affect a plan area or site, to appraise the adequacy of existing information and to scope the extent of the risk of flooding which may involve preparing indicative flood zone maps. Where hydraulic models exist, the potential impact of a development on flooding elsewhere and of the scope of possible mitigation measures can also be assessed. The third and final stage (Stage 3: Detailed flood risk assessment) aims to assess flood risk issues in sufficient detail and to provide a quantitative appraisal of potential flood risk to a proposed or existing development or land to be zoned, its potential impact on flood risk elsewhere and of the effectiveness of any proposed mitigation measures.

Chapter 3 of the Guidelines states that the key principles of a risk-based sequential approach to managing flood risk in the planning system are to:

- Avoid development in areas at risk of flooding;

If this is not possible, consider substituting a land use that is less vulnerable to flooding.

Only when both avoidance and substitution cannot take place should consideration be given to mitigation and management of risks.
- Inappropriate types of development that would create unacceptable risks from flooding should not be planned for or permitted.
- Exceptions to the restriction of development due to potential flood risks are provided for through the use of a Justification Test, where the planning need and the sustainable management of flood risk to an acceptable level must be demonstrated.

It is a key instrument of the Guidelines to undertake a sequential approach in order to guide development away from areas at risk from flooding such as through the use of flood zones and the vulnerability of different development types, however, it is recognised that several towns and cities whose continued growth and development is being encouraged (through the National Development Plan, Regional Planning Guidelines etc.) in order to bring about compact and sustainable urban development and more balanced regional development, contain areas which may be at risk of

flooding. Where a planning authority is considering the future development of areas at a high or moderate probability of flooding that would include types of development that are inappropriate in terms of their vulnerability, the 'Justification test' set out in Box 5.1 of the Guidelines should be employed.

The vulnerability of development to flooding depends on the nature of the development, its occupation and the construction methods used. The classification of different land uses and types of development as highly vulnerable, less vulnerable and water-compatible is influenced by various factors including the ability to manage the safety of people in flood events and the long-term implications for the recovery of the function and structure of buildings.

5.2. Development Plan:

5.2.1. Wicklow County Development Plan, 2016-2022:

Chapter 3: Settlement Strategy:

Level 8 – Small Villages: Kirikee:

Small village settlement boundaries are set out on the attached maps. All boundaries and the indicative housing growth targets for small villages will be reviewed as part of the 2-year statutory review of the plan.

Table 3.2: Indicative housing growth targets for Small Villages:

Small Village	Housing Stock, 2011	Indicative housing growth target 2011-2022
Kirikee	13	5

Role and Function:

These villages generally bear similar characteristics to large villages, with the exception that they are generally smaller in scale, with more limited infrastructure and as such can accommodate lesser levels of growth than larger villages. Small villages generally have a population of less than 100 and have few facilities other than a public house, primary school or church.

In all other respects they perform a similar role and function as large villages (refer to large villages above for further detail regarding role and function), acting as a place where the local rural community gathers and support the identity of this population.

Having regard to their status on a lower tier of the settlement hierarchy, it is particularly important to safeguard their continued existence into the future, and to ensure that growth is encouraged and facilitated in a sustainable manner.

Growth Controls:

Where permission is sought for development that would result in the indicative growth figure for any settlement being exceeded during the lifetime of the plan, the principal considerations shall be that (a) the settlement has the form and infrastructural capacity to accommodate the additional development proposed and (b) the total housing growth target for the small villages as a group shall not be exceeded.

Housing Occupancy Controls: Multi-house development:

50% Applicant / purchaser of any new home must be either:

- a resident for at least 3 years duration in County Wicklow or
- in permanent employment for at least 3 years duration in County Wicklow,

of within 30km of the small village in question prior to making of application / purchase of new house.

50% Applicant / purchaser of any new home must be either:

- a resident for at least 5 years duration in County Wicklow or
- in permanent employment for at least 5 years duration in County Wicklow,

of within 15km of the small village in question prior to making of application / purchase of new house.

Section 3.3: Settlement Strategy Objectives

SS4: To require new housing development to locate on designated housing land within the boundaries of settlements, in accordance with the development policies for the settlement.

SS7: To strengthen the established structure of villages and smaller settlements both to support local economies and to accommodate additional population in a way that supports the viability of local

infrastructure, businesses and services, such as schools and water services.

Chapter 4: Housing:

Section 4.3: Key Housing Principles:

Section 4.3.2: Zoning:

New housing development shall be required to locate on suitably zoned / designated land in settlements.

The priority for new residential development shall be in the designated 'town' and 'village' / 'neighbourhood centres' or 'primary zone' in settlements with development plans, or in the historic centre of large and small villages, through densification of the existing built up area, re-use of derelict or brownfield sites, infill and backland development. In doing so, particular cognisance must be taken of respecting the existing built fabric and residential amenities enjoyed by existing residents, and maintaining existing parks and other open areas within settlements.

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.

HD2: New housing development, above all other criteria, shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.

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.

Housing in Rural Settlements / Areas (Levels 6-10 in County Settlement Hierarchy):

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).

HD21: To implement the following housing occupancy controls for each Level, as set out in the Settlement Strategy

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 10.3.5: Soils and Geology:

NH25: Geological and soil mapping where available shall be considered in planning decisions relating to settlement, excavation, flooding, food production value and carbon sequestration, to identify prime agricultural lands (for food production), degraded/contaminated lands (which may have implications for water quality, health, fauna), lands with unstable soils / geology or at risk of landslides, and those which are essential for habitat protection, or have geological significance.

NH26: Protect and enhance 'County Geological Sites' (Schedule 10.10 and Map 10.10 of this plan) from inappropriate development at or in the vicinity of a site, such that would adversely affect their existence, or value.

The proposed development site is located within County Geological Site No. 27:

Glenmalure: (Recommended candidate NHA):

Description: The Glenmalure valley is one of the longest glacial valleys in the country.

Geological feature: The Glenmalure mines are of interest as the oldest of the lead mines along the edge of the granite.

Appendix 1: Development and Design Standards: Section 2: Rural Towns and Villages (Levels 6-9, County Settlement Hierarchy)

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(a): The Mountain Uplands:

The central mountain upland area extends from the Dublin border in the north of the County at Kippure towards Aughrim in the south and from east of the Glen of Imaal as far as west of Roundwood Village. A key characteristic of this area is mountainous topography with U-shaped valleys, lakes and glacial topography. This area generally relates to lands immediately surrounding and above the 300+ contour line.

Section 5: *Policy Provision:*

Section 5.3.1: *General Development Considerations (GDC)*

Section 5.3.2: *The Mountains Uplands Key Development Considerations:*

1. All developments within the Mountain Uplands AONB landscape area shall be accompanied by a detailed justification of the need for the proposed development at this location.
2. Where development is to be permitted within the Mountain Uplands AONB landscape area a very high standard of siting, design and landscaping will be required in order to ensure that the proposed development will be assimilated into the existing landscape.
3. To ensure that developments on steep slopes (i.e. 10%) will not be conspicuous or have a disproportionate or dominating visual impact on the surrounding environment as seen from relevant scenic routes and settlements.
4. To maintain the favourable conservation status of existing natural habitats including Natura 2000 sites (SACs and SPAs) and Annex I-Habitats and Annex II-Animal and Plant species within this Mt. Uplands AONB landscape area.

5. To support and facilitate in co-operation with relevant bodies, the provision of amenity routes within and adjoining the Mountain Uplands AONB landscape area in a manner which does not detract from the scenic nature of the area.

The proposed development site is located within the '*Mountains Uplands 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 natural heritage designations are located in the general vicinity of the proposed development site:

- The Ballinacor Wood Proposed Natural Heritage Area (Site Code: 001749), approximately 300m south of the site.
- The Wicklow Mountains Special Area of Conservation (Site Code: 002122), approximately 3.0km northwest of the site.
- The Wicklow Mountains Special Protection Area (Site Code: 004040), approximately 3.0km northwest of the site.
- The Vale of Clara (Rathdrum Wood) Special Area of Conservation (Site Code: 000733), approximately 4.6km east of the site.
- The Vale of Clara (Rathdrum Wood) Proposed Natural Heritage Area (Site Code: 000733), approximately 4.6km east 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

- Both the application site and surrounding lands are subject to flood events and, therefore, there are concerns that the proposed development will serve to exacerbate flooding of the appellants' property which is located to the immediate east of the site.

In this regard, the proposed development will reduce the natural attenuation of rainwater on site thereby increasing the volume of surface water runoff flowing onto the appellant's property and contributing to rising water levels during flood events. This flooding is further exacerbated by flood waters flowing from the public road onto adjacent lands and those instances when the river bursts its banks.

In support of the foregoing, it is submitted that the application site has been observed to be fully flooded on several occasions whilst the appellants' dwelling house (which is at a similar level) has flooded 6 No. times in the previous 12 No. years.

- There has been an entirely inadequate assessment of the potential flood risk of the proposed development and its impact on the surrounding flooding regime.
- Notwithstanding the site location on lands zoned for development purposes within the village boundary, the proposed development involves the construction of housing with a known floodplain that will serve to displace floodwaters thereby potentially causing further damage to surrounding lands / property.
- The municipal wastewater treatment plant serving the village is prone to flooding during heavy rainfall events with the result that untreated sewage flows into the river which has also been observed to flow into the proposed development site and the appellants' property (six times in the preceding 12 No. years).

- The response on the planning application form that the site has not flooded ‘*to the applicant’s knowledge*’ is considered to be spurious given that the lands in question are known to flood regularly.
- The Planning Authority has failed to undertake an adequate flood risk assessment of the proposed development.
- The frequency of flood events is likely to increase as a result of climate change which will further exacerbate the risk of flooding in the area.

6.2. Applicant Response

- The subject lands have been in the applicant’s ownership since 2016 and he has an extensive knowledge of the river and its impact on existing housing in Kirikee. Accordingly, it is submitted that neither the location of the proposed dwellings nor any of the houses in the village have ever flooded.
- It is not accepted that the proposed development will result in irreparable damage to the appellants’ property. Whilst it is possible that the appellants may presently enjoy the view available from their property over an open field, they are not entitled to any such view nor do they have the right to stop appropriate development and the provision of much needed housing for local people.
- Given the prevailing topography, it is accepted that the lower-lying lands within the river valley occasionally flood when water levels rise, however, this is a natural river process and is to be expected. There is no ‘*bursting of any banks*’.
- The assertion that the appellants’ dwelling house has been flooded six times in the last 12 No. years is unfounded and incorrect. None of the houses in the village (all of which are a similar distance to the river) have ever flooded.
- No evidence has been provided to support the claim that the proposed development site has previously been ‘*under full flood*’. The reality is that the lowest-lying and southernmost part of the applicant’s land, which is located approximately 1m above the average river level, is subject to higher river water levels and the natural directional runoff of surface water from the public

roadway. The proposed dwelling houses are to be located in a completely different part of the site, approximately 4m above that area affected by the high river level, in an area which is not at risk of flooding.

- Cognisance must be given to the natural topography of this part of the Glenmalure Valley, with particular reference to the fall southwards towards the Avonbeg River as well as that along the valley itself on travelling eastwards. The Avonbeg River is fast flowing with stormwater draining from the valley rapidly unlike those more well-known floodplains in Ireland typical of more slow-moving rivers.
- The finished ground floor levels of the proposed dwellings (at 18.75m) will be similar to those of existing houses in the village and higher than that of the appellants' residence. The typical river water level is approximately 14.00m, almost 5m below the proposed floor levels.
- The volume of water in the river would have to increase by a factor of x50 to theoretically pose any risk of flooding to the proposed dwelling houses.
- The proposed development has been designed with due regard to the site location and topography as well as the behaviour of the river in flood – there will be no flood risk to the proposed houses.
- It is of relevance to note that one of the proposed dwellings will be located in the same position as one of only two original houses within Kirikee village.
- While it is understandable that the appellants are seeking to avoid any detrimental impact on their property arising from the loss of rainwater attenuation, the proposed development has been carefully designed to ensure there is no impact on the natural flow of runoff from the roadway into the river (this has also been addressed in the conditions imposed by the Council).
- The sectional drawings submitted in response to the request for further information indicate that there will be minimal change to ground levels on site as a result of the development with no changes proposed within that area impacted by the river. Therefore, there will be no loss of on-site capacity as regards the attenuation of rainwater.

- The local authority wastewater treatment plant is located on lower-lying lands and any issues pertaining to its operation are unrelated to the proposed development and should be addressed by the Council regardless.

6.2.1. The Board is advised that the remainder of the applicant's response to the grounds of appeal has sought to raise matters concerning the attachment of certain conditions by the Planning Authority. These may not be taken into consideration in the determination of the third party appeal as it was open to the applicant to appeal the conditions in question within the appropriate time period, however, for the purposes of completeness, I propose to summarise the issues raised as follows:

- The proposed development has been designed to respond to site context / setting with the palette of external finishes including a mix of white render, dark grey metal roofing, and timber cladding, however, whilst the County Development Plan seeks to encourage high quality contemporary design, the imposition of Condition No. 13 by the Planning Authority has limited the façade treatment to an 'off white render' and requires the roof to be finished in dark grey slates / tiles. It is considered that the external finishes proposed are appropriate to this sheltered site, which is surrounded by mature trees and hedging, and accord with the provisions of the Development Plan as regards contemporary design.
- The financial bond in the amount of €50,000 sought by Condition No. 6 is unwarranted and excessive in light of the limited communal areas / services proposed and the small scale of the development.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- The principle of the proposed development
- Flooding implications
- Overall design and layout
- Appropriate assessment

These are assessed as follows:

7.2. The Principle of the Proposed Development:

- 7.2.1. Both the '*Sustainable Rural Housing, Guidelines for Planning Authorities*' and the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*' acknowledge the importance of smaller rural towns and villages and their contribution towards meeting the social and economic needs of their respective hinterlands and communities. The Guidelines also identify the need to provide for housing schemes of a suitable scale and character within these settlements, although it is accepted that in previous years some rural villages have attracted significant levels of development and that concerns have been raised in respect of the impact of such rapid development on the character of these towns and villages, particularly through poor urban design.
- 7.2.2. Within the settlement hierarchy set out in Chapter 3: '*Settlement Strategy*' of the Wicklow County Development Plan, 2016-2022, the village of Kirikee has been identified as a '*Level 8: Small Village*'. These centres perform a similar role and function as large villages in that they provide a range of local community services and facilities (albeit on a lesser scale and with more limited infrastructure) and serve an important function in providing a place for the local rural community to gather. Having regard to their status on a lower tier of the settlement hierarchy, the Plan states that it is particularly important to safeguard the continued existence of these smaller villages into the future, and to ensure that growth is encouraged and facilitated in a sustainable manner. In this respect, I would refer the Board to Table 3.2: '*Indicative Housing Growth Targets for Small Villages*' of the Plan wherein it is

suggested that an additional 5 No. dwellings could be accommodated within Kirikee between 2011 and 2022. Notably, in its assessment of the subject proposal, the Planning Authority noted that there had been no residential development within Kirikee in the last number of years and thus it was satisfied that the proposal to provide 3 No. additional dwellings was permissible within the allocated indicative housing growth target. In my opinion, such a conclusion would seem to find support by reference to the housing stock of 13 No. units recorded in 2011 (as detailed in Table 3.2 of the Development Plan) which would seem to tally with that presently evident with the village boundary.

- 7.2.3. It is of further relevance to note that the proposed development site is substantially located within the defined settlement boundary for the village of Kirikee as shown on Map No. 03.05E of the Development Plan with only the south-eastern extent of the site area extending beyond same. More specifically, each of the proposed dwelling houses will be sited within the village boundary with the possible exception of the south-easternmost fringe of their respective rear garden areas (the Board is advised that the delineation of the village boundary as shown on the submitted site layout plan would not appear to accurately reflect that set out in the Development Plan although this is not of direct consequence to the assessment of the subject proposal).
- 7.2.4. In addition to the foregoing, I would suggest that cognisance should be taken of the relationship of the application site with neighbouring properties, with particular reference to those dwelling houses to the east and west, and the potential for the development to contribute towards the consolidation of the built / urban form.
- 7.2.5. Further credence is lent to the proposal given the availability of a connection to the public sewerage network and the presence of a wastewater treatment plant within the village.
- 7.2.6. Accordingly, having regard to the foregoing considerations, I am satisfied that the development of the subject site for residential purposes is generally acceptable in principle, subject to the consideration of all other relevant planning issues and adherence to the 'Housing Occupancy Controls' applicable to multi-house developments within 'Level 8' settlements.

- 7.2.7. By way of further comment, it is my understanding that the lands within the village settlement boundary are not expressly 'zoned' for development purposes and thus the provisions of Part V of the Planning and Development Act, 2000, as amended, are not applicable in this instance.

7.3. Flooding Implications:

- 7.3.1. Concerns have been raised in the grounds of appeal as regards the potential flooding implications of the proposed development and, more specifically, its impact on the existing flood regime (such as through the displacement of flood waters), particularly in light of its location and proximity to the Avonbeg River. In this respect, it has been asserted that both the application site and surrounding lands are subject to flood events with the appellants' neighbouring property to the immediate east of the site having been flooded on multiple occasions within the last few years. Reference has been made to the Avonbeg River bursting its banks with the flood waters subsequently rising through the appellants' garden area as far as the rear of their dwelling house. It has been further stated that the appellants' house has been flooded six times in 12 No. years, although I would suggest that it is somewhat unclear if this refers to flooding of the actual dwelling house or if it relates to the wider curtilage of the property (i.e. the garden area). Whilst I note the reference to the application site flooding to a similar extent as the appellant's property with flood waters rising to within 19m of the public road, it is perhaps regrettable that further documentary evidence such as additional photographs, insurance records, loss assessments, or repair bills etc. were not provided in support of the assertion that their dwelling house physically floods.
- 7.3.2. Whilst it would be preferable if greater clarity were to be provided as to the nature and extent of any flooding of the appellants' property, at this point I would refer the Board to the photographs which accompanied the appellants' initial submission on the planning application as lodged with the Planning Authority which would seem to confirm that a significant expanse of the application site is subject to considerable flood events. Although the precise locations from which these photographs were taken have not been identified (and noting that several of the images would appear to show flooding of the roadways to the immediate north and west of the subject site as well as the wastewater treatment plant), I am satisfied that a number of these vantage points can be reasonably ascertained having conducted a site inspection.

- 7.3.3. In the first instance, I would suggest that the sixth photograph (identifiable from a series of rocks in the foreground) corresponds with the view available north-eastwards from a position alongside the minor roadway to the west of the application site which leads towards Strand Bridge (as evidenced by the presence of the rocks, the tree line and the characteristics of the ridge line / backdrop). This image clearly shows that the southernmost extent of the site (i.e. that area between the tree line which bisects the site east-west into two parts and the Avonbeg River) is subject to considerable flood events. Although it is unclear if this flooding is attributable to the river itself or if it is caused by overland / pluvial flooding due to runoff from the higher lands, rising groundwater, or a combination of sources, some credence is lent to the likelihood of fluvial flooding from the river given the acknowledgement by the applicant that the southern part of the site floods from rising river levels. It is also of relevance to note that OSi mapping shows the southern extent of the site area as encompassing an 'island' feature with the river flowing to either side of same.
- 7.3.4. In my opinion, Photograph Nos. 1, 3, 8, 15 & 17 correspond with various views over the northern part of the site where the proposed dwelling houses are to be located. Whilst the extent of any fluvial flooding within this area would appear to be less than that evident within the more southerly lands, it would appear that the ground is prone to heavy saturation / waterlogging with extensive incidences of ponding. Given the prevailing topography, and noting the photographs provided by the appellants which show surface water runoff accumulating along the roadway to the immediate north of the site, I am inclined to suggest that during periods of heavy or prolonged rainfall the likelihood is that runoff from higher ground flows towards the site and the river (possibly as a result of inadequate ground infiltration or the surcharging of existing drainage channels) with the result that the site itself is subject to overland flooding which may be exacerbated by rising groundwater levels.
- 7.3.5. Some of the appellants' other photographs would also appear to show sections of the roadway leading towards Strand Bridge and the public wastewater treatment plant as being subject to flooding.
- 7.3.6. By way of corroboration, I note that an additional third party observation on file has also referenced the extent of flood events in the locality with accompanying photographs purportedly showing the aftermath of flooding at a cottage (Strand Bridge Lodge) located to the south of Strand Bridge on the far side of the river from

the application site. This imagery would appear to provide an indication of the level of flood waters with considerable scouring of underlaying gravels / subsoils evident.

- 7.3.7. Within the planning application itself, it was initially indicated in response to Question No. 18 of the application form that the proposed development site was not subject to flooding (to the applicant's knowledge), although the accompanying covering letter subsequently clarified that the lower part of the site was liable to flooding. In response to the grounds of appeal, the applicant has questioned the veracity of the appellants' claims that their house has been flooded on multiple occasions and that the application site has been observed to be '*under full flood*'. Whilst it is accepted that the southernmost extent of the site is prone to fluvial flooding from the river, the applicant has asserted that the proposed dwelling houses will be located on the more elevated part of the site on lands approximately 4m above the high water level in an area which is not at risk of flooding. The applicant has also submitted that given the minimal change to ground levels on site, with no changes proposed within that area impacted by the river, there will be no loss of on-site capacity as regards the attenuation of rainwater and that the natural flow of runoff from the public road to the river will be unaffected i.e. there will be no impact on the existing surface water drainage or flooding regimes.
- 7.3.8. From a review of the available information, it is apparent that conflicting opinions have been offered as regards the extent of any flood events both on site and in the wider area.
- 7.3.9. In terms of flood risk identification, at the outset, I would advise the Board that although the National Flood Hazard Mapping available from the Office of Public Works does not record any flood events within the confines of the proposed development site, this mapping is not definitive and only serves as a useful tool in highlighting the potential for flood events in a particular area. Similarly, whilst the most up-to-date flood mapping prepared by the Office of Public Works as part of its CFRAM programme (which has recently been made available on www.floodinfo.ie and serves to inform the development of Flood Risk Management Plans for specific areas) does not record any incidences of flooding on site, it must also be accepted that this mapping has limitations in terms of identifying flood risk in any given area.

- 7.3.10. However, the Stage 1 Flood Risk Identification Assessment for the village of Kirikee contained in the Strategic Flood Risk Assessment appended to the Wicklow County Development Plan, 2016-2022 indicates that the southernmost extremity of the application site falls within Flood Zones 'A' and 'B' as defined by the *'Planning System and Flood Risk Management, Guidelines for Planning Authorities'* with the wider extent of the site area deemed to be within Flood 'C'. Whilst this would seem to support some of the assertions made with respect to the subject appeal, it does not necessarily correlate with the acceptance by the applicant that the southernmost extent of the site is prone to river flooding. Similarly, it should not be used to discount the possibility that a greater extent of the site floods.
- 7.3.11. At this point, I would advise the Board that the Strategic Flood Risk Assessment appended to the County Development Plan is based on a wide range of datasets with the OPW mapping from the *'Catchment Flood Risk Assessment and Management'* (CFRAM) studies forming the primary source of information. In particular, it is acknowledged that many of the assessments and mapping of areas of flood risk are based on the draft (i.e. the Preliminary FRA) rather than the finalised outputs of the CFRAMs. In this respect I would draw the Board's attention to the contents of Circular PL2/2014 issued by the Department of the Environment, Community and Local Government on 13th August, 2014 which states that the Draft Indicative Preliminary Flood Risk Assessment Maps compiled by the Office of Public Works and published in 2011 (as part of the CFRAM programme) were prepared for the purpose of an initial assessment, at a national level, of areas of potentially significant flood risk and that *'the maps provide only an indication of areas that may be prone to flooding. They are not necessarily locally accurate and should not be used as the sole basis for defining Flood Zones, or for making decisions on planning applications'*. This Circular further recommends that for the purposes of decision-making in respect of planning applications, a Stage II Flood Risk Assessment as set out in *'The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009'* should be undertaken where there are proposals for development in areas that may be prone to flooding.
- 7.3.12. It is of further relevance to note that the flood zones described in the SFRA are indicative of river and coastal flooding only and that they are not intended to be used to suggest that any areas are free from flood risk, since they do not include the

effects of other forms of flooding such as from groundwater or artificial drainage systems. This is of note given my earlier comments as regards the prevailing topography and the likelihood of overland flow into the site from the public road etc.

- 7.3.13. Having reviewed the available information, I am not satisfied that the potential flood risk posed to both the application site and the proposed development (from all sources) has been adequately identified or investigated. Whilst it would appear that the southernmost part of the site is prone to flood events from the River Avonbeg, the photographic evidence provided by the appellants would seem to lend credence to the prospect that this flooding extends much further into the site than has been acknowledged by the applicant. Indeed, it would appear that the floodplain could potentially extend as far as (or beyond) the tree line which bisects the site from east to west thereby including a sizeable proportion of the rear garden areas of the proposed dwelling houses. The possibility of any flooding extending to within relatively close proximity of House 'C' and the potential displacement of floodwaters should also not be discounted. Further concerns arise as regards the general lack of detail with respect to surface water drainage / management proposals, with particular reference to the suitability for disposal on site given the evidence of poor underlying ground conditions and the need to accommodate roadside drainage.
- 7.3.14. Notably, in its previous decision to refuse permission for PA Ref. No. 17998 the Planning Authority clearly indicated that in the absence of a detailed flood impact study it was not possible to assess whether the site would flood or contribute to flooding in the area.
- 7.3.15. Therefore, on balance, in view of the site location and its proximity to an area identified as being at risk of flooding, the absence of a detailed site-specific flood risk assessment, and having regard to the policies and objectives of the County Development Plan in conjunction with the precautionary approach advocated by '*The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009*', I am not satisfied that it has been adequately demonstrated that the submitted proposal will not be at risk of flooding or that it will not have a detrimental impact on the flood regime of the area.
- 7.3.16. By way of further comment, I also note the concerns raised as regards the proposal to connect to the existing wastewater treatment system within the village given that

this facility is prone to flood events. Although neither Irish Water nor the Municipal District of the Local Authority objected to the proposed development, the Board may wish to consider seeking further comment on this matter.

7.4. Overall Design and Layout:

- 7.4.1. It would appear that the linear arrangement of the proposed dwelling houses along the roadway has been purposely submitted in response to the decision of the Planning Authority to refuse permission for PA Ref. No. 17998. That earlier proposal had sought permission for a less formalised 'clustering' of housing which extended into the wider site area, however, permission was refused on the basis that the layout and design of that development was not considered to be in keeping with the established character and pattern of development within Kirikee.
- 7.4.2. With respect to the individual house designs, I am amenable to the contemporary interpretation of the traditional vernacular as proposed. Whilst I would accept that several elements of the external palette of finishes are not necessarily prevalent within existing housing in the village (i.e. the horizontal timber cladding and the dark grey corrugated metal sheet roofing), I would credit the applicant in seeking to employ an approach which has sought to combine modern architectural styling with more traditional building design features. Although the proposal represents a deviation from the somewhat more conventional design of surrounding housing, and whilst individual parties may differ in their opinion of same, it is my opinion that the external finishes proposed are acceptable and that the development can be satisfactorily integrated into the surrounding landscape.

7.5. Appropriate Assessment:

- 7.5.1. Having regard to the nature and scale of the proposed development, the site location outside of any protected site, the availability of services, 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 overturned in this instance and that permission be refused for the proposed development for the reasons and considerations set out below

9.0 Reasons and Considerations

1. Having regard to the site location and the proximity of the proposed development to an area liable to flood events, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that the applicant has demonstrated satisfactorily that the proposed development would not be at risk of flooding and would not negatively impact on the flood regime of the surrounding area or result in serious injury to the amenities of property in the vicinity as a result of this. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

13th May, 2020