



An  
Bord  
Pleanála

## Inspector's Report ABP-307219-20

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<b>Development</b>	To construct a dwelling, domestic garage, on-site effluent disposal system, along with all associated site works.
<b>Location</b>	Tinode, Blessington, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	191086
<b>Applicant(s)</b>	Simon Phibbs
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	Third Party v. Decision
<b>Appellant(s)</b>	Transport Infrastructure Ireland
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	12 <sup>th</sup> August, 2020
<b>Inspector</b>	Robert Speer

## 1.0 Site Location and Description

- 1.1. The proposed development site is located in the rural townland of Tinode, Co. Wicklow, approximately 4.5km northeast of Blessington, where it occupies a backland position to the rear of existing roadside housing along the northern side of the N81 National Secondary Road. Whilst the wider area is generally characterised by undulating rural countryside with intermittent instances of one-off housing and agricultural outbuildings, there is a notable concentration of residential properties within the immediate site surrounds which is dominated by a variety of conventionally designed single storey and dormer-style dwellings. In this regard, given the proximity of neighbouring housing to the northwest, northeast and southeast, the subject site could perhaps be considered to comprise an infill location.
- 1.2. The site itself has a stated site area of 0.5 hectares, is irregularly shaped, and comprises a vacant plot of land which is accessed via a narrow laneway that extends north-westwards from the N81 National Road to provide access to surrounding agricultural lands and a dwelling house located further northwest. The site topography is characterised by a notable fall on travelling south-eastwards towards the national road with a considerable difference in ground levels apparent between the site and the adjacent residential property to the immediate southeast. It is bisected by a row of semi-mature trees whilst the site boundaries are defined by a combination of fencing, ditches and embankments with the existing field entrance from the laneway located towards the south-eastern corner of the site.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a single-storey bungalow-style dwelling house based on a 'L'-shaped plan with a stated floor area of 158m<sup>2</sup> (although the submitted house plans refer to a floor area of 174m<sup>2</sup>) and a ridge height of 6.35m. The overall design of the proposed dwelling is conventional with a hipped roof construction and external finishes that include selected roof slates / tiles, a nap acrylic render, and uPVC windows, soffits, fascias, and downpipes etc. The proposal also provides for the construction of a single-storey garage structure to the rear of the new dwelling house.

- 2.2. Access to the site will be obtained from the N81 National Secondary Road via the adjacent private laneway and in this respect it is proposed to improve the available sight distance to the southwest at the junction of the laneway with the national road by setting back part of the existing roadside boundary ditch of adjacent properties and relocating 2 No. (telegraph / electricity) poles.
- 2.3. It is also proposed to install a packaged wastewater treatment plant which will discharge to a pressurised 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. Following the receipt of a response to a request for further information, on 2<sup>nd</sup> April, 2020 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 11 No. conditions. These conditions are generally of a standardised format and relate to issues including occupancy, drainage, effluent disposal, external finishes, and development contributions, however, the following conditions are of note:

Condition No. 4: Requires the road improvement works at the junction of the existing laneway with the N81 National Secondary Road to be completed in accordance with the plans and particulars submitted on 12<sup>th</sup> March, 2020 to the written satisfaction of the Municipal District Engineer prior to the commencement of any development.

Condition No. 5: Requires the finished floor level of the proposed dwelling house to be no more than (0.15m) above the existing ground level; at the lowest point along the downhill side of the house unless otherwise agreed in writing with the Planning Authority.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports:

An initial report details the site context, including the applicable planning policy considerations, and subsequently states that the provisions of Objective HD23 of the Development Plan are applicable in this instance given the site location in a rural area. The report proceeds to consider the submitted particulars as regards compliance with the relevant rural housing eligibility criteria and states that it will be necessary for the applicant to submit a sworn declaration that he has never owned any other property. In respect of the traffic implications of the proposed development, the report notes that access will be obtained via an existing laneway extending from the N81 National Secondary Road and that although the site layout plan has detailed the availability of 215m sightlines in both directions onto the national road, a detailed analysis of the junction will be required in order to assess its suitability for use by another dwelling. In terms of servicing and wastewater treatment, the comments of the Environmental Health Officer are noted as regards the need to submit a fully completed Site Characterisation Form. With regard to the overall design of the proposal, it is considered to generally accord with the '*Design Guidelines for Single Rural Houses*' and is also deemed appropriate given the infill nature of the site and the character of the surrounding pattern of development. No concerns are raised as regards any potential impact on residential amenity due to the siting of the dwelling and its separation from neighbouring properties. The report thus concludes by recommending that further information be sought in respect of a number of items.

Following the receipt of a response to a request for further information, a final report was prepared which, whilst noting the concerns of Transport Infrastructure Ireland as regards the proposal to utilise an existing access onto the national road, recommended that permission should be granted, subject to conditions, given the 'bona fides' of the applicant and the available sightlines.

### 3.2.2. Other Technical Reports:

*Environmental Health Officer:* An initial report recommended that the applicant be required to submit a fully completed Site Characterisation Form as per Annex C.3 of the EPA's Code of Practice, 2009. Following the receipt of a response to the request

for further information, a final report stated there was no objection to the development, subject to conditions.

*Roads:* No observations other than that access will be obtained via an existing junction with the N81 National Secondary Road.

*Area Engineer:* No objection, subject to conditions.

### 3.3. **Prescribed Bodies:**

3.3.1. *Transport Infrastructure Ireland:* An initial submission deemed the proposal to be at variance with official policy in relation to the control of development on / affecting national roads as outlined in the '*Spatial Planning and National Roads, Guidelines for Planning Authorities, 2012*' as the proposed development by itself, or by the precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network for the following reasons:

- Official policy in relation to development involving access to national roads and development along such roads is set out in the '*Spatial Planning and National Roads, Guidelines for Planning Authorities, 2012*'. The proposal, if approved, would create an adverse impact on the national road where the maximum permitted speed limit applies and would be at variance with the foregoing national policy in relation to the control of frontage development on national roads.
- Section 2.5 of the Guidelines states that the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kph apply. The proposal, if approved, would result in the intensification of an existing direct access to a national road contrary to official policy.
- The proposed development, located on an unimproved section of a national road where the maximum speed limit applies, would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated.

Following the receipt of a response to a request for further information, a further submission reiterated the position of Transport Infrastructure Ireland and stated the following:

- The further information response does not address the 'in principle' policy objection to development accessing a national road and the intensification of existing accesses to national roads outlined in the '*Spatial Planning and National Roads, Guidelines for Planning Authorities*'.
- In addition to being at variance with the provisions of Government policy, the proposed development is in conflict with Objective TR21 of the Wicklow County Development Plan, 2016-2022 and represents a significant risk to road user safety arising from the inevitable intensification in use of the direct access lane to the N81 National Road that would arise in the event of a grant of permission.

3.3.2. *Dublin City Council*: No objection, subject to conditions.

3.4. **Third Party Observations:**

None.

## 4.0 **Planning History**

### 4.1. *On Site*:

4.1.1. PA Ref. No. 065778. Was refused on 5<sup>th</sup> January, 2007 refusing David & Fiona Walsh permission for a bungalow, domestic garage & biocycle effluent disposal system.

- The proposed development, located on a section of National Secondary Road where a 100km / hr speed limit applies, would endanger public safety by reason of a traffic hazard and obstruction of road users due to the movement of extra traffic generated.

4.1.2. PA Ref. No. 071103. Application by David & Fiona Walsh for permission for a bungalow, domestic garage and effluent disposal system to EPA 2000. This application was withdrawn.

4.1.3. PA Ref. No. 08464. Was granted on 24<sup>th</sup> November, 2008 permitting David & Fiona Walsh permission for a bungalow, domestic garage and biocycle effluent disposal system to EPA 2000.

4.2. *On Adjacent Sites:*

4.2.1. PA Ref. No. 99438. Application by Eoin Phibbs for permission for a bungalow and septic tank and revised entrance at Tinode, Blessington, Co. Wicklow. This application was withdrawn.

4.2.2. PA Ref. No. 014292. Was granted on 21<sup>st</sup> June, 2001 permitting Eoin Phibbs permission for the retention of completion of construction of bungalow and septic tank and revised entrance at Tinode, Blessington, Co. Wicklow.

4.2.3. PA Ref. No. 054215. Application by David & Fiona Walsh for permission for a bungalow, domestic garage and effluent disposal system to EPA 2000 at Tinode, Blessington, Co. Wicklow. This application was withdrawn.

4.3. *Other Relevant Files:*

PA Ref. No. 991576. Was granted on 16<sup>th</sup> June, 2000 permitting Dermot & Elizabeth Phibbs permission for a two storey dwelling & septic tank at Tinode, Blessington, Co. Wicklow.

4.3.1. *Kildare County Council:*

PA Ref. No. 19224. Was granted on 20<sup>th</sup> September, 2019 permitting Karl Phibbs permission for the construction of a storey and a half, part single storey dwelling and detached domestic garage, new effluent treatment system and soil percolation system, the construction of approximately 40 linear metres of an access lane from an existing private lane and all ancillary site works, all at Hempstown Commons, Blessington, Co. Kildare.

## 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 ‘*Spatial Planning and National Roads, Guidelines for Planning Authorities, 2012*’ set out the planning policy considerations relating to development affecting national primary and secondary roads, including motorways and associated junctions, outside the 50-60kph speed limit zones for cities, towns and villages. They replace the document, Policy and Planning Framework for Roads, published by the Department in 1985, supplement other policy guidance on roads-related matters in other Ministerial guidelines in relation to retail planning and sustainable rural housing, and replace the National Roads Authority policy statement on national roads published in May, 2006.

## 5.2. **Development Plan**

### 5.2.1. ***Wicklow County Development Plan, 2016-2022:***

*Chapter 3: Settlement Strategy:*

*Level 10: The Rural Area:*

Development within the rural area should be strictly limited to proposals where it is proven that there is a social or economic need to locate in the area. Protection of the environmental and ecological quality of the rural area is of paramount importance and as such particular attention should be focused on ensuring that the scenic value, heritage value and / or environmental / ecological / conservation quality of the area is protected.

*Chapter 4: Housing:*

*Section 4.3: Key Housing Principles:*

*Section 4.3.5: Rural Housing:*

As set out in Chapter 3 of this plan, rural housing in County Wicklow requires to be managed, to protect the County’s pristine landscapes and natural resources, to avoid urban generated rural housing and to ensure the needs of those with a bona fide necessity to live in the rural area are facilitated.



#### Section 4.4: *Housing Objectives:*

*HD1:* New housing development shall be required to locate on suitably zoned or designated land in settlements, and will only be considered in the open countryside when it is for the provision of a rural dwelling to those with a housing, social or economic need to live in the open countryside.

*HD3:* All new housing developments (including single and rural houses) shall achieve the highest quality of layout and design, in accordance with the standards set out in the Development and Design Standards document appended to this plan, which includes a Wicklow Single Rural Houses Design Guide.

*HD20:* Urban generated housing shall not be permitted in the rural areas of the County, other than in rural settlements that have been deemed suitable to absorb an element of urban generated development (see objective HD19).

*HD23:* Residential development will be considered in the open countryside only when it is for those with a definable social or economic need to live in the open countryside.

Residential development will be considered in the countryside in the following circumstances:

1. A permanent native resident seeking to build a house for his / her own family and not as speculation. A permanent native resident shall be a person who has resided in a rural area in County Wicklow for at least 10 years in total (including permanent native residents of levels 8 and 9), or resided in the rural area for at least 10 years in total prior to the application for planning permission.
2. A son or daughter, or niece/nephew considered to merit the same position as a son/daughter within the law (i.e. when the uncle/aunt has no children of his/her own), of a permanent native resident of a rural area, who can demonstrate a definable social or economic need to live in the area in which the proposal relates and not as speculation.

3. A son or daughter, or niece/nephew considered to merit the same position as a son/daughter within the law (i.e. when the uncle/aunt has no children of his/her own), of a permanent native resident of a rural area, whose place of employment is outside of the immediate environs of the local rural area to which the application relates and who can demonstrate a definable social or economic need to live in the area to which the proposal relates and not as speculation.
4. Replacing a farm dwelling for the needs of a farming family, not as speculation. If suitable the old dwelling may be let for short term tourist letting and this shall be tied to the existing owner of the new farm dwelling where it is considered appropriate and subject to the proper planning and development of the area.
5. A person whose principal occupation is in agriculture and can demonstrate that the nature of the agricultural employment is sufficient to support full time or significant part time occupation.
6. An immediate family member (i.e. son or daughter) of a person described in 5, who is occupied in agriculture and can demonstrate that the nature of the agricultural employment is sufficient to support full time or significant part time occupation.
7. A person whose principal occupation is in a rural resource-based activity (i.e. agriculture, forestry, mariculture, agri-tourism etc.) can demonstrate a need to live in a rural area in order to carry out their occupation. The Planning Authority will strictly require any applicant to show that there is a particular aspect or characteristic of their employment that requires them to live in that rural area, as opposed to a local settlement.
8. A close relative who has inherited, either as a gift or on death, an agricultural holding or site for his/her own purposes and not for speculation and who can demonstrate a definable social and / or economic need to live in the area to which the proposal relates.
9. The son or daughter of a landowner who has inherited a site for the purpose of building a one-off rural house and where the land has

been in family ownership as at 11<sup>th</sup> October 2004 for at least 10 years prior to the application for planning permission and not as speculation.

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

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

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

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

#### *Chapter 9: Infrastructure:*

##### *Section 9.1: Roads and Transportation:*

##### *Section 9.1.4: Public Roads: National Roads:*

The County of Wicklow is served by two national roads - the N11 and the N81, both of which connect to the M50 motorway, providing ease of access to and from the County. The national road network in the County provides an essential means of access to the metropolitan area. The capacity of these existing roads has come under increasing pressure from the ever-increasing number of commuters to Dublin.

##### *N81:*

The N81 has also been upgraded during the lifetime of the previous plan but not to the same extent as the N11. The TII's priority in the last number of years has been firstly the national primary roads and more recently, the Major Interurban Routes (MIUs) and the N81, being a national secondary route, has been somewhat overlooked for investment.

The TII National Road Design Office characterise the N81 as having poor horizontal and vertical alignment. The route consists of a single lane carriageway without a hard strip or hard shoulder along sections of the road way. The road has limited over-taking capacity and as a result platooning regularly occurs. In 2008 the National Roads Design Office began the process of assessing the possibility of upgrading this road network between Tallaght and Hollywood Cross incorporating a bypass of the town of Blessington. Stage 2 of this process has now been completed with a preferred route option being identified.

*TR21:* To safeguard the capacity and safety of the National Road network by restricting further access onto National Primary and National Secondary roads in line with the provisions of the 'Spatial Planning and National Roads' Guidelines' (DoECLG 2012). In particular, a new means of access onto a national road shall adhere to the following:

- a) Lands adjoining National Roads to which speed limits greater than 60kmh apply: The creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kmh apply shall generally be avoided. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.
- b) Transitional Zones: These are areas where sections of national roads form the approaches to or exit from urban centres that are subject to a speed limit of 60kmh before a lower 50kmh limit is encountered. Direct access onto such road may be allowed in limited circumstances, in order to facilitate orderly urban development. Any such proposal must, however, be subject to a road safety audit carried out in accordance with the TII's requirements and a proliferation of such entrances, which would lead to a diminution in the role of such zones, shall be avoided.
- c) Lands adjoining National Roads within 50kmh speed limits: Access to national roads will be considered by the Planning

Authority in accordance with normal road safety, traffic management and urban design criteria for built up areas.

*Chapter 10: Heritage:*

*Section 10.3: Natural Heritage and Landscape:*

*Section 10.3.9: Wicklow's Landscape: 3. Corridor Area: 4(b) - The N81*

*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.

*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 4.5.4: Corridor Area: 4(b) - The N81:*

This landscape area covers the main access corridor along the west of the County. The boundary of the western corridor generally follows what is considered to be the area upon which the greatest influence is exerted by this secondary access route. This route, for the most part, runs through the more low lying and accessible tracts of land, providing expansive views of the Wicklow Mountain Range, intermittent views of the Blessington lakes, south of Blessington, with its primary function being the connection between the towns of Blessington and Baltinglass in the west of the County.

*Section 5: Policy Provision:*

*Section 5.3.1: General Development Considerations (GDC)*

*Section 5.3.14: Corridor Area KDC (see Appendix 4 Map 10.13(d)):*

1. To protect views and prospects from the corridor area towards the surrounding landscape areas from development that would either obstruct the views / 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.

2. Development proposals within this area should aim to locate within existing clusters of structures / tree stands and avoid locating new development in open fields.

The proposed development site is located within the '*Corridor Area West*' / '*Western Corridor*' landscape category as detailed in Figure 4.11: '*The Landscape Category Map*' and Map 10.13(d) 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 Red Bog Proposed Natural Heritage Area (Site Code: 000397), approximately 2.2km southwest of the site.
- The Red Bog Special Area of Conservation (Site Code: 000397), approximately 2.5km southwest of the site.
- The Poulaphouca Reservoir Proposed Natural Heritage Area (Site Code: 000731), approximately 2.4km south of the site.
- The Poulaphouca Reservoir Special Area of Conservation (Site Code: 000731), approximately 2.6km south of the site.
- The Killeel Wood Proposed Natural Heritage Area (Site Code: 001394), approximately 3.9km northwest of the site.
- The Slade of Saggart and Crooksling Glen Proposed Natural Heritage Area (Site Code: 000211), approximately 4.5km northeast of the site.
- The Wicklow Mountains Special Area of Conservation (Site Code: 002122), approximately 6.3km 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

- The proposed use of a direct private access laneway to the N81 National Secondary Road, at a location where a speed limit of 100kph applies, is at variance with official policy and has the potential to compromise the safety and efficiency of the national road network.
- In relation to lands adjoining national roads where a speed limit greater than 60kph applies, the '*Spatial Planning and National Roads, Guidelines for Planning Authorities, 2012*' state that the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.

It is considered that an additional house at this location, which is to be accessed from the N81 National Secondary Road via an existing private lane, will inevitably bring about increased vehicular movements thereby resulting in the intensification of the use of an access to / from the national road network. Accordingly, the proposal is at variance with official policy which seeks to preserve the level of service, safety and carrying capacity of national roads and to protect the public investment in such roads, and would establish an undesirable precedent for further similar development.



- There is a critical need to maintain the strategic function of the national road network and to protect, maintain and ensure the safety of this finite resource. Furthermore, the restriction of direct access and the intensification of direct access to the national road network can, and does, contribute to a reduction in road traffic collisions and fatalities.
- Official policy states that the creation of new accesses to and the intensification of existing accesses to national roads gives rise to the generation of increased turning movements that introduce additional safety risks to road users. Therefore, from a road safety perspective, authorities must guard against a proliferation of roadside developments accessing national roads to which speed limits greater than 50-60kph apply as part of the overall effort to reduce road fatalities and injuries. Controlling direct access to national roads at high speed locations, and the turning movements associated with such accesses, is a critical element in meeting road safety objectives in accordance with official policy and the target of reducing the number of accesses onto national roads by 5% by 2020 in the Road Safety Authority's 'Road Safety Strategy, 2013-2020'.
- It is considered necessary to appeal the subject decision, which results in the intensification of use of a direct private laneway access to a national road, given official policy as regards national roads and road safety, in particular, having regard to the intensity of rural development at the location concerned already accessing the national road, the planning history of the site, and the highly trafficked high speed section of the national road concerned.
- The proposed development is inconsistent with the provisions of the Wicklow County Development Plan, 2016-2022, with specific reference to National Road Objective TR21, given the inevitable associated increase and intensification of turning movements onto and off the N81 National Road.
- The Wicklow County Development Plan, 2016-2022 outlines that the county is served by two national roads (i.e. the N11 and the N81), both of which connect to the M50 Motorway thereby providing an essential means of access to the metropolitan area. It is also acknowledged that the capacity of these

roads has come under increased pressure from the ever-increasing number of commuters to Dublin.

- Whilst the Planning Authority has noted the appellant's concerns in relation to the principle of growth / development on this stretch of national road, it has accepted the applicant's bona fides and his ability to achieve the required sightlines.

On the basis of the information available to the Planning Authority, it does not appear that the sightlines from the proposed access laneway onto the national road accord with the requirements of Transport Infrastructure Ireland i.e. a sight distance of 215m in each direction for a national road subject to a 100kph design speed. An appropriate stopping sight distance is also required for a vehicle undertaking a turning movement off the national road into the access laneway.

The provision of adequate sight distance is of particular concern given that permission was previously refused on site (PA Ref. No. 06/5778) due to the proposed development being located along a section of national secondary road that was subject to a speed limit of 100kph. In that instance, it was determined that the proposal would endanger public safety by reason of traffic hazard and the obstruction of road users due to increased traffic movements generated.

Notwithstanding the provision of sightlines or otherwise, the proposed development represents the intensification of use of a direct private lane access to the N81 National Secondary Road, at a location where a speed limit of 100kph applies, and is therefore at variance with official policy and National Road Objective TR21 of the Wicklow County Development Plan, 2016-2011.

- It is acknowledged that there is a need to accommodate and sustain rural communities and that Section 2.6 of the '*Spatial Planning and National Roads, Guidelines for Planning Authorities*' provides a mechanism whereby a less restrictive approach may be applied to the control of development accessing national secondary roads, however, the current County Development Plan does not include for any such agreed exceptions.

- Whilst proposals have been included to improve the available sight distance onto the national road, the appellant is not of the opinion that these works will offset the safety issues arising from the intensification of use of an existing direct access onto the N81 National Secondary Road that will inevitably arise as a result of any grant of permission for an additional dwelling at this location. No exceptional reason has been put forward which would justify a departure from standard policy and road safety considerations. This is a significant issue having regard to the existing concentration of dwellings accessing the national road at the location in question.
- The proposed development, in conjunction with other development accessing the N81 National Road at this location, by itself and by the precedent that a grant of permission would set, would endanger public safety by reason of traffic hazard due to the additional traffic, including turning movements, that would be generated onto the National Road at a point where a speed limit of 100kph applies, and would interfere with the free-flow of traffic on the road.
- In combination with the intensity of other development at this location accessing the N81 National Secondary Road, it is not considered that the reason cited for the previous refusal of PA Ref. No. 06/5778 on site has been substantively addressed by the subject application as to warrant a grant of permission.
- Notwithstanding the extensive planning history referenced in the report of the case planner, all those applications relevant to the subject site pre-date the publication of the '*Spatial Planning and National Roads, Guidelines for Planning Authorities, 2012*'.
- The Board will be aware of the priority to ensure adequate maintenance of the national road network in order to protect the value of previous investment. In this regard, the appellant seeks to ensure that official national objectives are not undermined and that the anticipated benefits of investment in the national road network are not jeopardised.
- National Strategic Outcome 2 of the National Planning Framework seeks to maintain the strategic capacity and safety of the national road network. It is also an investment priority of the National Development Plan, 2018-2027, to

ensure that the extensive transport networks which have been greatly enhanced over the last two decades, are maintained to a high level to ensure quality levels of service, accessibility and connectivity to transport users.

- Section 8.3: '*Guiding Principle for Integration of Land Use and Transport*' of the '*Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy*' states that the strategic transport function of national roads and associated junctions should be maintained and protected.
- The development as permitted conflicts with the objective to safeguard the strategic function of the national road network and to safeguard the investment made in the transport network to ensure quality levels of road safety, service, accessibility, and connectivity to transport users.
- The subject proposal, if approved, would set an undesirable precedent for other similar development impacting on the strategic national road network.

## 6.2. Applicant Response

- The applicant satisfies the eligibility requirements of Objective HD23(1) of the Wicklow County Development Plan, 2016-2022 as follows:
  - He was born and raised in Hempstown and has lived there all his life.
  - He attended the local national and secondary schools in Blessington as detailed in the accompanying correspondence.
  - He works part-time with his father on the family farm.
  - He has played football for the local GAA team in Lacken / Kilbride from juvenile through to adult level.
  - The mapping submitted with the application details the location of his family home, his grandparent's original home, and the residences of two of his uncles which have also been built on family land.
  - Permission was previously granted to a neighbour for a dwelling house on the subject site under PA Ref. No. 08/464, however, that development did not proceed due to the downturn in the economy.

- A specialist report on accessibility to and from the N81 National Secondary Road, which was previously submitted with PA Ref. No. 08/464, has been provided for consideration as part of the subject proposal.
- Condition No. 4 of the notification of a decision to grant permission as issued by the Planning Authority states the following:

*‘Prior to the commencement of any development, the works proposed to the junction of the laneway and the N81 along the roadside boundary of the N81 shall be carried out in accordance with the plans and particulars submitted on 12/3/2020 and shall be completed to the written satisfaction of the Baltinglass Municipal District Engineer’.*

In this regard, it is submitted that once the necessary works are completed to upgrade the junction to the standard required by Transport Infrastructure Ireland, the applicant’s circumstances will be identical to all those other individuals who have been granted permission to access the N81 National Road.

- It is not accepted *‘that the granting of the planning permission for a new additional house accessing on to the N81 by means of a private lane direct on to the N81 will inevitably bring about additional vehicular movements resulting in intensification of access onto and off the N81’* as the applicant already turns onto and off the national road when travelling to and from the family home which is located 300m further south.
- Transport Infrastructure Ireland has been inconsistent in objecting to the subject proposal yet failing to do so as regards a number of other applications along the N81 National Road. In this regard, the Board is advised that the applicant’s brother was granted permission in 2019 by Kildare County Council (PA Ref. No. 19/224) for a dwelling house accessed from N81 National Road via a shared laneway c. 500m south of the subject site.
- Permission was previously granted on two occasions for development accessing the N81 National Road via the existing shared access (PA Ref. Nos. 99/438 & 08/5778). A short distance away, the applicant’s parents were

also granted permission under PA Ref. No. 99/1576 to exit onto the N81 National Road via a shared access.

- It is of relevance to note that The Alfred Beit Foundation was granted permission at Russborough House under PA Ref. No. 14/1345 for a further 258 No. car parking spaces that would feed directly onto the N81 National Secondary Road on the other side of Blessington.
- While the grounds of appeal refer to the refusal of PA Ref. No. 06/5778, the appellant has failed to acknowledge that the issues raised therein, including public safety, were subsequently resolved under PA Ref. No. 08/464 which was granted permission subject to conditions.

### 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 local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development / rural housing policy
- Overall design / visual impact
- Traffic implications
- Wastewater treatment and disposal
- Appropriate assessment

These are assessed as follows:

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

- 7.2.1. In terms of assessing the principle of the proposed development having regard to the applicable rural housing policy it is of relevance in the first instance to note that the proposed development site is located in an '*Area under Strong Urban Influence*' as indicatively identified by the '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*' and that there is no further identification of rural area types at a county level contained in the Wicklow County Development Plan, 2016. The Guidelines also state that such areas will exhibit characteristics such as their proximity to the immediate environs or the close commuting catchments of large cities and towns (e.g. Dublin City and Naas) 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 M7 / N7 corridor and the N81 National Secondary Road). 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 further detailed identification of other rural area types at a county level in accordance with the provisions of 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 M7 & M11 Corridors, having conducted a site inspection, I am satisfied that the proposed development site is located within an '*Area under Strong Urban Influence*' given the prevalence of housing in the area and the site location relative to the urban centres of Dublin City and Naas in addition to the M7 / N7 Corridor & the N81 National Road.

- 7.2.3. Section 4.3.5: '*Rural Housing*' of the County Development Plan emphasises the need to avoid urban-generated rural housing and to facilitate those who have a '*bona fide*' need to live in a rural area. 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, I am generally satisfied that the applicant has demonstrated that he complies with the eligibility criteria set out in Part 1 of Objective HD23 in that he is originally from the locality and presently resides in the family home with his parents a short distance away. Various supporting correspondence etc. has been supplied to establish the applicant's connections to the local area whilst a signed declaration was also submitted in response to a request for further information to confirm that he has not previously purchased, built or inherited a dwelling house. Further credence is lent to the proposal by reference to the applicant's ownership of the site in question, which forms part of a larger family landholding, and his working part-time on his father's farm.
- 7.2.5. At this point, I would suggest that it is appropriate to note the provisions of the '*Sustainable Rural Housing, Guidelines for Planning Authorities*' which state that in facilitating housing intended to meet rural-generated needs eligible persons can include those working full-time or part-time in rural areas or persons who are an '*intrinsic part of the rural community*' which are defined as follows:

*'Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes. Examples in this regard might include sons and daughters of families living in rural areas who have grown up in rural areas and are perhaps seeking to build their first homes near their family place of residence.'*

(For the purposes of clarity, I would advise the Board that Circular letter PL 2/2017: '*Sustainable Rural Housing Guidelines for Planning Authorities 2005 – Local Needs Criteria in Development Plans*' clearly states that the '*Sustainable Rural Housing,*



*Guidelines for Planning Authorities, 2005* remain in place and thus form the current 'default' position (as supported by the National Planning Framework) pending the publication of revised guidance by the Department).

- 7.2.6. With regard to Mr. Phibb's connections to this rural area, from a review of the available information, it can be confirmed that his family home (and current place of residence) is located at Hempstown, Co. Wicklow, approximately 140m 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).
- 7.2.7. In further support of the subject proposal, the applicant would seem to imply that he has an economic and functional need to reside at this rural location by reference to his part-time involvement on the family farm.
- 7.2.8. On balance, whilst I would accept that the applicant would appear to have a housing need on the basis that he has never previously owned or built a dwelling house and that Mr. Phibbs has social / familial links to the locality in question thereby satisfying Criterion No. 1 of Objective HD23 of the Development Plan, I would have some reservations as regards the validity of his functional need to reside at the subject site. Given the proximity of the subject site to the urban centres of Blessington, Naas & Dublin, and as his current principle employment as an electrician for a firm based in the IDA Business & Technology Park (in Blanchardstown, Dublin) 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.
- 7.2.9. 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 'Corridor Area West' / 'Western Corridor' landscape category as detailed in Figure 4.11: 'The Landscape Category Map' and Map 10.13(d) 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 views and prospects from the corridor area towards the surrounding landscape areas from development that would either obstruct the views / prospect from the identified vantage point or form an obtrusive or incongruous feature in that view / prospect. In this regard, cognisance is to be taken of the span and scope of the view / prospect and the location of the development within same. Furthermore, development proposals within this area should aim to locate within existing clusters of structures / tree stands and to avoid locating new development in open fields.
- 7.3.2. In a local context, the proposed development site is located on elevated lands to the rear of existing roadside housing along the northern side of the N81 National Secondary Road. In this respect, the site also occupies an infill location within an existing cluster of housing with the immediate site surrounds being dominated by a variety of conventionally designed single storey and dormer-style dwellings. Accordingly, when taken in combination with the screening afforded by neighbouring properties and other intervening features such as the mature planting along the south-eastern site boundary, the positioning of the proposed dwelling house to the rear of adjacent roadside development will ensure that it is well screened from public road thereby significantly reducing its overall visual impact.
- 7.3.3. In relation to the actual design of the proposed dwelling house, regard should be had to the provisions of the 'Single Rural Houses: Design Guidelines for New Homes in Rural Wicklow' as set out in Appendix 2 of the County Development Plan. In this respect, I am inclined to suggest that the subject proposal involves the construction of a conventionally designed, single storey bungalow (with provision for an attic

conversion) which is typically suburban in appearance and fails to adhere to the basic design principles set out in the aforementioned guidance.

- 7.3.4. Having regard to the foregoing, and in light of the site context, on balance, I am satisfied that the submitted proposal is generally acceptable and will not unduly detract from the visual amenity or scenic quality of the surrounding area. However, I would nevertheless have some concerns as regards the increasing proliferation of one-off piecemeal housing such as that proposed within the wider area and the continued erosion of rural character attributable to such development. In this regard, I would draw the Board's attention to the considerable concentration of one-off residential development along the N81 National Road on the approach to Blessington which give a somewhat 'suburban' appearance to parts of the landscape. 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 area, I am inclined to suggest that any further continuation of the existing pattern of development could be held to be detrimental to the visual amenity and rural character of the surrounding landscape.

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

- 7.4.1. The proposed development site will be accessed via an existing private laneway and vehicular entrance arrangement onto the N81 National Secondary Road at a point where a speed limit of 100kph applies and, therefore, it is necessary to assess whether or not the subject proposal is acceptable in terms of traffic safety and whether it accords with accepted policy as regards development management along the national road network. In this respect it is of relevance to note that during the course of the subject application submissions were received from Transport Infrastructure Ireland which raised concerns that the submitted proposal would be at variance with official policy to preserve the level of service and carrying capacity of national roads and to protect the public investment in such roads as outlined in the '*Spatial Planning and National Roads, Guidelines for Planning Authorities*' (DoECLG 2012) on the basis that the proposed development would endanger public safety by reason of traffic hazard due to the additional traffic movements that would be generated at an existing direct access onto the N81 National Secondary Route at a point where a speed limit of 100kph applies, and as it would also interfere with the free-flow of traffic on the road.

- 7.4.2. The '*Spatial Planning and National Roads, Guidelines for Planning Authorities*', which replaced the '*Policy and Planning Framework for Roads*' issued by the Department of the Environment in 1985 and the NRA's '*Policy Statement on Development Management and Access to National Roads*' published in May, 2006, state that Development Plans must include policies which seek to maintain and protect the safety, capacity and efficiency of national roads and associated junctions by avoiding the creation of new accesses and the intensification of existing accesses onto national roads where a speed limit greater than 50kph applies. Section 2.5 of the Guidelines subsequently outlines a series of policy approaches with regard to access to national roads which all development plans and any relevant local area plans must implement. These include lands adjoining national roads to which speed limits greater than 60kph apply, lands adjoining national roads within 50kph speed limits, and transitional areas where the plan area incorporates sections of national roads on the approaches to or exit from urban centres that are subject to a speed limit of 60kph before a lower 50kph limit is encountered. In this respect it is of relevance to note that the subject site is accessed from an existing direct access arrangement onto a section of national road where a speed limit of 100kph applies and therefore it is appropriate to revert to the provision in the Guidelines that seeks to avoid the intensification of existing accesses onto national roads where a speed limit greater than 50kph applies. Notably, the Guidelines also expressly state that this provision applies to all categories of development, including individual dwelling houses in rural areas, regardless of the housing circumstances of the applicant.
- 7.4.3. Having considered the foregoing, I would refer the Board to Objective TR21 of the County Development Plan which states that it is Council policy to safeguard the capacity and safety of the national road network by restricting further access onto National Primary and National Secondary roads in line with the provisions of the '*Spatial Planning and National Roads*' Guidelines' (DoECLG 2012). More specifically, with respect to lands adjoining national roads to which speed limits greater than 60kph apply, it is expressly stated that the generation of increased traffic from existing accesses is to be avoided in general and that this provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant. The inclusion of such a policy position accords with the provisions of the Guidelines.

- 7.4.4. At this point, it should be noted that Section 2.6 of the guidance advocates a plan-led approach to development along national roads and includes a provision whereby a planning authority may identify stretches of national roads where a less restrictive approach may be applied (i.e. in the case of developments of national and regional strategic importance or along lightly-trafficked sections of National Secondary Routes) but only as part of the process of reviewing or varying the relevant development plan and having consulted and taken on board the advice of the NRA (i.e. TII). In this respect it is of relevance to note that Wicklow County Council did not avail of the foregoing provisions in its adoption of the current Wicklow County Development Plan, 2016-2022. Accordingly, on the basis that there is no provision for any 'exceptions' to be made as regards the development of additional access points or the intensification of existing accesses onto national roads, the subject proposal is clearly at variance with national policy.
- 7.4.5. Whilst the subject proposal does not involve the creation of a new access onto the N81 and instead proposes to utilise an existing junction arrangement onto the national road whilst also undertaking certain improvement works in order to achieve the required sightlines (i.e. by setting back part of the existing roadside boundary ditch to the southwest of the junction of the laneway with the national road and relocating 2 No. (telegraph / electricity) poles), in my opinion, it stands to reason that there will be a corresponding increase in the level of traffic visiting the site via the N81 National Road as a result of the proposed development which would be at variance with national policy as regards traffic safety.
- 7.4.6. Therefore, in my opinion, it is apparent that the proposed development will ultimately increase the number of traffic turning movements at this location along a section of national road where a speed limit of 100kph applies. Furthermore, notwithstanding the applicant's connections to the local area, it is my opinion that there are no exceptional circumstances which would warrant a deviation from official policy pertaining to developments accessed from national routes. Accordingly, I am satisfied that the proposed development would conflict with national policy and that it would interfere with the carrying capacity, safety and free-flow of traffic along the N81 National Secondary Route.
- 7.4.7. By way of further comment, and notwithstanding that the proposed access arrangement is objectionable from first principles, I would also have serious

reservations as regards the more direct 'on the ground' traffic safety implications arising from any intensification of use of the existing junction of the access laneway with the national road. Section 9.1.4 of the County Development Plan states that the TII National Road Design Office characterises the N81 National Secondary Road as having a poor horizontal and vertical alignment and further notes that the route consists of a single lane carriageway without a hard strip or hard shoulder along sections of the roadway. The roadway is also considered to have limited over-taking capacity with 'platooning' seemingly a regular occurrence. Having conducted a site inspection, in my opinion, the siting of the existing junction is inherently dangerous from a traffic safety perspective. Due to the alignment of the national road at this location, the sightlines on exiting the laneway onto the main carriageway are seriously substandard whilst the visibility of any vehicles slowing or stopped on the roadway (in order to perform a right-hand turn into the laneway) on the approach from the northeast are also dangerously deficient. The potential to endanger public safety by reason of traffic hazard is further heightened by the presence of an unbroken double centreline along the carriageway and the absence of any hard shoulder. Accordingly, I am satisfied that any intensification in the use of the existing access junction would be contrary to traffic safety considerations.

#### **7.5. Wastewater Treatment and Disposal:**

- 7.5.1. It is proposed to install a packaged wastewater treatment plant which will discharge to a pressurised soil polishing filter on site and, therefore, it is necessary to review the available information in order to ascertain if the subject site is suitable for the proposed disposal of treated effluent to ground. In this respect I would refer the Board to the Site Characterisation Form submitted in response to the request for further information which states that the trial hole encountered 400mm of slightly sandy / gravelly CLAY overlying 800m of similar subsoil with occasional cobbles followed by slightly sandy / gravelly SILT / CLAY with occasional granite cobbles to the depth of the excavation at 2.1m below ground level. No rock or water ingress were recorded. With regard to the percolation characteristics of the soil a 'T'-value of 30.92 minutes / 25mm was recorded which would constitute a pass in accordance with EPA guidance.
- 7.5.2. On the basis of the foregoing results, and the accompanying supplementary information, it would appear that the subject site is suitable for the installation of the

wastewater system proposed subject to conditions, however, I would have some reservations as regards the overall concentration / proliferation of individual wastewater treatment systems in the immediate area.

#### **7.6. Appropriate Assessment:**

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

### **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. The “Spatial Planning and National Roads - Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government (2012) seek in Section 2.5 “to avoid the...generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 km/h apply.” Objective TR21 of the Wicklow County Development Plan, 2016-2022 seeks to safeguard the capacity and safety of the National Road network by restricting further access onto National Primary and National Secondary roads in line with these Guidelines. The proposed development of a house at this location would result in the intensification of use of an existing substandard access onto the N81 national secondary road, where a speed limit of 100 km/h applies. It is considered that the additional and conflicting turning movements generated by the proposed development would endanger public safety by reason of traffic hazard, would interfere with the free flow of traffic on this national road, would compromise the level of service and carrying capacity of the road at this location, and would fail to protect public investment in the national road network, both by itself and by

the undesirable precedent it would set for similar such development. The proposed development would contravene the provisions of the said Guidelines and of Objective TR21 of the County Development Plan, and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Robert Speer  
Planning Inspector

14<sup>th</sup> August, 2020