



An
Bord
Pleanála

Inspector's Report ABP-307925-20

Development	The construction of a new two storey dwelling house, garage, residential vehicular entrance, wastewater treatment system with percolation area and all associated site works.
Location	Ballynadrishoge E.D., Ballyvaldon, Blackwater, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20200546
Applicant(s)	Lynne Meyler & John Anderson
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party v. Decision
Appellant(s)	Aidan Byrne
Observer(s)	None.
Date of Site Inspection	17 th November, 2020
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in the rural townland of Ballynadrishoge, Co. Wexford, approximately 4.8km south of the village of Kilmuckridge and 4.2km northeast of Blackwater, where it occupies a position along the southern side of a narrow local roadway which extends eastwards from the R742 Regional Road towards the coastline (with the beach / shoreline located c. 500m southeast of the site). The surrounding coastal landscape is primarily one of undulating rural countryside with intermittent instances of one-off housing and agricultural outbuildings whilst the immediate site surrounds includes several dwelling houses and a complex of farm buildings, however, within the wider area there are a number of caravan parks and sand & gravel pits with the closest sandpit located c. 450m to the southwest.
- 1.2. The site itself has a stated site area of 0.408 hectares, is broadly rectangular in shape, and presently comprises the roadside frontage of a larger, relatively level agricultural field used as tillage. It adjoins further agricultural lands to the northwest, southwest and southeast with the public road to the northeast. The roadside (north-eastern) and north-western site boundaries comprise mature hedging / tree planting whilst the remaining boundaries are not physically defined at present.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a substantial, two-storey dwelling house based on an irregular building footprint with a stated floor area of 267.45m² and a ridge height of 8.195m. The overall design is based on a contemporary interpretation of the traditional vernacular and has sought to utilise features such as vertically emphasised fenestration, minimal verge detailing, and varying eaves levels & ridge heights. External finishes will include knapp plaster, natural stone, standing seam zinc roofing, and natural roof slates. Provision has also been made for the construction of a single-storey garage (floor area: 29.25m²) alongside the house.
- 2.2. Access to the site will be obtained directly from the adjacent public road to the immediate northeast via a new entrance arrangement located in the north-eastern corner of the site alongside an existing agricultural field entrance. This will involve

the removal of the entirety of the existing roadside boundary ditch in order to obtain sightlines and the subsequent reinstatement of a new boundary hedgerow in a recessed position.

- 2.3. It is also proposed to install a conventional septic tank system discharging to a percolation area. A water supply will be obtained from a new on-site bored well.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 20th July, 2020 the Planning Authority issued a notification of a decision to grant permission for the proposed development, subject to 9 No. conditions. These conditions are generally of a standardised format and relate to issues including occupancy, effluent disposal, landscaping, and development contributions.

3.2. Planning Authority Reports

3.2.1. *Planning Reports:*

An initial report prepared by the case planner details the site context, planning history, and the applicable policy considerations, including the site location within the 'Coastal Zone' for the purposes of the rural housing policy, and proceeds to determine that the applicants do not come within the scope of the housing need criteria set out in either the '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*' or Table No. 12: '*Criteria for Individual Rural Housing*' of the Development Plan. It is stated that in the absence of any identified locally based need for the house, the proposal would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. It is also noted that neither of the applicants has a rurally based job which would require them to live at the location proposed and that no evidence has been provided to support any care needs for family members. While it is accepted that one of the applicants (Ms. Meyler) is local to the Kilmuckridge area, it is considered that they have not demonstrated an 'overriding' need in accordance with the 'Coastal Zone' policy to reside at the location proposed. Further concerns are raised as regards the

substandard nature of the local road network with the additional traffic volumes consequent on the development deemed to endanger public safety by reason of a traffic hazard. The report thus concludes by recommending a refusal of permission for the following 2 No. reasons:

- Having regard to the location of the site within a Coastal Policy Area as identified in the County Development Plan, 2013-2019 and the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005, in an area where housing is restricted to persons demonstrating an 'over-riding need' to live in this particular rural location in accordance with the current Wexford Development Plan, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or Table No. 12 Criteria for Individual Rural Housing of the Wexford County Development Plan, 2013-2019, for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would therefore contravene the objectives of the Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- The proposed development, by reason of the additional traffic turning movements on this local road which is of poor vertical and horizontal alignment and of narrow width, taking into account the existing level of residential development accessing onto the local road, would endanger public safety by reason of a traffic hazard.

However, this recommendation was subsequently superseded by a supplementary report prepared by the Senior Planner which recommended that permission be granted, subject to conditions, on the basis that the applicants were considered to have a housing need in the area and had previously encountered difficulties in identifying a suitable site within their locality due to the existing levels of development and tourism pressures. It was also stated that an additional dwelling along the roadway would not give rise to any negative impact on traffic safety and

that the works required to provide for sightlines would improve visibility along the roadway.

3.2.2. *Other Technical Reports:*

Environment: Recommends a grant of permission, subject to conditions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

3.4.1. A single submission was received from the appellant and the principle grounds of objection / areas of concern raised therein can be summarised as follows:

- The overall design, scale and imposing nature of the proposed dwelling is out of character with the surrounding area / landscape.
- Given the site location with the 'Coastal Zone', the proposed development would have a significant detrimental impact on the natural beauty of the area.
- The proposed dwelling would overlook the observer's property thereby giving rise to a loss of privacy and residential amenity.
- The access road ('Ballynadrishoge Lane') is heavily trafficked by agricultural vehicles and is substandard in terms of its width, horizontal / vertical alignment, and overall condition.
- The proposed development will exacerbate traffic congestion and will endanger public safety by reason of traffic hazard.
- The removal and setting back of the roadside boundary will expose 2 No. telegraph poles which will form dangerous fixed obstacles adjacent to the public road.
- It is unclear whether any consideration has been given to public safety and the requirements of the 'Design Manual for Roads and Bridges'.
- Permission was recently refused for PA Ref. No. 20200040 in the same area, and although that application referred to three lay-bys along the laneway, two of these are on private property and may not be available in perpetuity.

- The applicants should consider alternative options given the availability of sites and housing for sale within the wider Kilmuckridge & Blackwater areas.
- The applicants do not comply with the applicable rural housing policy set out in Table 12 of the Development Plan and do not have a permissible housing need. Any relaxation of this requirement would set an undesirable precedent for further damaging development within the 'Coastal Zone'.

4.0 Planning History

4.1. *On Site:*

None.

4.2. *On Adjacent Sites:*

None.

4.3. *On Sites in the Immediate Vicinity (to the north):*

PA Ref. No. 20200040. Was refused on 9th March, 2020 refusing Shane Doyle & Katarzyna Ryzman permission for a fully serviced dwelling and a domestic garage with associated and ancillary site works.

- It is the policy of the Council as expressed in Section 18.12.2 of the Wexford County Development Plan, 2013-2019 that a site should be capable of accommodating a dwelling so that it blends into the landscape and is not visually prominent. The proposed development, which is located on an elevated and exposed coastal site, would be visibly obtrusive given its siting in the context of the surrounding landscape. The proposed development would be inconsistent with the above policy and therefore be contrary to the proper planning and sustainable development of the area.
- The proposed development, by reason of the additional traffic turning movements on this local road which is of poor vertical and horizontal alignment and of narrow width, taking into account the existing level of residential development accessing onto the local road, would endanger public safety by reason of a traffic hazard.

4.4. *Other Relevant Files:*

PA Ref. No. 20181301 / ABP Ref. No. ABP-303656-19. Was refused on appeal on 17th June, 2019 refusing Lynne Meyler permission for the construction of a new two-storey dwelling house, garage, form new entrance, wastewater treatment system with percolation area and all associated site works, all at Ballyadam, Killincooly, Kilmuckridge, Co. Wexford.

- Having regard to the pattern of development in the immediate vicinity and the location of the proposed site in a rural area under strong urban pressure, which is characterised by a significant number of individual houses, it is considered that the proposed development would contribute to the encroachment of random rural development in the area, would encourage and exacerbate the developing pattern of ribbon development contrary to the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005, would lead to a proliferation of individual wastewater treatment systems in the immediate area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, represent haphazard and unplanned residential development in a rural area under pressure for urban development and would be contrary to the proper planning and sustainable development of the area.
- It is considered that the proposed development would exacerbate an excessive concentration of development dependent on on-site disposal of foul effluent in an area that is identified by the Environmental Protection Agency as being at high risk from domestic wastewater pollution. The proposed development, taken in conjunction with the level of existing development in the vicinity, would, therefore, result in a risk of pollution and would be prejudicial to public health.

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 a ‘*Area under Strong Urban Influence*’ as indicatively identified by the Guidelines. Furthermore, in accordance with the provisions of the Guidelines, the Wexford County Development Plan, 2013 includes a detailed identification of the various rural area types specific to the county at a local scale and ‘*Map No. 6: Rural Area Types*’ of the Plan details that the site is located in an area under ‘*Strong Urban Influence*’.

5.2. Development Plan

5.2.1. ***Wexford County Development Plan, 2013-2019 (as extended):***

Chapter 3: Core Strategy:

Section 3.4: *Settlement Strategy:*

Section 3.4.11: *Open Countryside:*

Objective SS34: To permit one-off rural housing in accordance with the Sustainable Rural Housing Strategy in Chapter 4 and subject to compliance with normal planning and environmental criteria and the development management standards contained in Chapter 18.

Chapter 4: Housing:

Section 4.3: *Sustainable Rural Housing:*

Section 4.3.3: *Sustainable Rural Housing Strategy:*

Section 4.3.3.2: *Rural Area Types in County Wexford:*

Rural Areas under Strong Urban Influence:

Objective RH01: To facilitate the development of individual houses in the open countryside in ‘Areas under Strong Urban Influence’ in

accordance with the criteria laid down in Table No. 12 subject to compliance with normal planning and environmental criteria and the development management standards laid down in Chapter 18.

Landscapes of Greater Sensitivity:

Objective RH07: To minimise the individual or cumulative adverse visual impacts that local concentrations of one-off housing, outside of settlements, may have on Upland, River Valley and Coastal landscape character units or Landscapes of Greater Sensitivity. In this regard, in locations where the Council considers that there is a risk of individual or cumulative adverse impacts, the Council will only consider proposals for housing developments where the applicant has demonstrated an overriding need to reside in the particular location in accordance with the criteria contained in Table No. 12.

Coastal Zone / Natural Heritage Areas:

Objective RH08: To facilitate the development of individual houses in the open countryside in 'Coastal Zone/Natural Heritage Areas' in accordance with the criteria laid down in Table No. 12, subject to the applicant demonstrating that the proposed development complies with the policies contained in Chapter 13, that it will not have an adverse impact on natural heritage and subject to compliance with normal planning and environmental criteria and the development management standards laid down in Chapter 18.

Table No. 12: *Criteria for Individual Rural Housing:*

Rural Area under Strong Urban Influence	
Permitted:	Definitions:
Housing for 'local rural people' building permanent residences for their own use	'Local rural people' are defined as people who were born or have lived for a minimum period of five years in that

<p>who have a definable 'housing need' building in their 'local rural area'.</p>	<p>'local rural area'. This includes people who have lived there in the past/returning emigrants. It also includes persons who were born or reared in such a 'local rural area' but that area is now within a settlement boundary/zoned land. A local rural person also includes a person who has links by virtue of being a long term rural landowner or the son or daughter or successor of such a person.</p> <p>'Local rural area' is defined as within a 7km radius of where the applicant has lived or was living. Where the site is of a greater distance but the applicant can demonstrate significant ties with the area for example immediate family or landownership then these applications will be considered on their merits. The 'local rural area' includes the countryside, Strong Villages, Smaller Villages and Rural settlements but excludes District towns, Larger Town, and The Hub.</p>
<p>Housing for people working in rural areas building permanent residences for their own use who have a definable 'housing need'.</p>	<p>Such persons shall be defined as persons who by the nature of their work have a functional need to reside permanently in the rural area close to their place of work. Such circumstances will normally include persons involved in full-time farming, horticulture, forestry or marine related activities as well as others who can demonstrate a genuine</p>

	<p>need because of their occupation to live in the rural area. Similar part-time occupations can also be considered where it can be demonstrated that it is the predominant occupation.</p> <p>OR</p> <p>Bone fide applicants who are not considered eligible under the preceding categories may be considered as qualifying to build a permanent home in the rural areas, subject to being able to satisfy the Planning Authority of their commitment to operate a full time business from their proposed home in a rural area, as part of their planning application, in order for example, to discourage commuting to towns or cities. Applicants must be able to submit evidence that:</p> <ul style="list-style-type: none">• their business will contribute to and enhance the rural community in which they seek to live and• that they can satisfy the Planning Authority that the nature of their employment or business is compatible with those specified in the local needs criteria for rural areas so as to discourage those that are not location specific (e.g. telesales or telemarketing) i.e. that they are serving a need in their local rural area.
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<p>Housing for people with exceptional health and/or family circumstances building permanent residences for their own use.</p>	<p>Special consideration shall be given in cases of exceptional health circumstances – supported by relevant documentation from a medical practitioner proving that a person needs to live in a particular environment or close to family support, or requires a close family member to live in close proximity to that person. In cases where an applicant needs to reside near elderly parents so as to provide security, support and care, or where elderly parent(s) need to reside near an immediate family member favourable consideration will also be given. Similar consideration will be given to a relative of an elderly person who has no children.</p>
<p>Coastal Zone / NHA</p>	
<p>Permitted</p>	<p>Definitions</p>
<p>Housing for ‘local rural people’ building permanent residences for their own use who have a definable ‘housing need’ building in their ‘local rural area’.</p>	<p>‘Local rural people’ are defined as people who were born or have lived full time for a minimum period of five years in that ‘local rural area’. This includes people who have lived there in the past/returning emigrants. It also includes persons who were born or reared in such a ‘local rural area’ but that area is now within a settlement boundary/zoned land. A local rural person also includes a person who has links by virtue of being a long term rural</p>

	<p>landowner or the son or daughter or successor of such a person.</p> <p>'Local rural area' is defined as within the immediate vicinity of the specific designated area and a maximum of 3km radius of where the applicant has lived or was living. The 'local rural area' includes the countryside only.</p>
<p>Housing for persons working within the area building permanent residences for their own use who have a definable 'housing need'.</p>	<p>Such persons shall be defined as persons who by the nature of their work have an over-riding functional need to reside permanently in the specific designated area and that do not have access to appropriate land outside that area. Such circumstances will normally apply to land or business owners involved in full-time farming, horticulture, forestry or marine or tourism (not including B&Bs) related activities or bone fide applicants who are not considered eligible under the preceding categories but may be considered as qualifying to build a permanent home in the rural area, subject to being able to satisfy the Planning Authority that the nature of their employment requires them to be located in the specific designated rural area based on the services they would provide to that specific designated area and that they would enhance the specific designated area.</p>

<p>Housing for people with exceptional health and/or family circumstances building permanent residences for their own use.</p>	<p>Special consideration shall be given in cases of exceptional health circumstances – supported by relevant documentation from a medical practitioner proving that a person needs to live in a particular environment or close to family support, or requires a close family member to live in close proximity to that person. In cases where an applicant needs to reside near elderly parents so as to provide security, support and care, or where elderly parent(s) need to reside near an immediate family member favourable consideration will also be given. Similar consideration will be given to a relative of an elderly person who has no children.</p>
<p>Upland, River Valley and Coastal landscape character units or Landscapes of Greater Sensitivity</p>	
<p>Permitted</p>	<p>Definitions</p>
<p>Development will be facilitated in these areas where the landscape has the capacity to absorb such development. Where the Council considers that there is a risk of individual or cumulative adverse impacts, the Council will only consider proposals for housing developments where the applicant has demonstrated an overriding need to reside in the particular location.</p>	<p>In determining whether an applicant has an ‘over-riding need’ to live in a particular location the Planning Authority will consider criteria such as long-term landownership and exceptional health circumstances (as outlined above). The applicant must demonstrate that the need for a dwelling cannot be accommodated elsewhere.</p>

Note: Where two policy areas overlap the more restrictive of the two policies will apply. For example there are significant areas which are designated as 'Landscapes of Greater Sensitivity' which will overlap with the Coastal Zone. In these areas the Coastal Zone Criteria will apply.

N.B. People who have a 'housing need' are considered to be people who have never owned a rural house (except where it can be demonstrated that the dwelling is no longer suitable to the applicant's needs).

Chapter 13: Coastal Zone Management:

Section 13.5: Development outside of existing settlements in the Coastal Zone:

The Council recognises the importance of retaining the character of the coastal zone so as protect the quality of the tourism product, the environment and to ensure the overall proper planning and sustainable development of the coastal zone. The Council will carefully consider development proposals outside of existing settlements, and in the case of one-off rural housing, will only consider developments where the applicant has demonstrated a need to reside at the particular location in accordance with the Sustainable Rural Housing Strategy in Chapter 4.

Objective CZM09: To restrict development outside the boundaries of existing coastal settlements to that which is required to be located in that particular location such as:

- Development to support the operation of existing ports, harbours and marinas
- Agricultural development
- Tourism related facilities appropriate to the particular coastal location (other than new build holiday home accommodation) where there is a demonstration of a location or resource based need
- Other developments where an overriding need is demonstrated.

Objective CZM10: To consider one-off housing in areas outside of the boundaries of existing settlements in accordance with the rural housing objectives in the Sustainable Rural Housing Strategy in Chapter 4 and subject to compliance with normal planning and environmental criteria and the development management standards contained in Chapter 18.

Objective CZM13: To ensure that developments are sensitively sited, designed and landscaped and do not detract from the visual amenity of the area.

Chapter 14: Heritage:

Section 14.4 Landscape:

Landscape Character Units: Coastal:

The county's coastal landscape has a character that often overlaps with the Lowland landscape. The east coast is generally characterised by long, relatively straight coasts of sand and shingle backed up by low cliffs and sand dunes. The south coast has long beaches and dune systems.

The coastal landscape is punctuated by prominent features such as promontories, water bodies, slob lands and the Hook Peninsula which add interesting dimensions to the qualities of the landscape. It includes major urban areas such as Courtown, Wexford, Rosslare Strand and Rosslare Harbour.

The coastal landscape is sensitive to development in some locations. It has experienced great pressure from tourism and residential development.

Objective L01: To have regard to the Landscape Character Assessment and associated map contained in Volume 3, the Landscape and Landscape Assessment-Guidelines for Planning Authorities (2000) Draft and any updated versions of these guidelines published during the lifetime of the Plan, when assessing planning applications for development.

Objective L03: To ensure that developments are not unduly visually obtrusive in the landscape, in particular in the Upland, River Valley and

Coastal landscape units and on or in the vicinity of Landscapes of Greater Sensitivity.

Objective L04: To require all developments to be appropriate in scale and sited, designed and landscaped having regard to their setting in the landscape so as to ensure that any potential adverse visual impacts are minimised.

Objective L05: To prohibit developments which are likely to have significant adverse visual impacts, either individually or cumulatively, on the character of the Uplands, River Valley or Coastal landscape or a Landscape of Greater Sensitivity and where there is no overriding need for the development to be in that particular location.

Objective L06: To ensure that, where an overriding need is demonstrated for a particular development in an Upland, River Valley or Coastal landscape unit or on or in the vicinity of a Landscape of Greater Sensitivity, careful consideration is given to site selection. The development should be appropriate in scale and be sited, designed and landscaped in a manner which minimises potential adverse impacts on the subject landscape and will be required to comply with all normal planning and environmental criteria and the development management standards contained in Chapter 18.

Objective L09: To require developments to be sited, designed and landscaped in a manner which has regard to the site specific characteristics of the natural and built landscape, for example, developments should be sited, designed and landscaped to minimise loss of natural features such as mature trees and hedging and built features.

Chapter 17: Design:

Section 17.7: Rural Design Guide

Chapter 18: Development Management Standards:

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 Kilmuckridge - Tinnaberna Sandhills Special Area of Conservation (Site Code: 001741), approximately 1.2km northeast of the site.
- The Kilmuckridge – Tinnaberna Sandhills Proposed Natural Heritage Area (Site Code: 001741), approximately 1.2km northeast of the site.
- The Ballyconnigar Upper Proposed Natural Heritage Area (Site Code: 000742), approximately 2.7km southwest of the site.
- The Ballyconnigar Sand Pits Proposed Natural Heritage Area (Site Code: 000741), approximately 4.0km southwest of the site.
- The Wexford Slobs and Harbour Proposed Natural Heritage Area (Site Code: 000712), approximately 4.5km south-southwest.
- The Raven Special Protection Area (Site Code: 004019), approximately 4.6km south 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 development site is located within the strategically important Coastal Management Zone (CMZ) identified in the County Development Plan, which has limited capacity to absorb development, wherein consideration will only be given to one-off rural housing where an applicant can demonstrate a need to reside at a particular location in accordance with the Sustainable Rural Housing Strategy. In this regard, the Board's attention is drawn to Objective CZM09 of the Plan which aims to restrict development outside the boundaries of existing coastal settlements to that which is required to be located in a particular location such as '*developments where an overriding need is demonstrated*'.

In addition, Objective RH07 of the rural housing policy states that in order to minimise the individual or cumulative adverse visual impacts of local concentrations of one-off housing outside of settlements in the coastal landscape character units, consideration will only be given to housing where an applicant has demonstrated an 'overriding need' to reside in the particular location in accordance with Table No. 12: '*Criteria for Individual Rural Housing*'.

While it is accepted that the applicants have a genuine housing need, they have failed to demonstrate an 'overriding' need to reside at the subject location as prescribed in Objective CZM09. Crucially, the report of the case planner has concluded that the applicants do not satisfy this requirement. Therefore, in failing to establish an overriding need to live within the CMZ, it is submitted that any grant of permission would contravene the County Development Plan.

- The applicants both work at some distance from the proposed site and neither has a family connection with the landowner.
- The proposed site is located along a minor tertiary road which is very narrow and heavily trafficked by large agricultural vehicles. Any widening or improvement of this roadway would require the acquisition of significant

additional lands outside of the control of the applicants and the Local Authority.

- The additional traffic consequent on the proposed development would have the potential to exacerbate existing traffic difficulties, particularly at peak times. In this regard, the Board is referred to the accompanying photographs which serve to demonstrate that there is no possibility of vehicles passing side-by-side along the majority of the road and that it is a normal occurrence for meeting vehicles to reverse etc. to facilitate passing.
- There are concerns about the legality of the planning application insofar as access to the site is partially over land where a right of way is required. The appellant's property (Folio WX6776) extends along the centreline of the adjacent roadway and includes a right of way along same, however, he has not consented to the applicants being granted a right of way over his lands nor has any letter of consent been requested for attachment to the planning application as required. It is also noted that the application does not inform the Planning Authority of the adjacent rights of way as is required.
- The overall scale, design, and imposing nature of the proposed dwelling is not cognisant of the receiving landscape and is out of character with the surrounding area.
- Several of the first floor windows within the proposed dwelling (particularly those on the western elevation) will overlook the appellant's private garden / property thereby compromising his residential amenity.
- The entirety of the roadside site boundary is to be removed and set back to facilitate access to the proposed development which will result in the loss of a substantial extent of rich native habitat. In this regard, the Board is referred to Section 17.7: '*Rural Design Guide*' of the County Development Plan and the following objective:

'One of the greatest visual impacts of the built environment in a rural setting is often created by new entrances to house sites. Making an informed decision on how to create a new entrance can shape a lasting first impression to the overall scheme. Poor execution of this can do the opposite. Great care and

thought should be put into retaining what is already there or to improving the boundary in place’.

- The proposal to remove an entire roadside boundary in order to achieve sightlines contravenes Sections 17.7.5 & 18.12.1 of the Development Plan.

6.2. Applicants’ Response

- By way of background, the Board is advised that the applicant (Ms. Meyler) previously applied for permission to construct a dwelling house at Ballyadam, Kilmuckridge, Co. Wexford, approximately 1km from her family home, however, this was refused on appeal under ABP Ref. No. ABP-303656-19. Importantly, in that instance the Board agreed with its inspector that *‘compliance with local need criteria [had been] was demonstrated’* and the decision to refuse permission was predicated only on the basis of there being an excessive amount of one-off rural housing in the vicinity of that site and the planning issues arising as a result i.e. when taken in conjunction with existing development, the proposal would result in an increased risk of pollution that would be prejudicial to public health.

In recognition of the Board’s earlier concerns, the subject site has been carefully selected to ensure that the same issues do not arise. The applicants have avoided sites with the potential to exacerbate ribbon development as well as areas where the capacity to absorb any further development may be a concern. With these constraints in mind, they have also sought a site as close to Ms. Meyler’s family home as is practically possible.

- In terms of demonstrating compliance with the ‘local housing need’ eligibility criteria of the applicable rural housing policy, the Board is requested to note the following:
 - Lynne Meyler has lived in Kilmuckridge all her life and has familial links and friends in the local area.
 - In response to the COVID-19 pandemic, John Anderson has volunteered IT assistance / support to allow the local church in Kilmuckridge to live-stream its services to the local community.

- Mr. Anderson provides IT support to the Kilmuckridge Tidy Towns Committee as well as other local services / groups.
- Ms. Meyler is an active member of the folk group.
- Mr. Anderson is actively involved in compiling & preparing the national 'Pride of Place' entry for Kilmuckridge in 2020.

The applicants are intrinsic valued members of the local community and wish to continue to contribute to local community life.

In addition, they have never owned a home and have resided in Ms. Meyler's parents' house for the last five years while trying to secure a suitable home in the surrounding area.

- The proposed development site is located amidst a small rural cluster in an area which has not been the subject of overdevelopment and where the proposal would not give rise to a cumulative impact on groundwater considerations.
- During the course of pre-planning discussions, it was confirmed that the applicants fulfil the requirements of the Development Plan. In this regard, they were advised that the principle of the proposal was acceptable and that, in light of their having been refused permission on lands closer to home, the Planning Authority was amenable to extending the '3km rule'.
- It is accepted that the site is located within the 'Coastal Zone' and that Table 12: '*Criteria for Individual Rural Housing*' of the Development Plan defines '*local rural people*' as those who were born or have lived full time for a minimum of five years in the '*local rural area*'. Whilst a '*local rural area*' is defined as a maximum radius of 3km from where the applicant is / was resident, and although the subject site is located outside of same at 3.4km from Ms. Lynne's family home, it is considered that the following mitigating circumstances are relevant:
 - During the course of pre-planning consultations, the Senior Planner clarified that the applicants satisfied the relevant policy objective and further confirmed in writing that '*the 3km rule can be extended in this case*'. Whilst acknowledging that pre-planning advice is not binding, in

the spirit of fostering public confidence in the planning system, and prior to embarking on a costly and time-consuming application process, it is submitted that there should be a level of consistency on the principal issues.

- The breach of the 3km threshold is minor and immaterial in nature with the family home only 400m beyond the site boundary. In overturning the recommendation of the case planner, the Senior Planner found refusal *'to be arbitrary'* and recommended a grant of permission. It should also be noted that the *'Sustainable Rural Housing, Guidelines for Planning Authorities'* provide clear direction with respect to the use of inflexible policy controls in Development Plans:

'Development plans in defining persons considered as constituting those with rural generated housing needs, should avoid being so prescriptive as to end up with a very rigid development control system'.

- In the Board's previous determination of ABP Ref. No. ABP-303656-19, it was confirmed that the applicants satisfied the qualifying criteria as regards establishing a rural housing need. Taking direction from that decision, the applicants have sought to ensure that the Board's previous concerns as regards developmental constraints have been resolved. The subject site, although further from the family home, does not give rise to such concerns.
- The rural housing policy of the Development Plan is intended to protect and preserve the interests of local people to allow them to stay within the communities in which they were raised. In taking the ordinary meaning of the Plan, the spirit and intent of this policy has been met to all material extents. Such an interpretation is confirmed by the consideration of the Senior Planner who stated in his supplementary report that *'the restrictions relating to rural housing are designed to ensure local people can obtain permission to build their family home'*. The breach of the 3km threshold is minor / trivial and does not amount to a material departure from the planning policy.

- With respect to the concerns raised as regards the overall width, alignment and condition of the local road:
 - Ballynadrishoge Lane has been scheduled for upgrading under a 'Local Improvement Scheme' which will comprise '*complete restructuring and strengthening*' works that are to be undertaken before the end of 2020 (as confirmed by the Local Authority's roads engineer). Furthermore, a commitment has been made by all the residents of the roadway to financially support the works to a cost of at least 20% of same. The applicants are similarly amenable to contributing to the works in line with any agreements reached between the Council and local residents.
 - The proposed upgrading works will allow for the safe passing of cars and a good quality road surface for vehicles. The proposed works will also accommodate sightlines to the north of the site which will improve the safety of traffic movements along the roadway.
 - It is anticipated that the road upgrading works will be completed in advance of the occupation of the proposed dwelling house.
 - The access road is presently very lightly trafficked (serving only 8 No. dwellings, including a holiday home). It is not a through-road and terminates in a cul-de-sac meaning only residents and visitors will have cause to use the roadway.
 - The increase in traffic attributable to the proposed development will be minor and imperceptible. The Senior Planner has determined that '*the road providing access is narrow, but I do not consider that an additional dwelling would result in any negative impact on traffic safety. The works to provide sight lines would also improve visibility on the road*'.
 - The applicants are not aware of any reports of traffic accidents / incidents along the roadway. There are a number of laybys along its length at agricultural and domestic entrances where cars can pull in to allow vehicles to pass. Notwithstanding the planned improvements, it is considered that the road can accommodate one additional dwelling.

- The existing telegraph poles will be relocated as part of the works in agreement with the Council.
- In light of the trivial breach of the 3km threshold within the '*Coastal Management Zone*', the concerted effort by the applicants to address previous grounds for refusal, and the clear direction given during pre-planning discussions, it is submitted that the applicants are *bona fide* rural dwellers and that the unavailability of suitable locations closer to their family home has necessitated them to seek an appropriate site further afield. These considerations confirm that the applicants have an overriding need for the proposed dwelling.
- The '*Sustainable Rural Housing, Guidelines for Planning Authorities*' advise against an inflexible approach to development plan policy on rural housing so as to '*avoid being so prescriptive*' and suggest the appropriate use of broad categories of circumstances where rural need is required, including '*persons who are an intrinsic part of the rural community*'. The Guidelines further suggest that it should '*then be a matter for the development control system to assess the merits of each application on a case by case basis*' within the broad framework of categories. Moreover, the Board has previously indicated that the applicants satisfy the necessary criteria.
- National Policy Objective 19 of the National Planning Framework seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstratable economic or social need to live in a rural area. It is submitted that the applicants have a demonstratable social need to live in this rural area and that they come within the scope of the housing need criteria. The proposal accords with the Ministerial Guidelines, over-arching national policy, and the provisions of the County Development Plan.
- Section 13.4: '*Managing the Coastal Zone*' of the Development Plan primarily concerns the '*scale and rate of development which can be accommodated without damaging or detracting from the qualities and attractions of the coast*'. The proposed dwelling will not be visible from the coast and there is no access to the coast from this roadway. Given the relatively flat topography of the site, the distance from the coast, and the lack of public views of the

proposed dwelling, there will be no discernible impact on the quality or attraction of the wider coastal area and no impact on the *'quality of the tourism product, the environment or . . . the overall proper planning and sustainable development of the coastal zone'*.

- The proposed development will not impact on the residential amenity of the appellant's dwelling to the west having regard to:
 - The substantial separation distance in excess of 90m between the properties;
 - The intervening screen planting, including the existing field boundaries;
 - The intervening lands in the appellant's ownership; and
 - The relatively flat topography of the area.
- Given the limited views of the house, the low-lying topography, the fact that the appellant does not have to pass the site, and as the proposal has been carefully designed given the site characteristics, concerns as regards any detrimental impact on the appellant's residential amenity should be dismissed.
- The right of way referenced by the appellant is in respect of the public road which has been taken in charge and is due for improvement. Without prejudice to this position, it is acknowledged that an applicant is not entitled by reason of planning permission alone to carry out a proposed development and that the proposal must also adhere to all other relevant codes, including the building regulations and property ownership.
- Having regard to the nature of the proposed development and the absence of any significant environmental sensitivity in the vicinity of the site, including any connectivity to any sensitive location or Natura 2000 site, there is no real likelihood of significant effects on the environment or natural habitat.
- With respect to the removal of the roadside hedgerow, a final landscaping plan will be agreed with the Planning Authority by way of post-planning compliance which will include for provision of any necessary compensatory habitat / hedgerow.

- The submitted landscaping plan proposes more planting of native trees and hedgerow than will be removed to facilitate sightlines.
- The propagation of native bees on site will contribute to local biodiversity.

6.3. **Planning Authority Response**

- The applicants have a need for a dwelling house having never previously owned a dwelling.
- The applicants have previously been refused permission under ABP Ref. No. ABP-303656-19 on lands closer to Ms. Meyler's family home.
- It is considered that the proposed dwelling would not have an adverse impact on nearby dwellings and can be accommodated on site.
- The laneway has been identified for Local Improvement Works which are likely to be carried out in the short to medium term.

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 / rural housing policy
- Overall design / visual impact
- Traffic implications
- Wastewater treatment and disposal
- Impact on residential amenity

- Other issues
- 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*' whilst the detailed identification of the various rural area types shown on '*Map No. 6: Rural Area Types*' of the Wexford County Development Plan, 2013 similarly identifies the application site as being situated within an '*Area under Strong Urban Influence*'. 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. Wexford Town, Enniscorthy & Gorey) and will generally be under considerable pressure for the development of housing due to their proximity to these urban centres or the major transport corridors accessing same (e.g. the M11 corridor). Notably, within these '*areas under urban influence*', the National Planning Framework ('*Project Ireland 2040: Building Ireland's Future*') states that it will be necessary for applicants to demonstrate '*a functional economic or social requirement for housing need*' (with National Policy Objective No. 19 stating that the provision of single housing in rural areas under urban influence is to be based on the core consideration of a demonstrable economic or social need to live in a rural area and the siting and design criteria for rural housing contained in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements) whilst the Guidelines further state that the housing requirements of persons with roots or links in rural areas are to be facilitated and that planning policies should be tailored to local circumstances.

7.2.2. Accordingly, at this point I would refer the Board to Objective RH01 of the Development Plan which aims to facilitate the development of individual houses in the open countryside in '*Areas under Strong Urban Influence*' in accordance with the criteria laid down in Table No. 12, subject to compliance with normal planning and environmental criteria and applicable development management standards. More

specifically, I would draw the Board's attention to the various categories of qualifying persons set out in Table 12 of the Plan, including the provision whereby housing for *'local rural people'* building permanent residences for their own use in their *'local rural area'* and who have a definable *'housing need'* building will be permitted within *'Rural Areas under Strong Urban Influence'*.

7.2.3. Having reviewed the available information, including the grounds of appeal, it is clear that the rationale for the selection of the subject site primarily derives from Ms. Lynne Meyler's connections to the wider Kilmuckridge area with only limited reliance being placed on the circumstances of the co-applicant i.e. Mr. John Anderson (although I note his engagement / involvement with the local community such as providing ICT support to the local church and other groups / parties). In the initial application documentation, Ms. Meyler has indicated that she has lived with her parents for most of her life in the family home outside Kilmuckridge, approximately 3.6km north of the site, having resided there full time between 1987-2005 (as supported by accompanying correspondence such as that confirming her attendance at the local primary school) and again intermittently during her college years and early work life, before returning to Kilmuckridge in 2010-2013 and moving into the family home again in 2015 with her husband (Mr. Anderson) where she continues to live. Both of the applicants have also confirmed that they do not own their home and that they qualify as first-time buyers having never previously owned a dwelling house. In addition, it has been submitted that it is Ms. Meyler's desire to return to her local area in order to provide future care for her parents and to raise a family. In response to the grounds of appeal, the applicants have sought to further elaborate on the circumstances in support of her application by asserting that they have been unable to find an alternative site closer to Ms. Meyler's family home and that they therefore have an overriding need to reside at the location proposed.

7.2.4. At this point, I would advise the Board that the circumstances of the applicants would appear to be unchanged from those considered in an earlier assessment (and refusal) of ABP Ref. No. ABP-303656-19 (which sought permission to construct a rural dwelling house c. 1km from Ms. Meyler's home) wherein it was acknowledged in the Board's Order that the applicants had demonstrated compliance with the applicable local needs criteria. Moreover, considering that both the subject site and that assessed under ABP Ref. No. ABP-303656-19 are located within an *'Area under*

Strong Urban Influence, and as there have been no changes to the associated rural housing policy provisions in the interim, in my opinion, it would be reasonable to conclude that the applicants continue to satisfy the relevant eligibility criteria as regards the development of a single rural house in an *'Area under Strong Urban Influence'* as set out in Table 12 of the County Development Plan.

- 7.2.5. However, notwithstanding the foregoing, upon further review it can be established that there are clear differences in the qualifying criteria applicable to the subject site when compared to that considered under ABP Ref. No. ABP-303656-19. In this regard, I would draw the Board's attention to the site location within both a *'Coastal'* landscape character unit and the *'Coastal (Management) Zone'* and the associated rural housing provisions. More particularly, the Plan is clear in stating that where two (or more) policy areas overlap the more restrictive of the two policies will apply e.g. there are significant areas designated as *'Landscapes of Greater Sensitivity'* which overlap with the *'Coastal Zone'* and in those areas the *'Coastal Zone'* criteria will apply.
- 7.2.6. Within the *'Coastal'* landscape character unit, Table No. 12: *'Criteria for Individual Rural Housing'* of the Development Plan states that development will be facilitated in those areas where the landscape has the capacity to absorb it, however, where there is a risk of individual or cumulative adverse impacts, consideration will only be given to proposals where the applicant has demonstrated an overriding need to reside in the particular location. In determining whether an applicant has an *'overriding need'* to live in a particular location, criteria such as long-term landownership and exceptional health circumstances will be taken into consideration whilst there would also appear to be an onus on an applicant to demonstrate that the need for the dwelling house cannot be accommodated elsewhere.
- 7.2.7. However, it is my understanding of the footnote appended to Table 12 that it is the *'more restrictive'* eligibility criteria applicable with respect to *'Coastal Zones'* which will apply in the assessment of the subject proposal. Within these areas there are three broad categories of eligible persons and, therefore, I propose to assess the subject proposal against each of these criteria as follows:

- *Housing for 'local rural people' building permanent residences for their own use who have a definable 'housing need' building in their 'local rural area:*

The definition of this category of eligible person is somewhat comparable to that specified with respect to 'Areas under Strong Urban Influence', however, there a number of key differences which are of particular relevance in the assessment of the subject proposal. In this regard, whilst I would accept that the applicants would appear to have a definable 'housing need' given their current housing circumstances and that Ms. Meyler satisfies the minimum residency requirement of five years, it is apparent that neither of the applicants has lived within the applicable 'local rural area' defined as '*within the immediate vicinity of the specific designated area and a maximum of 3km radius of where the applicant has lived or was living*' (as distinct from the 7km radius applicable in 'Areas under Strong Urban Influence'). Both the applicants and the Planning Authority have freely acknowledged that the proposed development site is located in excess of 3km from Ms. Meyler's family home and thus the proposal fails to satisfy this aspect of the more onerous eligibility criteria within the Coastal Zone. In my opinion, it is clear that this provision is to be strictly applied and that it is not at the discretion of the Planning Authority to adopt a looser interpretation. In support of the foregoing, I would advise the Board that the 3km radius is expressly referred to as a '*maximum*' limit. Moreover, unlike the definition of 'local rural area' within 'Areas under Strong Urban Influence', it is of particular relevance to note that no provision has been included whereby proposals beyond the 3km limit will be considered on their merits provided the applicant can demonstrate significant ties to the area e.g. immediate family connections or landownership. Indeed, the exclusion of any such comparable policy provision would appear to have been purposely adopted as a mechanism by which to further restrict the development of unwarranted one-off rural housing within the coastal management zone. Therefore, given that the applicants have not lived for a minimum of 5 No. years within a 3km radius of the application site, they do not satisfy the qualifying criteria of this particular category of eligible persons.

- *Housing for persons working within the area building permanent residences for their own use who have a definable 'housing need':*

Such persons are defined as those who, by the nature of their work, have an over-riding functional need to reside permanently in a specific area and do not have access to appropriate land outside that area. It is further stated that such circumstances will normally apply to land or business owners involved in full-time farming, horticulture, forestry / marine / tourism (not including B&Bs) - related activities or other *bona fide* applicants who are able to satisfy the Planning Authority that the nature of their employment requires them to be located in the specific rural area based on the services they would provide to that area (and that they would enhance the area).

Ms. Meyler has indicated that she is currently employed as pharmacist in the 'Village Pharmacy', Piercestown, Co. Wexford, approximately 25km southwest of the application site ('as the crow flies') and 6km southwest of Wexford town centre, and thus I am not satisfied that the nature (or location) of her work could reasonably be considered as establishing an over-riding functional need to reside permanently at the subject site. Similarly, Mr. Anderson's employment in the Aut Even Hospital, Kilkenny, approximately 70km northwest of the application site ('as the crow flies'), clearly does not expressly necessitate him to reside in the rural area in question. Accordingly, given the nature and location of both of the applicants' respective places of employment, they do not have an overriding need to reside at the subject site for work purposes.

- *Housing for people with exceptional health and/or family circumstances building permanent residences for their own use.*

Although the applicants have indicated a desire to live close to Ms. Meyler's parents should they require care in the years to come and to avail of childcare assistance when raising their future family, on the basis of the submitted information, I am unconvinced that this would constitute sufficient grounds on which to permit an additional rural dwelling house within the coastal zone.

7.2.8. Therefore, on the basis of the foregoing, neither of the applicants satisfies the eligibility criteria set out in Table 12 of the Development Plan as regards the

construction of a single dwelling house within the 'Coastal Zone' and thus the proposed development fails to accord with Objective RH08 which aims *'to facilitate the development of individual houses in the open countryside in 'Coastal Zone / Natural Heritage Areas' in accordance with the criteria laid down in Table No. 12, subject to the applicant demonstrating that the proposed development complies with the policies contained in Chapter 13, that it will not have an adverse impact on natural heritage and subject to compliance with normal planning and environmental criteria and the development management standards laid down in Chapter 18'*.

- 7.2.9. By way of further comment with respect to the site location within the 'Coastal Zone' identified on Map No. 11 of the Wexford County Development Plan, I would advise the Board that this designation was included for the purposes of the interim management of the county's coastal areas, pending the development of an Integrated Coastal Zone Management Plan for the South-East Region. In this regard, there is a recognition that due to its exceptional scenic qualities, the county's coastal area has been the focus of significant development pressures and thus it is limited in its capacity to absorb further development. Section 13.5: *'Development outside of existing settlements in the Coastal Zone'* recognises the importance of retaining the character of the coastal zone and states that proposals for one-off rural housing will only be considered where an applicant has demonstrated a need to reside at the particular location in accordance with the Sustainable Rural Housing Strategy set out in Chapter 4. Notably, Objective CZM09 states that development outside the boundaries of existing coastal settlements will be restricted to that which is required to be located in that particular location, for example, development needed to support the operation of existing ports, harbours and marinas, agricultural development, and other developments where an overriding need is demonstrated. However, Objective CZM10 makes specific provision for the consideration of one-off housing in coastal areas outside of the boundaries of existing settlements in accordance with the rural housing objectives in the Sustainable Rural Housing Strategy. Accordingly, the reference in the grounds of appeal to a need for an applicant to establish an overriding need pursuant to Objective CZM09 is misplaced. Similarly, I would reiterate my earlier interpretation of the rural policy provisions whereby the 'more restrictive' requirements applicable in respect of 'Coastal Zones' would seem to take

precedence over those of the 'Coastal' Landscape Character Units (and the reference therein to demonstrating an overriding need).

- 7.2.10. On balance, whilst it has previously been determined on appeal that one of the co-applicants (Ms. Meyler) complies with the local need criteria applicable within 'Areas under Strong Urban Influence', in the subject instance, neither of the applicants satisfies the more onerous eligibility requirements necessitated by the need to limit development within the more sensitive 'Coastal Zones'.

7.3. Overall Design / Visual Impact:

- 7.3.1. In terms of assessing the visual impact of the proposed development it is of relevance in the first instance to note that the subject site is located within the 'Coastal' landscape character unit as per the landscape character mapping set out in the County Development Plan, 2013. In this regard, I note that such 'Coastal' landscape areas are described as being sensitive to development in some locations and are noted to have experienced great pressure from tourism and residential development, although the subject site is not located within any identified 'Landscape of Greater Sensitivity'. Further commentary on the 'Coastal Management Zone' (within which the application site is situated) in Chapter 13: 'Coastal Zone Management' of the Development Plan recognises that the county's coastal areas have been the focus of significant development pressures, in particular for second homes and multi-holiday home development, due to its exceptional scenic quality and proceeds to state that the capacity of the coast to absorb further development is limited with the result that future development needs to respect and enhance the coastal landscape character and visual amenities.
- 7.3.2. In a local context, the application site is located along the southern side of a minor local roadway which extends eastwards from the R742 Regional Road towards the coastline. It is situated c. 750m east of the main road in a relatively isolated area and presently comprises part of a larger undeveloped agricultural field bounded along its perimeter by mature hedgerow. The site topography is relatively flat with the result that the property is not overtly visible from vantage points within the wider area due to the screening offered by intervening vegetation and other features.
- 7.3.3. With regard to overall design of the proposed dwelling house, at the outset, I would advise the Board that the prevailing pattern of development in the immediate site

surrounds is characterised by single-storey dwelling houses whereas the subject proposal comprises the construction of a substantial two-storey residence. In relation to the specifics of the actual design, the proposed dwelling has sought to evoke a contemporary interpretation of the traditional vernacular through its use of features such as vertically emphasised fenestration, minimal verge detailing, and varying eaves levels & ridge heights in order break up the massing / bulk of the structure. It has been positioned centrally within the site away from the perimeter field boundaries and is orientated so that its principle elevation faces onto the public road.

- 7.3.4. Having conducted a site inspection, given the site context and its location along a minor cul-de-sac, I would accept that the overall visual impact of the proposal on the wider area will be somewhat limited, however, I would suggest that greater efforts could be made to satisfactorily assimilate an appropriate scale of development on this site into the surrounding coastal landscape. The proposal as submitted will result in a substantial two-storey dwelling set in a prominent central position on site which fails to avail of the shelter / screening offered by the mature site boundaries. The proposal to remove the entirety of the roadside boundary ditch will further heighten the localised visual impact of the development.

7.4. Traffic Implications:

- 7.4.1. The proposed development will be accessed via a new entrance arrangement onto the adjacent minor local road (known locally as Ballynadrishoge Lane / Local Road No. L60151) to the immediate north / northeast of the application site which extends eastwards from the R742 Regional Road. This will include for the removal of the entirety of the roadside boundary ditch and its replacement with a native mixed hedgerow reinforced with screen planting set back in a recessed position from the public road in order to provide for improved sightlines to the west.
- 7.4.2. Having conducted a site inspection, and following a review of the available information, whilst I would accept that the sight distance available from the proposed entrance as detailed on the site layout plan would likely be sufficient in light of the relatively low traffic volumes and speeds along the laneway, in my opinion, the pertinent issue requiring consideration is the overall condition and capacity of the surrounding road network to accommodate the additional traffic movements consequent on the proposed development. In this respect, I would have serious

reservations as regards the substandard width, alignment, surface treatment and general condition of the existing roadway along the entirety of its length (c. 800m) between the application site and the junction with the regional road. The laneway itself is narrow at c. 3.5m in width, extensively potholed, and characterised by a grassed strip running along the centre of the carriageway. Its overall vertical and horizontal alignment is similarly substandard with a number of sharp bends and only limited opportunities for two vehicles to pass side-by-side at private entrances etc.

7.4.3. Whilst I would acknowledge that the roadway has been listed by Wexford County Council for road improvement works under a community involvement scheme for 2020, which will entail the complete restructuring and restrengthening of Ballynadrishoge Lane, it was apparent during the course of my site inspection that said works had yet to be carried out. In this regard, although the works are seemingly scheduled to take place in the short to medium term, no clear timeframe has been provided for their completion and it seems likely that they have been deferred / delayed due to the ongoing COVID-19 restrictions / pandemic. In any event, it would appear that the nature of any such road improvement works will be limited in scope with no reference having been made to widening or realignment of the carriageway or the provision of passing-bays etc. (possibly on the basis that the minor nature of the roadway would not warrant the additional costs arising due to its limited usage and the volumes of traffic involved, and noting that the roadway does not provide for public access to the nearby beach).

7.4.4. Therefore, in view of the foregoing, I am of the opinion that the proposed development on this minor road (Ballynadrishoge Lane / Local Road No. L60151), which is seriously substandard in terms of width, alignment, and structural condition, would endanger public safety by reason of traffic hazard and obstruction of road users.

7.5. **Wastewater Treatment and Disposal:**

7.5.1. It is proposed to install a conventional septic tank system with a percolation area and, therefore, it is necessary to review the available information in order to ascertain if the subject site is suitable for the disposal of treated effluent to ground. In this respect I would refer the Board in the first instance to the submitted Site Characterisation Form (as appended to the Site Suitability Assessment Report)

which details that the trial hole encountered a layer of topsoil overlying c. 400mm of sandy CLAY with 1,800mm of compacted sand with cobbles to the depth of the excavation at 2.2m below ground level. No rock or water ingress were recorded. With regard to the percolation characteristics of the underlying soil a 'T'-value of 19.22min / 25mm and a 'P'-value of 15.11 mins / 25mm were 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, in addition to the recommendation of the Senior Executive Scientist of the Environment Section of the Local Authority, it would appear that the subject site is suitable for the installation of the septic tank system as proposed, subject to conditions.

7.6. **Impact on Residential Amenity:**

7.6.1. Having reviewed the available information, and in light of the site context, including its rural location and the presence of intervening features such as mature planting, in my opinion, the overall scale, design, positioning and orientation of the proposed development, with particular reference to its separation from nearby dwelling houses, will not give rise to any significant detrimental impact on the residential amenity of neighbouring property by reason of overlooking or a loss of privacy.

7.7. **Other Issues:**

7.7.1. *The Requirement for a Right of Way:*

With regard to the appellant's submission that his property (Folio WX6776) extends along the centreline of the adjacent roadway and includes a right of way along same, in addition to the assertion that he has not consented to the applicants being granted a right of way over his lands, I am inclined to concur with the applicants that the right of way referenced by the appellant is in respect of the public road which has been taken in charge by the Local Roads Authority and thus there would seem to be a reasonable expectation that they would be entitled to avail of access to the subject site in a manner similar to that of the existing field entrance. In any event, I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*' and thus any grant of

permission for the subject proposal would not in itself confer any right over private property.

7.7.2. *Procedural Issues:*

In relation to the suggestion that the planning application is invalid by reference to the failure to reference the existing right of way along the roadway or to submit the consent of the appellant as the affected landowner, given that the lands in question concern the public road over which the applicants would seem to be entitled to avail of access, I am not convinced of the merits of such an argument. In any event, the Board is not empowered to correct any procedural irregularity by the Planning Authority (should this have arisen in the first instance) whilst I would also revert to my comments with respect to Section 34(13) of the Act.

7.7.3. *Wildlife Considerations:*

Although the removal of the existing mature roadside boundary ditch is both undesirable and regrettable and will invariably result in the loss of some plant and animal species, having regard to the limited ecological value of this boundary, the proposal to reinstate new planting in a recessed position, and the implementation of best practice construction management measures, I am satisfied that the low impact of these works from a biodiversity perspective would not warrant a refusal of permission.

7.8. **Appropriate Assessment:**

- 7.8.1. 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 site of the proposed development is located within a rural area, identified as an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing, Guidelines for Planning Authorities”, issued by the Department of the Environment, Heritage and Local Government in April, 2005, wherein it is the policy to distinguish between urban-generated and rural-generated housing need. Taking account of the site location in an area designated to be under strong urban influence, it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, adopted by the Government, to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements. However, in light of the site location within the ‘Coastal Zone’ identified in the Wexford County Development Plan 2013-2019 and, in particular, Objective RH08 which seeks to limit the development of individual houses in the open countryside in the ‘Coastal Zone’ in accordance with the criteria laid down in Table No. 12: ‘Criteria for Individual Rural Housing’, having regard to the documentation submitted with the planning application and the appeal, the Board is not satisfied that the applicants come within the scope of the qualifying criteria for a dwelling house in this sensitive coastal area or that they have established a demonstrable economic or social need to live at this specific site. The proposed development would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would contravene the Wexford County Development Plan, 2013-2019. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development would endanger public safety by reason of traffic hazard and the obstruction of road users due to the additional traffic movements that would be generated onto the minor local road directly serving the site which is seriously substandard in terms of width, alignment and structural condition. The proposed development would,

therefore, be contrary to the proper planning and sustainable development of the area

Robert Speer
Planning Inspector

27th November, 2020