



An  
Bord  
Pleanála

## Inspector's Report

**ABP-308286**

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<b>Development</b>	Construction of a single storey dwelling with small mezzanine space, entrance, septic tank & percolation area
<b>Location</b>	Blakestown, Hollywood, Co. Wicklow
<b>Planning Authority</b>	Wicklow Co. Council
<b>Planning Authority Reg. Ref.</b>	20694
<b>Applicant(s)</b>	Claire Burke
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third-Party
<b>Appellant(s)</b>	Irena & Gerry Twomey
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	6 <sup>th</sup> December 2020
<b>Inspector</b>	Suzanne Kehely

## 1.0 Site Location and Description

- 1.1. The proposed development site of 0.36ha is the same as that previously before the Board (304982-19 - file attached). It is located in the rural townland of Blakestown (Lower), Co. Wicklow, 3.5km north of the village of Hollywood and approximately 3km southeast of Ballymore Eustace and c. 600m south of the Poulaphouca Reservoir and 400m east of the N81. In a local context, the site is moderately elevated with views over the lower-lying lands and the River Liffey Valley to the west / northwest although these views were obscured by fog on day of inspection. The site is on a narrow tertiary road and positioned between a dwelling and a farm building/yard. In the wider area there is extensive one-off housing to the east / northeast of the site.
- 1.2. The site relates to the corner of an agricultural field. A mature hedgerow and ditch marks the northeast boundary with a dwelling as well as the road frontage.

## 2.0 Proposed Development

- 2.1. It is proposed to construct a single storey 243.46sq.m. dwelling with a mezzanine floor on a site of 0.995ha. The house design is contemporary and incorporates a group of blocks of varying heights ranging between 5m and 6.5m. A septic tank system is proposed together with a connection to the Blakestown/ Britonstown group water supply.
- 2.2. The application is accompanied by:
  - A Site characterisation form which concludes the site is suitable for a septic tank system and secondary treatment system also.
  - A planning and design statement which sets out the housing need, nature of the house design and its compliance with development plan polices, the site entrance details and sanitary services.
  - An application form which describes the proposal and details in respect of rural housing need.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The Planning Authority decided to grant Permission subject to 13 no. conditions.

### 3.2. Planning Authority Reports

3.2.1. In the report of 3<sup>rd</sup> September 2020, the proposal is assessed by particular reference to the Board's previous decision. The documentary evidence and letters of support are accepted as evidence of the applicant's social ties however it is considered that there is no additional material information which would alter the previous decision by the Board. A refusal of permission is recommended for the stated reason:

- Having regard to the location of the site within an Area Under String Urban Influence as identified in the Sustainable Rural Housing Guidelines for Planning Authorities ... and in an area where new housing development will only be considered 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 in accordance with the Wicklow County Development Plan 2016-2022 and to National Policy Objective 19 of the National Planning Framework in relation to rural areas under urban influence such as in the current case which states it is the policy 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,' and on the basis of documentation submitted with the planning application, including the applicant's current housing circumstances it is considered that the applicant does not come within the scope of the housing need criteria for a dwelling at this location as set out in the Sustainable Rural Housing Guidelines for Planning Authorities or in accordance with the County Development Plan and that the applicant has not demonstrated an economic or social need to live in this rural area in accordance with national policy. The proposed development in the absence of any definable or demonstrable based need for the house in this rural area would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environmental and the efficient provision of public services and infrastructure. The proposed development would therefore be

contrary to the national policy, Ministerial Guidelines, the provision of the development Plan and the proper planning and sustainable development of the area.

3.2.2. In a handwritten note by the Director of Services date 8<sup>th</sup> September it is directed that permission be granted on the basis that:

- Having given due regard to the previous decision by ABP and the Board's assessment regarding the applicant's qualification under the County's settlement strategy and the details submitted with the current application, it is considered that special consideration should be afforded to the applicant who is a native of this rural area and who has shown that the current circumstances arising from the COVID pandemic require the applicant to live in close proximity to her parents. Therefore I recommend that the applicant should be granted permission to build a home in the rural area where she has been born and reared beside her elderly parents to provide assistance and support to her parents who are in their 70s and are in the high risk category with regard to the pandemic.

3.2.3. In a subsequent report dated 10<sup>th</sup> September, it is recommended to grant permission on the basis that having regard to the objective of the planning authority in the current Development Plan to allow for essential rural housing need in the area it is considered that the applicant comes within the scope of the housing need criteria. Subject to conditions the proposed development could be assimilated in the landscape and would be in accordance with the proper planning and development of the area.

3.2.4. Other Technical Reports

Executive Environmental Technician: (29/7/2020)

The suitability of the site as per the submitted details is noted and not disputed, although no site inspection was conducted.

In respect of drinking water, the area is reliant of the Blakestown Britonstown Group Water scheme which is subject to a boil notice since 2014 following the detection of 18 Total Coliforms and 2 E. Coli and subsequent contamination in February 2016, April and October 2018 and September 2019. The water supply is accordingly described as not fit for purpose and further information is required in respect of sufficient and adequate water supply availability.

Area Engineer: (22/7/20) No objection subject to lowering earth bank for sight lines and no surface water entering public road.

Environmental Health Officer:(11/8/20) No objection, subject to conditions.

Dublin City Council Water Services, Liffey Works, Ballymore Eustace: (20/8/20) No objection from the point of view of minimising pollution threats to the Poulaphouca Reservoir, subject to conditions.

### 3.3. **Prescribed Bodies**

- Irish Water – no objection subject to conditions.

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

- Issues raised in observations on appeal.

## 4.0 **Planning History**

### 4.1. **The site**

- 4.1.1. An Bord Pleanála ref. **304982** refers to a refusal of permission for a substantially similar proposal on the same site on the basis that the applicant does not come within the scope of the housing need criteria for a dwelling at this location and in the absence of any definable or demonstrable based need, the proposed development would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to national policy, Ministerial Guidelines, the provisions of the Development Plan and to the proper planning and sustainable of the area.

### 4.2. **Adjacent Site:**

- 4.2.1. An Bord Pleanála ref. 300887 refers to a refusal of permission for a similar house by the same applicant on a site the north, in that case there were concerns about impact on archaeological heritage and the road network.
- The first reason refers to the conclusion that the applicant did not come within the scope of the housing need criteria for a dwelling at this location as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” and in the

Development Plan and that the proposed development would, therefore, be contrary to the “Sustainable Rural Housing Guidelines for Planning Authorities” and to the proper planning and sustainable development of the area.

- The second refusal reason refers to the results of the Archaeological Impact Assessment which identified significant archaeological remains within the proposed development site and the Board considered that the proposed development would interfere with features of significant archaeological interest, the disturbance/removal of which would be contrary to the proper planning and sustainable development of the area.

## **5.0 Policy & Context**

### **5.1. Development Plan**

- 5.1.1. The Wicklow Settlement Strategy has a hierarchy of 10 levels of Settlement for the County, ranging from Metropolitan Consolidation Town (Level 1) to Rural Area (Level 10) in which the site is located. The area of the site is also identified as an Area Under Strong Urban Influence.
- 5.1.2. The policy for Housing in the Open Countryside in level 10 is to strictly manage such development and to facilitate essential rural based housing need in a manner that both protects the County’s pristine landscapes and natural resources and avoids urban generated rural housing. Accordingly a proven demonstrable economic or social need is required to locate in the area.
- 5.1.3. The following housing objectives apply:
- 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/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 such place.
- 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.

5.1.4. Housing in the countryside will be considered in circumstances such as:

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 were 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.

- 5.1.5. 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.
- 5.1.6. In the event of conflict of any settlement strategy objective/landscape zones and categories, a person who qualifies under objective HD23 their needs shall be supreme, except where the proposed development would be a likely traffic or public health hazard.
- 5.1.7. **Appendix 1** refers to general development and design standards.
- 5.1.8. **Appendix 2** The Single Rural Houses Design Guidelines for New Houses in Rural Wicklow.

**5.2. Department of Housing, Planning, Community and Local Government. Circular Letter PL 2/2017:**

- 5.2.1. The European Commission originally issued an infringement notice against Ireland in 2007 in relation to the “local needs criteria” in the 2005 Guidelines. This infringement notice was subsequently deferred pending the outcome of an infringement case taken against Belgium, now referred to as the Flemish Decree case and on which the European Court of Justice (ECJ) delivered its Judgement in 2013. In this Judgement, the ECJ ruled that the Flemish Decree constituted an unjustified restriction on fundamental freedoms under the Treaty on the Functioning of the European Union (the EU Treaty), in particular that it breached article 43 of the EU Treaty on the freedom of movement of citizens.
- 5.2.2. Further to the ECJ Judgement in the Flemish Decree case, the European Commission re-engaged with the Department regarding the 2007 infringement notice and its previously expressed concerns in relation to the “local needs criteria” in the 2005 Guidelines, particularly requirements incorporated in local authority development plans further to these criteria that persons wishing to apply for planning permission for a house in designated rural areas should fulfil a prior minimum residency requirement in the rural area in question or have familial ties to that specific rural area. Requirements that planning applicants have occupational or employment related ties to the rural area in question is not considered problematical in this context as such criteria are non-discriminatory between locals and non-locals.
- 5.2.3. Planning authorities were advised that the existing 2005 Guidelines remain in place and that pending the conclusion of the two national policy review processes (the Working Group deliberations and the publication of the NPF) and advised otherwise by the Department, they should defer amending their rural housing policy/ local housing need criteria in existing statutory development plans either by way of the cyclical review or variation procedures. This was considered prudent in order to avoid planning authorities adopting different approaches on the matter in the interim.

**5.3. Sustainable Rural Housing Development Guidelines**

- 5.3.1. The guidelines require a distinction to be made between ‘Urban Generated’ and ‘Rural Generated’ housing need. A number of rural area typologies are identified

including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns and Stronger Rural Areas which are defined as areas where population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain areas. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

#### **5.4. The Regional Spatial and Economic Strategy 2019-2031 – Eastern and Midland Regional Assembly.**

- 5.4.1. Section 4.8 sets out the strategic approach to rural places in respect of a balanced approach to developing houses and services in the region. The issues paper also sets out the underlying land use issues.

#### **5.5. National Planning Framework – Project Ireland 2040, DoHP&LG 2018**

- 5.5.1. National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, the provision of single housing in the countryside will be subject to siting and design considerations, having regard to the viability of smaller towns and rural settlements

#### **5.6. Natural Heritage Designations**

- 5.6.1. The nearest Natura 2000 sites are;
- The Poulaphouca Reservoir Special Protection Area (Site Code: 004063), located c. 600m north-east of the site.
  - The Wicklow Mountains Special Area of Conservation (Site Code: 002122), located c. 6.8km south-east of the site.

- The Wicklow Mountains Special Protection Area (Site Code: 004040), located c. 6.8km south-east of the site.
- The Slaney River Valley Special Area of Conservation (Site Code: 000781), located c. 11.9km south-west of the site.
- The Red Bog, Kildare Special Area of Conservation (Site Code: 000397), located c. 9.4km north-east of the site.

## 6.0 Environmental Impact Assessment - Preliminary Examination

- 6.1.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any 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.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

- 7.1.1. **Absence of housing need** in context of rural housing policy and objectives.
- The applicant does not meet with the housing need criteria by reference to the contents of the Circular Letter PL2/2017.
  - Regard should be had to the previous decisions by the Board (304982 and 300887) which were based on the applicant not demonstrating need in accordance with the development plan criteria.
  - Conflict with the Regional Spatial and Economic strategy for the Eastern and Midlands Region which states development plans should support the development of new homes in small towns and villages which would augment the delivery of actions by local authorities Irish Water and communities and other stakeholders in the provision of services and serviced sites to create housing opportunities within the existing footprint of rural settlements.
  - Conflict with housing policy and objectives of Wicklow Development Plan
    - Site falls within categories 9 and 10, rural cluster and rural areas in the settlement hierarchy and a house conflicts with objectives HD1 (requiring new housing in suitable zoned/designated land and restricting rural dwellings to

housing social or economic need), HD 20 (restrict urban generated housing in the countryside), HD 21 (implement housing occupancy) and HD23 (application of definable social and economic criteria) .

- It is submitted that the applicant does not meet local housing need criteria and that the proposed dwelling constitutes urban generated rural housing.
- It is argued that the requirement for applicants to have resided in the rural area or have familial ties in the rural area, is unjustified as it imposes restrictions on the fundamental freedoms under the Treaty on the functioning of the European Union (the EU Treaty).
- While it is acceptable for an applicant to demonstrate occupational or employment ties to the rural area in order to secure planning permission for a rural dwelling (as per ‘Circular Letter PL2/2017 – Sustainable Rural Housing Guidelines for Planning Authorities 2005 – Local needs Criteria in Development Plans distributed in May 2017), the applicant has failed to demonstrate an economic need to reside on the application site. This is supported by reference to the case planner’s report and assessment that the applicant has not provided any additional information which demonstrates a need for housing.
- The applicant does not have an economic need to reside at the application site as she owns a dwelling in Naas, Co. Kildare and this home is in a location that provides the applicant with access to her place of employment in Naas and the family home.
- The Board has it is submitted previously disregarded policies relating to one-off housing which give priority to those seeking permission based on having resided in the rural area and having familial ties.
  - The report of the Planning Inspector in respect of ABP 300887-18 is cited in respect of acknowledging social ties but noting that Guidelines aim to facilitate persons who building their ‘first homes’ and seek to curtail urban generated housing.: ‘In this regard I would have reservations that as the applicant owns her current place of residence in Naas town she is not developing her ‘first home’ and does not have a ‘housing need’. By way of further consideration, it is appropriate to consider whether the applicant’s housing need is ‘urban’ or ‘rural’ generated and in this respect it is of relevance to note that her principle place of employment is in Naas town and thus it would seem reasonable to suggest that

the subject proposal would give rise to a notable daily commuting distance, although I would accept that this is countered somewhat by her role in assisting her wider family circle. Therefore, on the basis of the foregoing, whilst the applicant would appear to satisfy the eligibility criteria set out in Objective No. HD 23 of the Wicklow County Development Plan, in my opinion, she does not have a sufficient 'definable social or economic need' which would warrant the development of a further dwelling house in this 'area under strong urban influence' as defined by the 'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005'.

- The appellants submit that the applicant has failed to overcome the previous reason for refusal.
- In a case in Easthill farm, Newtownmountkennedy, PA Ref: 17/170 and the subsequent appeal PL27.249099 permission was refused, notwithstanding the fact that the applicant engaged in farming activities on the family farm and lived within 5km of the farm. The decision was on basis of absence of a housing need and contribution to the encroachment of random rural development in the area militating against the preservation of the rural environment and the efficient provision of public services and infrastructure. In assessing that appeal the Board noted that the applicant was a native resident of the rural area, however, that this did not provide a reason to construct a dwelling. The Inspector's report is cited in respect of planning permission not being appropriate for a house located outside of a nearby town in order to serve the applicant's needs. This rationale should inform the decision of the Board, particularly having regard to the fact that the applicant owns and resides in a dwelling in a nearby town.

#### 7.1.2. **Traffic Hazard**

- Traffic Hazard by reason of insufficient sightlines which are proposed to be 65m north and 90 south on a rural road where a speed limit of 80kph applies.

7.1.3. In conclusion, the proposed development fails to uphold the underlying purpose of rural housing guidelines and is not in the interests of the proper planning and sustainable development of the area.

#### 7.2. **Applicant's Response**

- 7.2.1. The applicant elaborates on her housing need on family lands by reference to family ties and farming of land for over 100 years and the need to assist her elderly father who has on-going health issues. Documentary evidence of what is described as exceptional health circumstances is enclosed and requested to be redacted.
- 7.2.2. The family circumstances are considered to be evidence of a social need and this has been consistently accepted by Wicklow Planning Department as a being compliant with development plan criteria in determining a housing need.
- 7.2.3. The applicant's house is described as a starter 2 bed house in Naas and a family home is now needed.
- 7.2.4. There is no available housing in the immediate locality and the travelling to support her parents is untenable.
- 7.2.5. It is not practical or safe in terms of public health and Covid to move a family in with parents where there would be 5 adults and 2 children in a 4 bed house.
- 7.2.6. The Board did not previously explain how the applicant could meet the housing criteria and it is requested that this matter is addressed.
- 7.2.7. It is respectfully submitted that the Board has a bias against rural housing and that the only way to secure permission is by paying off the objector which is not an option.
- 7.2.8. The Board is implored to grant permission.

### **7.3. Planning Authority Response**

- 7.3.1. The planning authority remains of the view that permission should be granted.

### **7.4. Observations**

None

## 8.0 Assessment

### 8.1. Issues

8.2. This appeal relates to a proposal for a house that was previously refused on appeal at the same site and which in turn followed a previous refusal for a house by the same applicant in an adjacent site within the same family holding. The key issue centres on **housing need** in the context of sustainable housing policy. Having reviewed the file and inspected the site I am satisfied that there is no issue with respect to siting and design in so far as the proposal accords with the development plan design guidance. **Traffic safety** is raised as an issue and merits some consideration.

### 8.3. Housing need

8.3.1. In this case the applicant has a house in Naas where she works and in the context of the Rural Housing Guidelines the type of need can be considered as urban generated housing. Given the location of the proposed house in a rural area under strong urban influences, the strategy is that development driven by cities and larger towns should generally take place within their built-up areas or in areas identified for new development through the planning process.

8.3.2. The applicant makes the case that due to her social ties in the rural area she should be permitted to construct a house. As in the previous application, the applicant makes the case that she needs to be close to her parents who are in their 70s and need assistance in farming and the need for this is supported by medical documentation. (This is contained in a separate pouch at the back of the file for the Board's information.) She also makes the case that as she lives in only a small starter house in Naas town and has a growing family she now has a need for a bigger house and so seeks to build a more spacious family home on family land that has been farmed for over 100 years by her family. Her social ties to the area are strong and a map marking the location of 11 of her relatives houses in the vicinity is submitted as part of the details. In comparison to the previous case before the Board the applicant now refers to the COVID-19 pandemic and the difficulties that that poses to her in, on the one hand, supporting her parents at a more intensive level



and on the other, the social-distancing challenges of co-habiting in the existing family home with a total of 5 adults and 2 children.

- 8.3.3. While I note the applicant seeks more clarity on social need criteria so as she can address any potential outstanding matters in a possible further application, the situation, as emphasised by the appellant is such that reliance on individual social ties criteria is weakened in the context of the Flemish Decree Case in which it was determined that family connections was not a fair basis on which to permit permission. While the Department of Housing, Planning, Community and Local Government acknowledges this decision in its Circular Letter PL 2/2017 to planning authorities and set up a review group to look at the implications of this case in an Irish setting so as to provide clarity and update rural housing guidance, it has yet to do so despite the intended publication date for such in 2020. In the absence of such clarity the Board must rely on existing guidelines and high order strategies which remain the basis for informing Development Plans.
- 8.3.4. While I accept that the Development Plan Policy sets out a range of scenarios whereby it could be interpreted that the applicant meets with criteria having a housing need on the basis of social ties, the Board is not bound by such criteria. Furthermore, it should be clarified that no applicant has a right to build on the house due to social ties, such circumstances only permit consideration. Such consideration has to be in the context of the overarching strategy to managing the resources and settlement patterns to ensure balanced sustainable development. The National Planning Framework which was published after the current Wicklow Development Plan is the overriding spatial policy framework for assessing the suitability of rural housing in this instance. The Eastern and Midland Regional Spatial and Economic Strategy (June 2019) is also relevant. The issues paper in preparation of this highlight the need to recognise and protect the productive value of agricultural land, particularly in areas under urban development pressure from the expansion of Dublin and its hinterlands. This informs the rationale for the strategy. The strategy also addresses the social aspect of rural housing and recognises that facilitating housing is paramount to ensuring the sustainability, vitality and viability of the rural places of the Region. However its strategy is to support housing and population growth within rural towns and villages which will help to act as a viable alternative to rural one-off housing and thereby contribute to the sustainable land use planning principle of

compact growth. While the rural housing guidelines provide guidance on criteria for classifying and assessing rural housing, regard also has to be had to the context of the higher order and more recent strategies. In assessing the merits of the case, consideration has to, therefore be given to the strategic impact on settlement patterns.

- 8.3.5. In this case the location is clearly a rural area under pressure from urban generated housing. It is not a remote area and is less than 400m from the N81 which connects to nearby urban centres in Ballymore Eustace (less than 4km north west) and Blessington(northeast) . There is a smaller settlement further south in Hollywood (4km). The serviced lands to the north are strategically more convenient to the applicant's place of work in Naas (15km from Blakestown). There are no details of her partner's employment.
- 8.3.6. In such a location that is under significant pressure for development, the implications of cumulative permissions for off-spring to be near aging parents would seriously erode an agricultural resource close to and serving the metropolitan area and would also serve to undermine the consolidation of nearby serviced lands in urban village and towns. The emerging pattern in such a location goes against the very concept of sustainable development for future generations. It is clear from the Environmental scientist's report on water quality that the pressure on rural resources is strained and that while one case may be in itself acceptable, from a strategic planning perspective the incremental implications are relevant. In such circumstances there should be a very strong demonstrable land-based need to site an additional house in this location.
- 8.3.7. In the first instance the applicant's basic need for a home is not critical in that she already owns and occupies a house in Naas north of the site, yet the Sustainable Rural Housing Guidelines for rural one-off housing seek to address those persons building their first home. (page 24) The applicant however challenges this criteria on the basis of the development plan housing need criteria and her circumstances as well as the wider benefits to society in her role as carer. The relevant question in this particular location is whether or not another house is warranted to ensure the vitality of the area and whether or not the viability of the continued farming of the lands is at risk.

- 8.3.8. With respect to the vitality of the area it is clear from the number of houses in the area that there is an extensive rural community where rural houses are occupied and not for sale or rental as supported by the applicant's statement in this regard. I do not consider it to be an area that is under threat in terms of its social fabric and vitality.
- 8.3.9. With respect to farming it is proposed that the applicant will be able to offer assistance to manage a large farm and livestock – however this would be appear to be a limited and temporary situation for the applicant who has employment in a hospital and does not appear to have any formal farming qualification. There is no apparent viable plan to manage the continued farming of the land by the applicant or by any other family member.
- 8.3.10. With respect to the personal circumstances, a granny flat extension to the main house could be an option to facilitate on-site care and assistance. I would see no difficulty with this. The argument with respect to COVID-19 is a short-term consideration in the context of the current roll-out of vaccinations and is not I consider a material issue.
- 8.3.11. In conclusion, based on the submitted details I do not consider the proposed development by itself and by the precedence it would set to constitute a sustainable form of housing development and land use for future generations and would be contrary to the proper planning and sustainable development of the area.

#### **8.4. Traffic**

- 8.4.1. The appellant raised concerns about the restricted sightlines which are proposed to be 65m north of the proposed entrance and 90 south as measured along this rural road fronting the site. This road is stated to have a speed limit of 80kph applies. The site is part of large land holding and maintaining sightlines should not be a difficulty. I do not consider restricted sightlines to amount to a reason for refusal.

#### **8.5. Appropriate Assessment**

- 8.5.1. Having regard to the nature and scale of the proposed development, nature of the receiving environment and proximity to the nearest European site, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 9.0 Recommendation

- 9.1.1. I recommend that planning permission for the proposed development be refused for the following reason.

## 10.0 Reasons and Considerations

1. Having regard to the location of the site within an “Area Under Strong Urban Influence” as identified in the Sustainable Rural Housing, Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005 and in an area where new housing development will only be considered 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 in accordance with the Wicklow County Development Plan 2016-2022, and to National Policy Objective 19 of the National Planning Framework, adopted by the Government, in relation to rural areas under urban influence, such as in the current case, which states that it is the policy 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”, on the basis of the submissions made in connection with the planning application and the appeal, including the applicant’s current housing circumstances, it is considered that the applicant does not come within the scope of the housing need criteria for a dwelling at this location as set out in the Sustainable Rural Housing Guidelines for Planning Authorities or in accordance with the County Development Plan, and that the applicant has not demonstrated an economic or social need to live in this rural area in accordance with national policy. The proposed development, in the absence of any definable or demonstrable based need for the house in this rural area, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to national policy, Ministerial Guidelines, the provisions of the Development Plan and to the proper planning and sustainable development of the area.

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Suzanne Kehely  
Senior Planning Inspector

27<sup>th</sup> January 2021