



An  
Bord  
Pleanála

## Inspector's Report ABP 309487-21.

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<b>Development</b>	Dwelling, connection to well, effluent disposal system, new vehicular entrance onto existing driveway & associate site works.
<b>Location</b>	Barnamire, Enniskerry, Co. Wicklow.
<b>Planning Authority</b>	Wicklow Co. Council.
<b>Planning Authority Reg. Ref.</b>	201177
<b>Applicant</b>	Mary King
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Mary King
<b>Observers</b>	None
<b>Date of Site Inspection</b>	18/8/2021
<b>Inspector</b>	Siobhan Carroll

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## 1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Barnamire, approximately 4.8km west of Enniskerry, Co. Wicklow. It lies to northern side of the Glencree River Valley on the southern side of the L1011. The Glencree River is located circa 1km to the south. The area is highly scenic and is a major tourist route within the County.
- 1.2. The site is accessed off the L1011 and then via the L5041 which forms part of the Wicklow Way walking trail. The site is located at circa the 250m contour at the eastern road side boundary. The site levels fall to circa 230m contour to the south-western corner. There are extensive views out over the Glencree River valley and towards Glencullen Mountain to the north, Powerscourt Mountain to the south and Glencree to the west.
- 1.3. The site has a stated area of 1.03 hectares and it comprises a grassed field. It contains sections of gorse. An area of trees have been planted on the northern side of the site. The adjoining lands to the north and west are under forestry.

## 2.0 Proposed Development

- 2.1. Permission is sought for the construction of a dwelling, connection to existing well, effluent disposal system to EPA guidelines 2009 forming new vehicular entrance onto existing driveway ad associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission was refused for one reason;

1. Having regard to:

- (a) the location of the development within a landscape designated as an Area of Outstanding Natural Beauty and in a designated prospect;
- (b) the siting of the development in a prominent position at a visually remote and isolated location within the designated landscape;

(c) the location of the site within views and prospects of special amenity along the Glencree Valley;

(d) the openness and visibility of the site in the surrounding landscape;

It is considered that the proposed development would form a visually incongruous and intrusive feature, and be contrary to, the protection of this highly sensitive landscape area of Outstanding Natural Beauty as provided for under Objective NH49, NH51 and NH52 of the County Development Plan 2016-2022, and would also be contrary to Objective HD3 of the County Development Plan 2016-2022 and the Wicklow Single Rural Houses Design Guidelines, and would therefore be detrimental to the visual amenities of the area, and to proper planning and sustainable development.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- The report of the Planning Officer noted that the site is located in a highly sensitive, unspoilt, scenic and attractive AONB which contains listed prospects and views. It was concluded that in relation to the issue of the visual impact that the existing and proposed landscaping would not mitigate the adverse visual impact and a refusal of permission was recommended on that basis.

#### **3.2.2. Other Technical Reports**

Environmental Health Officer: No objection subject to condition.

### **3.3. Prescribed Bodies**

An Taisce: The submission noted the planning history of refusals on the site. It is considered that prior reasons for refusal have relevance to the current application. The site is located on an elevated and exposed field in a landscape designated as an 'Area of Outstanding Natural Beauty' in the current Wicklow County Development Plan. The site is located in the open countryside, in an area which would correspond to the rural area type '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 indicated that it is policy to distinguish between rural-generated housing need and urban generated housing need. The proposed development is located on a narrow rural land which is also part of the Wicklow Way (a designated Green Infrastructure Route), would endanger public safety by reason of serious traffic hazard because of inadequate sightlines.

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

- None

### 4.0 **Planning History**

There is an extensive planning history pertaining to the site which is detailed in full in the report of the Planning Officer. The most recent planning history refers to;

Reg. Ref 16/815 & PL27.247982 – Permission was refused for one number single storey dwelling with part attic accommodation, new vehicular access and driveway and wastewater treatment plant. Permission was refused for the following reasons;

1. The subject site is located in the open countryside, in an area which would correspond to the rural area type “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 indicated that it is policy to distinguish between rural-generated housing need and urban-generated housing need. Furthermore, the subject site is located on an elevated and exposed field in a Landscape Zone designated as an “Area of Outstanding Natural Beauty” in the current Wicklow County Development Plan, in which Area it is reasonable and appropriate to restrict the spread of rural housing. On the basis of the documentation submitted in support of the application and appeal, including the nature and location of the employment of the applicant, it is considered that the proposed development of a dwelling at this location, which is not linked to an essential rural-generated housing need, but which is urbangenerated in nature, would be contrary to these Ministerial Guidelines and would add to the proliferation of development threatening to degrade the

landscape within this area and consequently would result in the erosion of the area's existing rural and scenic quality. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The site of the proposed development is located in an area which is designated as an "Area of Outstanding Natural Beauty" in the current Wicklow County Development Plan. Furthermore, the site is located within views and prospects of special amenity along the Glencree Valley. The proposed development, by reason of its siting in a prominent position on a north-west facing and elevated slope at a visually remote and isolated location within the designated landscape, would form a visually incongruous and intrusive feature and would seriously injure the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

## **5.0 Policy Context**

### **5.1. National Policy**

#### **5.1.1. Sustainable Rural Housing Planning Guidelines DOE 2005**

- 5.1.2. The site of the proposed development is located within an area designated as being under strong urban influence. The Guidelines distinguish between 'Urban Generated' and 'Rural Generated' housing need. Example of situations where rural generated housing need might apply as set out in the Guidelines include rural houses for persons who are an intrinsic part of the rural community and persons working full time or part time in rural areas.

### **5.2. National planning Framework (NPF)**

#### **5.2.1. National Policy Objective 19**

In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstratable economic or social

need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlement

### 5.3. Development Plan

5.3.1. The operative plan for the area is the Wicklow County Council Development Plan 2016 - 2022.

- Objective HD21 refers to Housing in the Open Countryside
- Objective HD23 states that Residential development will be considered in the open countryside and when it is for those with a definable social and economic need to live in the open countryside. A total of 16 circumstances are provided under which residential development in rural areas will be considered. They include the following:
  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.
  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.

9. The son or daughter of a landowner who has inherited a site for the purpose of building a one off rural house and where the land has been in family ownership as at 11th October 2004 for at least 10 years prior to the application for planning permission and not as speculation.

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.

### 5.3.2. Chapter 10 – refers to Heritage

- Table 10.4 Landscape Categories – Landscape Area - The North Eastern Valley – identified within Mountain and Lakeshore AONB. Landscape Objectives includes;
- Objective NH49 – All development proposals shall have regard to the County landscape classification hierarchy in particular the key landscape features and characteristics identified in the Wicklow Landscape Assessment (set in Volume 3 of this plan) and the ‘Key Development Considerations’ set out for each landscape area set out in Section 5 of the Wicklow Landscape Assessment.
- Objective NH51 – To resist development that would significantly or unnecessarily alter the natural landscape and topography, including land infilling / reclamation projects or projects involving significant landscape remodelling, unless it can be demonstrated that the development would enhance the landscape and /or not give rise to adverse impacts.
- Objective NH52 – To protect listed views and prospects from development that would either obstruct the view / prospect from the identified vantage point or form an obtrusive or incongruous feature in that view / prospect. Due regard will be paid in assessing development applications to the span and scope of the view / prospect and the location of the development within that view / prospect.
- Schedule 10.15 Prospects of Special Amenity Value or Special Interest



- Prospect 1 – Prospect of mountain area around Glencree Drive, Prince William Seat, Glencree River and Sugarloaf Mountain

#### **5.4. Natural Heritage Designations**

5.4.1. Wicklow Mountains SAC is located circa 1.16km from the site.

5.4.2. Wicklow Mountains SPA is located circa 1.5km from the site.

5.4.3. Knocksink Wood SAC is located circa 3km to the east of the site.

#### **5.5. EIA Screening**

5.5.1. Having regard to the nature and scale of the proposed development, the separation of the site from European and other designated sites, it is considered that 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**

A first party appeal was submitted by Flynn Planning and Design on behalf of the applicant Mary King. The issues raised are as follows;

- In relation to Objective HD23 which states that, “Residential development will be considered in the open countryside only when it is for those with a definable social or economic need to live in the open countryside.” The applicant Mary King has been deemed to qualify for special consideration to build in a level 10 rural area by Wicklow Co. Council. The Planning Authority consider the issue to be satisfactorily addressed in the current application.
- Regarding the proposed vehicular entrance to the site, as part of the application made under Reg. Ref 16/815 the applicant commissioned a specialist engineering report by Kavanagh Mansfield and partners Chartered Engineers which demonstrated that the proposed vehicular entrance to the site would provide safe access and egress. It is noted that both Wicklow Co.

Council and An Bord Pleanála accepted the proposals as providing safe access and egress to the site.

- In relation to effluent disposal, it is noted that the effluent disposal system proposed under this application was considered acceptable by the Environmental Health Officer. The Planning Authority considered that the issue was satisfactorily addressed in the current application.
- Regarding the issue of the assimilation of the proposed development into the landscape, the applicant's agent Mr. John Flynn advised her that the design of the proposed dwelling should follow the design approach set out in the Wicklow Rural Housing Design Guide.
- The house has been designed based on a traditional rural cottage. It has a narrow form with a low ridge height. The house has been relocated on site to screen it from views by the deciduous trees planted on site over twenty years ago. The footprint of the dwelling is considered small at 89sq m. There is no requirement to excavate into the higher ground to the rear of the site. The proposed roof would be finished in natural slate, with the walls finished with white plaster. Traditional design fenestration with vertical emphasis is proposed. Traditional low profile verge and eave detailing is proposed. A driveway through the site has been omitted from the layout, this eliminates the need for cut and fill associated with a long driveway.
- It is stated that the key difference between the current application and the previous applications is that a large grove of deciduous trees planted by the applicant which have matured on site. The strategy is to assimilate the dwelling into the landscape and use the trees as screening.
- The primary concerns raised in the report of the Planning Officer refer to the potential intrusion on the listed view down the Glencree valley. It is stated that visual impact assessment carried out indicates that the proposed dwelling would not be visible from the main viewing points, due to the tree planting on site and the Cloone Wood. It is noted that the application includes a detailed landscape planting scheme prepared by a landscape architect and qualified arborist. The proposed planting is specifically designed to further enhance the screening from the views of special amenity.

- The appeal refers to an application for a dwelling to Amy Burton at Barnamire Enniskerry which was granted permission under Reg. Ref. 11-4610 & PL27.240229. It is noted in the appeal that the Board granted permission, while the Inspector had recommended a refusal of permission. The Board requested that the applicant submit further information in relation to details of the family landholding, existing dwellings within the landholding and details of the planning history on the lands. It is stated that in relation to the cited appeal case that permission was granted to a number of siblings of the applicant prior to a grant of permission to her. It is stated that similar to the Burton family that the King family are from the local area. Mary King is stated as being the last sibling in her family to seek planning permission to build a dwelling on the family holding.
- The report of the planning officer stated that the proposed house would be located 210m from development along the L1011. The applicant's agent notes that there is extensive development at that section of the L1011, however they consider that the proposed location of the dwelling away from this cluster of ribbon development should be viewed as a positive rather than a negative aspect of the proposed site as it is submitted that it is in accordance with the Wicklow Rural Design Guide.
- In conclusion, the applicant has taken all possible steps to address the outstanding issue of the assimilation of the proposed development into the local landscape. The applicant is seeking to build on her family land. Mary King and her family do not have a house and live in her parent's house. It is stated that Mary King is the last family member who will be seeking to build on this land.

## 6.2. Planning Authority Response

- None received

## 7.0 Assessment

Having inspected the site and associated documents the main issues can be assessed under the following headings:

- Demonstration of need of rural house
- Visual amenity
- Appropriate Assessment

## 7.1. Demonstration of Need of Rural house

- 7.1.1. With regard to compliance with rural housing policy the proposal should be in accordance with the provisions of the Sustainable Rural Housing Guidelines and the provisions of the Wicklow County Council Development Plan 2016 – 2022, as it relates to settlement in rural areas. The appeal site is located in an area identified as an Area Under Strong Urban Influence on Map No.1 – Indicative Outline of NSS Rural Area Types in the Sustainable Rural Housing Guidelines. These areas are typically close to larger urban centres which are under pressure for housing in the countryside and have road networks which are heavily trafficked. The guidelines suggest that certain classes of persons e.g. those occupied full time or part-time in agriculture, forestry, those who are an intrinsic part of the rural community, sons/daughters of farmers and returning emigrants, may be considered for housing in the countryside.
- 7.1.2. 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). In relation to rural housing policy as set out in the development plan, the site is in a Level 10-Rural Area. Under Objective HD23 it is noted that "residential development will be considered in the open countryside and when it is for those with a definable social and economic need to live in the open countryside". There is a list of 16 circumstances for which residential development will be permissible. In relation to Objective HD23, no.1 of the listed considerations is most relevant. This states, '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.* I note that the report of the planning officer stated that under Reg. Ref. 19/60 (a previous application which was withdrawn) it was determined that the applicant Mary King would qualify under Objective HD23. Therefore, in their assessment of the applicant planning officer considered that the applicant would qualify under Objective HD23.

- 7.1.3. As detailed in the planning application and appeal, the applicant Mary King resides with her family at her parent's home at Glasskenny, Enniskerry, Co. Wicklow. The subject site is owned by the applicant's father Mr. Patrick King. It is stated in the appeal that the applicant does not have a house. The stated employment of the applicant as detailed on the application form on file is homemaker.
- 7.1.4. There is an extensive planning history on the site which refers to the applicant. The most recent decision of the Board is PL27.247982 (Reg. Ref. 16/815). The Board refused permission for two reasons. The first reason for refusal stated that the site is located in open countryside, on an elevated and exposed field in a landscape zone designated as an area of outstanding natural beauty in the development plan and in an area under strong urban influence as set out in the Sustainable Rural Housing Guidelines. In the refusal reason the Board concluded that having regard to the documentation provided in relation to the nature and location of the employment of the applicant that the proposed development of a dwelling at this location was not linked to an essential rural-generated housing need, but was urban generated in nature and would be contrary to the provisions of the Rural Housing Guidelines and would add to the proliferation of development threatening to degrade the landscape within the area.
- 7.1.5. In assessing the current appeal, it is necessary to be cognisant of the most recent relevant planning history along with current relevant national policy considerations. The Board determine under PL27.247982 that having regard to the nature and location of the employment of the applicant that the proposed development of a dwelling at this location was not linked to an essential rural-generated housing need. The applicant's employment situation at the time of that applicant was an event co-ordinator. I note that her current employment is stated as homemaker. I do not consider that the applicant's employment, necessitates a specific requirement to live at this site within this rural area. Furthermore, I note that under the provisions of

National Policy Objective 19 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. Therefore, I am not satisfied that this has been demonstrated.

- 7.1.6. Accordingly, based on the documentation submitted as part of the application and appeal, I am not satisfied that the applicant has demonstrated that they come within the scope of the rural-generated housing need criteria for a house in this rural location, having regard to the provisions of 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 indicated that it is policy to distinguish between rural-generated housing need and urban-generated housing need in Areas under Strong Urban Influence (such as applies in this instance) and accordingly considered that the proposed development would represent urban-generated rural housing.
- 7.1.7. The subject site is in an area under urban influence and development should therefore be focused on existing settlements such as Enniskerry. Therefore, to permit the proposed development would be contrary to National Policy Objective 19, as I am not satisfied that the applicant has a demonstrable economic or social need to live at this site within this rural area.

## 7.2. **Visual amenity**

- 7.2.1. The Planning Authority refused permission for the proposed development for one reason. The refusal reason stated that having regard to the location of the development within a landscape designated as AONB, the siting of the development in a prominent position at a visually remote and isolated location with the designated landscape and the location of the site within views and prospects of special amenity along the Glencree Valley that the proposed development would form a visually incongruous and intrusive feature and would be contrary to the protection of this highly sensitive landscape.
- 7.2.2. In response to the matter, it is set out in the appeal that the design of the dwelling follows the design approach set out in the Wicklow Rural Housing Design Guide. The dwelling is described in the appeal as being designed based on a traditional rural

cottage with a narrow form and a low ridge height. The proposed dwelling has a stated floor area 89sq m and a ridge height of 5.325m. The proposed finished floor level of the dwelling is indicated on the site layout plan as 244.5m OD. A Visual Impact Survey prepared by Garden Architecture was submitted with the application. A series of photos were provided which indicate the location of the proposed dwelling in the landscape.

- 7.2.3. It is stated in the appeal that the proposed house has been relocated on site to screen it from views. It is noted in the appeal that there is no requirement to excavate into the higher ground to the rear of the site and that a driveway through the site has been omitted from the layout, this eliminates the need for cut and fill associated with a long driveway. It is set out in the appeal that the main difference between the current application and the previous applications is that a large grove of deciduous trees planted by the applicant which have matured on site. The strategy is to assimilate the dwelling into the landscape and use the trees as screening.
- 7.2.4. The site is located within an area designated an 'Area of Outstanding Natural Beauty' in the Wicklow County Development Plan, 2016-2022. These landscape areas are described as under high vulnerability to development. The site is located within an area designated 'Glencree/Glencullen Area of Outstanding Natural Beauty'. This area is described in the Development Plan as based around the drainage pattern of the Glencree and Dargle Rivers and the surrounding road network and that the area is very scenic, with attractive views and number of tourist attractions such as Powerscourt House and Demesne, Chareville Demesne and Glencree Drive.
- 7.2.5. The site is situated at a prominent location on the north-west facing and elevated slope of the Glencree Valley between roughly 220m-250m contour levels. Map 10.15 of the County Development Plan 2016-2022 indicates Prospects of Special Amenity Value or Special Interest. In relation to the appeal site, it is situated within the Listed Prospect No. 1 which runs along the L1011, L1015, L5014 and Glencree and provides a prospect of the mountain area around Glencree Drive, Prince William Seat, Glencree River and Sugarloaf Mountain. The site is also located within Listed Prospect No. 2 from L1013 Glencree Drive South which is a Prospect of Tonduff mountain and Glencree river valley and view to east of Sugarloaf Mountain.

- 7.2.6. The site is therefore located within a highly visually sensitive location within the designated Area of Outstanding Natural Beauty and within views and prospects of special amenity along the Glencree Valley. The site is situated circa 320m from the L1011 and away from the existing cluster of housing to the north. Therefore, the site is visually remote and in an isolated location within the designated landscape.
- 7.2.7. I note the matters raised by the appellant in respect of the siting and design of the proposed dwelling including the existing planting and proposed landscaping. This is indicated on the site layout plan and the proposed landscape strategy.
- 7.2.8. Having regard to the location of the site within a remote location within an Area of Outstanding Natural Beauty, I am not satisfied that the existing and proposed planting and landscaping would satisfactorily integrate the proposed dwelling into the surroundings. Therefore, notwithstanding the single storey nature of the proposed dwelling having regard to the visually sensitive nature of the site specifically its elevated and prominent location within views and prospects of special amenity along the Glencree River Valley, I consider that it would seriously injure the visual amenities of this highly sensitive landscape.

### **7.3. Appropriate Assessment**

- 7.3.1. Having regard to the nature and scale of the proposed development and the location of the site, subject to the provision of the waste water treatment system as proposed and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

## **8.0 Recommendation**

- 8.1. I recommend that permission be refused for the following reasons and considerations as set out below.



## 9.0 Reasons and Considerations

1. The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005, Furthermore, the subject site is located in an area, that is designated under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements. Having regard to the documentation submitted with the application and appeal including information on the applicant’s employment situation, the Board is not satisfied that the applicant has a demonstrable economic or social need to live at this site within this rural area, or that the applicant’s housing need could not be met within a town or settlement. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location and that the proposed development would, therefore, be contrary to the Ministerial Guidelines and the over-arching national policy, and would be contrary to the proper planning and sustainable development of the area.
2. The site of the proposed development is located in an area which is designated as an “Area of Outstanding Natural Beauty” in the current Wicklow County Development Plan. Furthermore, the site is located within views and prospects of special amenity along the Glenree Valley. The proposed development, by reason of its siting in a prominent position on a north-west

facing and elevated slope at a visually remote and isolated location within the designated landscape, would form a visually incongruous and intrusive feature and would seriously injure the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Siobhan Carroll  
Planning Inspector

24<sup>th</sup> of August 2024