



An  
Bord  
Pleanála

## Inspector's Report ABP-313404-22

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<b>Development</b>	Construction of a House.
<b>Location</b>	Templeraíne, Arklow, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council.
<b>Planning Authority Reg. Ref.</b>	211219
<b>Applicant</b>	J. Kavanagh.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission.
<b>Type of Appeal</b>	Third Party v Grant of Permission
<b>Appellant</b>	John McDonald.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	20/12/2022
<b>Inspector</b>	Enda Duignan

## **1.0 Site Location and Description**

- 1.1.** The appeal site is located within the townland of Templerainy, c. 2.5km to the north of Arklow town. The site is located on the eastern side of the L-2172 and comprises a portion of a larger agricultural field which is currently under grass. In terms of topography, the front portion of the site is relatively flat with a gentle slope down towards the north-eastern corner within the rear portion of the site. There is an existing agricultural access to the appeal site along the L-2172 with the remainder of the roadside boundary comprising an embankment with hedging and some mature trees. A mixture of hedging and trees characterise the northern (side) and eastern (rear) boundaries of the site and there is currently no formal southern boundary. The appeal site has a stated area of c. 0.4ha.
  
- 1.2.** In terms of the site surrounds, a double storey dwelling is located to the immediate north of the appeal site. A double storey dwelling is also located to the north-west, on the opposite side of the L-2172. The remainder of the lands within the surrounds of the site are typically in agricultural use.

## **2.0 Proposed Development**

- 2.1.** The proposal seeks planning consent to construct a new single storey dwelling on the subject site. The proposed dwelling has a stated floor area of c. 144sq.m. and will comprise an entrance lobby and hall, 4 no. bedrooms, study, bathroom, utility, WC, living room and open plan kitchen/dining room. The dwelling will have a pitched roof form with a maximum height of c. 6m and will be sited within the western portion of the site. A single storey pitched roof garage is proposed to be located to the north-west of the dwelling and is set back c. 17.5m from the road side boundary.
  
- 2.2.** The dwelling will be accessed via a new recessed vehicular entrance at the southern end of its roadside boundary. A new connecting driveway will run along the western boundary, leading to a car parking area to the front of the dwelling and the garage to the dwelling's north-west. The dwelling will be served by a front garden and a large area of amenity space to its rear.

- 2.3. The proposed dwelling will have a traditional architectural design with vernacular features including a pitched roof form. Materials and finishes for the proposed dwelling will comprise a combination of a render finish for the principal elevations with a stone finish for the proposed porch.
- 2.4. The proposed development includes the installation of a wastewater treatment system and percolation area which is to be located to within the eastern portion of the site.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Wicklow County Council granted planning permission for the proposed development subject to compliance with 10 no. conditions.

Conditions of note include:

2 (a) The proposed dwelling when completed shall be first occupied as the place of permanent residence by the applicant, and shall remain so occupied for a period of seven years thereafter, unless consent is granted by the planning authority for its occupation by other persons who comply with the provisions of the Settlement Strategy for Rural Areas as set out in the County Development Plan. This requirement shall be embodied by a legal undertaking that shall be registered as a burden against the title of the land in the Land Registry or Registry of Deeds and shall be of seven years duration from the date of the first occupation.

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority, a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

(c) The Planning Authority will consent to any sale of the completed dwelling by a lending institution in exercise of its powers as Mortgager in possession of this property and likewise consent to any sale by any person deriving title from the lending institution.

REASON: To ensure that the proposed dwelling is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted in

accordance with the rural settlement strategy, to protect the rural landscape, in the interests of proper planning and sustainable development.

6. The sightlines, roadside boundary and entrance gates shall accord with site layout plan drawing number PP/03/04, submitted on 9/03/2022. The dwelling shall not be occupied until such time as all works identified in drawing number PP/03/04 is completed.

REASON: In the interests of traffic safety, visual and residential amenity.

9. (a) The finished floor level of the house shall be 52.00, unless otherwise agreed in writing with the Planning Authority.

(b) When the floor slab has been laid and before any further development takes place on the dwelling a certificate from a Chartered Engineer, Architect or other suitably qualified professional (with professional indemnity insurance) stating that the floor level is in accordance with (a) above shall be submitted to the Planning Authority.

REASON: In the interests of visual amenity and integrating the development into the landscape.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Report**

The Wicklow County Council Planning Reports form the basis of the decision. The first Planning Report provides a description of the site and surrounds and outlines a description of the proposed development. The report provides an overview of the policy that is applicable to the development proposal and summaries the issues raised in the third party observation on file.

In terms of the assessment and the Applicant's qualification for a rural house, the Planning Authority have regard to the information submitted in support of the application and consider that a proof of employment is required prior to a determination being made. In terms of traffic and transportation, additional information was requested to demonstrate that 120m sightlines can be provided in each direction from the new vehicular entrance. With respect to dwelling design, no concerns are raised by the Planning Authority and the proposal is considered acceptable having regard to

the visual and residential amenity of the surrounding area. However, the Applicant was requested to submit a site specific tree planting and landscape scheme.

The Second Planning Report provides an assessment of the Applicant's response, and it was considered by the Planning Authority that the Applicant would qualify for special consideration under policy HD23 of the County Development Plan. The Planning Authority noted that all other items had been satisfactorily addressed. On the basis of the foregoing, a grant of planning permission was recommended subject to compliance with conditions.

### 3.2.2. Other Technical Reports

EHO: No objection subject to compliance with conditions.

Municipal District Engineer: No objection subject to compliance with conditions.

### 3.2.3. Prescribed Bodies

Inland Fisheries Ireland: Recommendation for conditions in the event of a grant of planning permission.

### 3.2.4. Third Party Observations

One (1) no. observation was received by a third party (i.e. the Third Party appellant). The issues raised within the observation can be summarised as follows:

- The proposal will negatively impact the residential amenity of their property.
- Concerns with respect to overlooking and loss of privacy.
- The design of the house does not have regard to the principles of good siting.
- Alternative sites are available to the Applicant within their landholding which will avoid excessive roadside ditch realignment.

## 4.0 Planning History

**22912**: Planning application currently at additional information stage with the Planning Authority. The proposed development comprises the construction of a dwelling, garage and effluent treatment system, all together with associated site works on a site at Templeraíne, Arklow, Co. Wicklow.

I note that the site is located immediately south of the proposed dwelling which is the subject of this appeal. This dwelling (i.e. Ref. 22912) is proposed to utilise the same vehicular entrance and driveway as the subject proposal.

## **5.0 Policy and Context**

### **5.1. National Policy**

#### **5.1.1. Climate Action Plan 2023 (CAP23)**

#### **5.1.2. Project Ireland 2040 National Planning Framework (NPF) Local Policy**

National Policy Objective (NPO) 19 states it is an objective to ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere. In rural areas under urban influence, 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 and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

#### **5.1.3. Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).**

Section 4.8 (Rural Places: Towns, Villages and the Countryside) of the RSES indicates that support for housing and population growth within rural towns and villages will help to act as a viable alternative to rural one-off housing, contributing to the principle of compact growth. Regional Policy Objective (RPO) 4.80 is relevant to the development proposal which notes that 'Local authorities shall manage urban generated growth in Rural Areas Under Strong Urban Influence (i.e. the commuter catchment of Dublin, large towns and centres of employment) and Stronger Rural Areas by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

**5.1.4. Sustainable Rural Housing Guidelines for Planning Authorities, 2005.**

The overarching aim of the Guidelines is to ensure that people who are part of a rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures. To ensure that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated. Circular Letter SP 5/08 was issued after the publication of the guidelines.

**5.1.5. Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021.**

**5.2. Local Policy**

**5.2.1. Wicklow County Development Plan (CDP), 2022-2028.**

5.2.2. The Wicklow Dublin County Development Plan (CDP), 2022-2028 came into effect on 23<sup>rd</sup> October 2022. The appeal site is located within a Level 10 Rural Area. The policy contained with current CDP indicates that development within the rural area should be strictly limited to proposals where it is proven that there is a social or economic need to locate in the area. Protection of the environmental and ecological quality of the rural area is of paramount importance and as such, particular attention should be focused on ensuring that the scenic value, heritage value and/or environmental / ecological / conservation quality of the area is protected.

5.2.3. Given the nature of the proposal and the location of the appeal site, Policy Objective CPO 6.41 (Housing in the Open Countryside) is of direct relevance to the development proposal. The policy seeks to “Facilitate residential development in the open countryside for those with a housing need based on the core consideration of demonstrable functional social or economic need to live in the open countryside in accordance with the requirements set out in Table 6.3. A housing need is defined as those who can demonstrate a clear need for new housing, for example:

- First time home owners;

- Someone that previously owned a home and is no longer in possession of that home as it had to be disposed of following legal separation / divorce / repossession by a lending institution, the transfer of a home attached to a farm to a family member or the past sale of a home following emigration;
- Someone that already owns / owned a home who requires 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; and,
- Other such circumstances that clearly demonstrate a bona fide need for a new dwelling in the open countryside notwithstanding previous / current ownership of a home as may be considered acceptable to the Planning Authority.

In terms of 'Social Need', The Planning Authority recognises the need of persons intrinsically linked to rural areas that are not engaged in significant agricultural or rural based occupations to live in rural areas. The policy notes that persons intrinsically linked to a rural area may include:

- Permanent native residents of that rural area (including Level 8 and 9 settlements) i.e. a person who was born and reared in the same rural area as the proposed development site and permanently resides there;
- A former permanent native of the area (including Level 8 and 9 settlements) who has not resided in that rural area for many years (for example having moved into a town or due to emigration), but was born and reared in the same rural area as the proposed development site, has strong social ties to that area, and now wishes to return to their local area;
- A close relative who has inherited, either as a gift or on death, an agricultural holding or site for his/her own purposes and can demonstrate a social need to live in that particular rural area, 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 for at least 10 years prior to the application for planning permission and can demonstrate a social need to live in that particular rural area,
- 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;



- Local applicants who are intrinsically linked to their local area and, while not exclusively involved in agricultural or rural employment, have access to an affordable local site;
- Local applicants who provide care services to family members and those working in healthcare provision locally; and
- Other such persons as may have a definable strong social need to live in that particular rural area, which can be demonstrated by way of evidence of strong social or familial connections, connection to the local community / local organisations etc as may arise on a case by case basis.

Other relevant policy objectives of the draft CDP include:

- **CPO 6.42:** Where permission is granted for a single rural house in the open countryside, 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 CPO 6.41 or to other such persons as the Planning Authority may agree to in writing.
- **CPO 6.44** To require that rural housing is well-designed, simple, unobtrusive, responds to the site's characteristics and is informed by the principles set out in the Wicklow Single Rural House Design Guide. All new rural dwelling houses should demonstrate good integration within the wider landscape.

In terms of the site's landscape category, the site is located within Corridor Area 3(a) (The North East Mountain Lowlands). This area is described as "Transitional lands located between the corridor zone and the Area of Outstanding Natural Beauty (AONB), comprising of Trooperstown Hill, large tracts of forestry lands, including Devil's Glen (a listed County Geological site) and a number of views and prospects in particular those surrounding the Vartry Reservoir."

#### Relevant Appendices

- Appendix 1: Development and Design Standards; and,
- Appendix 2: Single Rural Houses Design Guidelines.

### **5.3. Natural Heritage Designations**

There are no European designated sites within the immediate vicinity of the site. The nearest designated site is the Buckronev-Brittis Dunnes and Fen Special Area of Conservation (SAC) (Site Code: 000729), c. 3km to the north-east of the site. The 'Proposed Natural Heritage Area: Buckronev-Brittis Dunnes and Fen' is also located c. 3km to the north-east of the site.

### **5.4. EIA Screening**

Having regard to the nature and scale the development which consists of a single house in a rural 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**

A Third Party planning appeal has been submitted by John McDonald of Templeraíney, Arklow Co. Wicklow, the owner and occupier of the existing dwelling to the north of the appeal site. A summary of the matters raised in the grounds of appeal are included as follows:

- The proposed site is at a higher level than the appellant's property and significant concerns are raised with respect to overlooking. The proposal is considered to be in contravention of the Wicklow County Council Single Rural Houses Design Guidelines.
- The proposal does not have regard to the principles of good siting, given the location of the dining and kitchen areas on the northern side of the dwelling. If they were located on the southern side of the dwelling, solar access to the dwelling would be improved and overlooking would be mitigated.
- There are various discrepancies on the submitted documentation with respect to site levels and there is no site section indicating cut/fill or finished floor levels in the context of the natural ground level. It is therefore not possible to comply with Condition 9 of the permission.

## **6.2. Planning Authority Response**

None.

## **6.3. First Party Response**

A response to the Third Party appeal has been prepared on behalf of the Applicant, a summary of the items raised are included as follows:

- The design of the dwelling accords with the relevant design standards set out under the County Development Plan and appropriate separation distances are provided from existing dwellings. Given the scale of the dwelling, the existing boundary vegetation and separation distances provided, no undue overlooking should arise.
- A site survey with all levels was submitted as part of the application. It is stated that the floor level of the proposed dwelling is +52.00 and the ridge level is +57.52.
- The access and alterations to the roadside boundary have been approved to the satisfaction of the Planning Authority.

## **6.4. Observations**

None.

## **6.5. Further Responses**

A further response from the Third Party appellant to the Applicant's response has been received which noted the following:

- The proposed dwelling is positioned c. 25m from their property and not 30m as stated in the applicant's agent's letter. It is stated that the submitted drawings are inaccurate and do not reflect the true position of the appellant's dwelling nor the current location of existing mature trees along this boundary.
- Continued concerns remain with respect to overlooking and loss of privacy as a result of the siting and layout of the dwelling.
- Given the location of the dining and kitchen areas on the northern side of the dwelling, they will not benefit from solar gain. Relocating these rooms to the southern side of the dwelling would improve solar access and overlooking would be mitigated.

- Concerns that the north-eastern corner of the dwelling will be elevated and will require infilling due to the existing site contours, an outcome which does not accord with the policy of the current CDP.
- Alternative sites are available to the Applicant and should be considered in order to avoid overlooking and excessive roadside ditch realignment. The proposed entrance is close to a corner and could be deemed a traffic hazard.

## **7.0 Assessment**

The main issues are those raised in the grounds of appeal and the Planning Report, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. On the basis of the foregoing, the items to be addressed within the assessment will be considered under the following headings:

- Compliance with Rural Housing Policy
- Residential Amenity
- Vehicular Access & Sightlines
- Waste Water Treatment
- Appropriate Assessment

### **7.1. Compliance with Rural Housing Policy**

- 7.1.1. Compliance with rural housing policy is a core consideration for any planning application for a one-off house in a rural area. As indicated earlier in this report, the site is located in a Level 10 settlement (i.e. The Rural Area) as defined in Chapter 3 the current CDP. This is the 'rural area' of County Wicklow and forms the 'open countryside' and includes all lands outside of the designated settlement boundaries. The policy of the current CDP notes that development within the rural area should be strictly limited to proposals where it is proven that there is a social or economic need to locate in the area. Policy Objective CPO 6.41 of the current CDP sets out a series of circumstances where residential development can be considered.
- 7.1.2. In support of the planning application, the cover letter noted that the Applicant grew up on the family farm located at Templerainey, they attended national school at St. Joseph's National School, Templerainey and they currently work from their residence

at the family home in Templeraíney (c. 400m to the south of the appeal site). The following documentation also accompanied the application:

- Birth certificate.
- Baptism certificate.
- School reports.
- Driver license.
- Insurance and bank statements.
- Tax and insurance information.
- Post office book.
- Land Registry map outlining lands and family dwelling.
- Revenue letter.
- Map view showing the Applicant's place of birth and residence.
- Sworn affidavit confirming that the Applicant has never owned a dwelling.

At additional information stage, the Applicant submitted payslips for the past 6 months and a letter from the Applicant's employer noting that the Applicant works from the family residence at Templeraíney. In addition, the Applicant submitted documentary evidence confirming the Applicant's involvement with the running of the family farm and that they are a shareholder of 'THS Corporate, the business entity for the agricultural activities at Templeraíney House'. The Planning Authority deemed the Applicant's response to be acceptable and a grant of planning permission was recommended subject to compliance with conditions.

7.1.3. I note that the County Development Plan has changed since the Planning Authority's determination on the application. In this regard, Policy Objective CPO 6.41 of the current CDP is relevant to the consideration of this appeal. The policy seeks to "Facilitate residential development in the open countryside for those with a housing need based on the core consideration of demonstrable functional social or economic need to live in the open countryside in accordance with the requirements set out in Table 6.3". As a sworn affidavit confirming that the Applicant has never owned a dwelling accompanied the planning application, I am satisfied that the Applicant has demonstrated a need for housing as per Table 6.3 of the current CDP. The Applicant has also submitted documentary evidence to substantiate the claim that they are a

permanent native resident of the rural area, where they now permanently reside. In terms of 'Social Need', I note that Table 6.3 of the current CDP contains an extensive list of persons who may be defined as being intrinsically linked to a rural area. On the basis of the information submitted on the planning file, I am generally satisfied that the Applicant can be considered for a one-off rural house, as per the specific policy requirements of the current CDP. However, whilst I acknowledge the Applicant's links to the local area, I do not consider that these alone are sufficient to require a house in a rural area under urban influence given, inter alia, regional and national policy support for the revitalisation of smaller towns, villages and rural settlements such as Arklow.

7.1.4. In terms of regional and national planning guidance, the site's identified location in a rural area is consistent with the Sustainable Rural Housing Guidelines for Planning Authorities, 2005, which similarly identifies the site and its wider rural setting. The Regional Spatial Economic Strategy – Eastern & Midland Region, 2019-2031 (RSES), acknowledges that for some rural areas, urban and commuter generated development has undesirably affected the character and cohesion of these locations. Under RPO 4.80, it is the policy for Local Authorities to 'manage growth in rural areas under strong urban influence by ensuring that in these areas, the provision of single houses in the open countryside is based on the core consideration of demonstratable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements'.

7.1.5. In relation to locations identified as being under strong urban influence, the National Planning Framework, NPO 19, requires developments like this to demonstrate a functional economic or social requirement for housing need in areas under urban influence, with this being stated as a necessity. Although it is evident that the Applicant has a strong desire for a rural dwelling at this location, this in itself does not override the public good necessity for such applications to meet local through to national planning provisions. These provisions seek to safeguard such rural locations from the proliferation of what is essentially a type of development that planning provisions seek to channel to appropriate serviced land within settlements where they can be more sustainably absorbed whilst safeguarding the rural environment from further diminishment of its character and predominant rural land use based function, i.e.

agriculture. As detailed in the documentation submitted, the Applicant confirms that they are currently employed with 'Alantra Corporate Portfolio Advisors International (Ireland) Limited' with an address at WeWork Charlemont Exchange, Dublin 2. Whilst it is indicated that the Applicant works from home, it is my view that the nature and location of the Applicant's employment establishes that the Applicant's need for a house at this location is not directly related to the rural locality in which it is located. Although confirmation of the Applicant's involvement in the family farm is provided at additional information stage, it is evident that this is not their full-time occupation.

7.1.6. In keeping with this, I note that National Policy Objective 3a of the National Planning Framework seeks to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements. In addition, NPO 33 seeks to prioritise the provision of new homes at locations that can support sustainable development as well as at an appropriate scale of provision relative to location. There are settlements within the wider area, including those with infrastructural services such as mains drainage and potable water through to other services as well as amenities, where there is capacity to absorb additional residential development in a sustainable manner rather than at this location. In considering this appeal, I have also had regard to the recently published Climate Action Plan 2023 (CAP23) which acknowledges that decades of focus on dispersal of residential settlements, commercial zones, and workplaces in peripheral areas, instead of concentrating on central areas and locations served by public transport, has led to an over-reliance on the private car.

7.1.7. As per Section 6.3.8 of the current CDP, Wicklow's rural areas are considered to be 'areas under urban influence' due to their location within the catchment of Dublin, Bray, Greystones, Wicklow-Rathnew and Arklow in addition to Gorey (Co. Wexford) and Naas (Co. Kildare). To permit the proposed development sought under this application would result in a haphazard and unsustainable form of development in an un-serviced area, it would contribute to the encroachment of random rural development in the area, it would militate against the preservation of the rural environment that is sensitive to change, and it would give rise to inefficient and unsustainable provision of public services and infrastructure at remote from settlement locations. For these reasons the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area. This is reason in itself for the development

sought under this application to be refused. Should the Board come to a different decision on this matter, I consider that an occupancy condition restricting occupancy of the house specifically to the Applicant should be attached to any grant of permission as set out in CPO 6.42 of the current CDP.

## **7.2. Residential Amenity**

- 7.2.1. The proposal seeks planning consent for the construction of a new single storey dwelling on the appeal site. The dwelling is proposed to be sited within the western portion of the site and is set back c. 30m from the roadside boundary. The proposed dwelling has a pitched roof form with a maximum height of c. 6m. Significant concerns are raised in the Third Party appeal with respect to the siting and design of the proposed dwelling given the potential for undue overlooking of the property to the north (i.e. property of appellant). The appellant has also highlighted that overlooking will be exacerbated due to the location of the kitchen and dining room on the northern side of the dwelling. Whilst I acknowledge the concerns of the appellant and I agree that solar access to the kitchen/dining room would be improved with an alternative internal layout, I note the dwelling is set back in excess of 25m from the northern site boundary. Given the overall scale of the proposed dwelling (i.e. single storey) and the separation distances provided, I am generally satisfied that the proposed dwelling will not unduly compromise the residential amenity of property to the north of the appeal site by reason of overlooking. The proposal is therefore generally considered to be acceptable having regard to the residential amenity of the surrounding area.
- 7.2.2. I refer to the discrepancies on the submitted drawings identified by the Third Party appellant with respect to the finished floor level of the dwelling. I note that there is conflicting information included on the sections and elevations (FFL of +185.00), when compared to the floor plans and site layout plan (FFL of +52.00). I also note that sections through the site, showing the proposed dwelling in the context of the existing road and the property to the north of the appeal site have not been submitted. I note Condition No. 9 included by the Planning Authority restricts the finished floor level of the house to be +52.00, unless otherwise agreed in writing with the Planning Authority. Although the condition allows this to be agreed with the Planning Authority prior to the commencement of development, I note there is a significant level difference between



the figures quoted on the application documents. Notwithstanding this, I note that a Site Layout Plan accompanied the Applicant's response to the Third Party appeal and included spot levels across the site and provides the ridge height of the property to the north of the appeal site. On this plan, an FFL of +52.00 has been indicated for the proposed dwelling. I am therefore satisfied that the proposal is generally acceptable and will not unduly diminish the residential amenity of the property of the north.

### **7.3. Vehicular Access & Sightlines**

- 7.3.1. In order to provide access to the appeal site, the proposal seeks to close up the existing agricultural entrance and provide a new recessed entrance to its immediate south. Whilst no elevations of the entrance have been provided, it would appear from the site layout plans that the entrance is to be gated and a new wall and piers shall be provided on either side of the entrance. In order to achieve 120m sightlines in each direction, the existing roadside boundary is proposed to be set back and reinstated. The existing roadside boundary comprises a mature hedgerow, and I note that there are 2 no. large trees located to the north of existing agricultural entrance. From the submitted documentation, including the sightline diagrams submitted at additional information stage (Drawing No. PP/03-04), it is unclear whether the proposal necessitates the removal of the existing hedgerow in its entirety. However, this would appear to be the case given the notations included on the submitted plans. CPO 17.23 of the current CDP seeks 'To require the retention, wherever possible, of hedgerows and other distinctive boundary treatment in the County. Where removal of a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, provision of the same type of boundary will be required of similar length and set back within the site in advance of the commencement of construction works on the site (unless otherwise agreed by the Planning Authority)'. Although not clearly stipulated on the submitted plans, the proposal may also necessitate the removal of a number of mature trees within this hedgerow to the north of the existing entrance. I note that the application was not accompanied by a detailed arboricultural assessment to determine the health or condition of these trees or confirmation as to whether their removal would be required. Although I acknowledge that the Applicant is proposing to set back and reinstate a hedgerow within the site, I have significant concerns with the extent of hedgerow removal in this instance, which would equate to a total c. 220m of the

existing roadside boundary. I am not satisfied on the basis of the information on file that it has been adequately demonstrated that this is unavoidable. The proposed development would adversely impact the rural amenity and character of the area and I therefore consider the proposal to be contrary to CPO 17.23 of the current CDP. This is particularly relevant given it is my view that the proposed development would be contrary to the Sustainable Rural Housing Guidelines for Planning Authorities (2005), RPO 4.80 of the RSES and NPO 19 of the NPF as outlined earlier within this report. In this regard, I recommend that the proposed development should be refused planning permission.

#### **7.4. Waste Water Treatment**

- 7.4.1. Planning permission is sought for the installation of a waste water treatment system (WWTS) and percolation area which is to be located within the eastern portion of the site, to the rear of the proposed dwelling. I note the Planning Authority has raised no objection to the Applicant's proposals for the disposal and treatment of wastewater on site subject to compliance with a condition. Assessment of the wastewater treatment element of a rural one-off house is a standard consideration. The site is in an area with a poor aquifer of moderate vulnerability. The Site Characterisation Form notes that groundwater was not encountered in the 2.1m deep trial hole. Bedrock was not encountered at a depth of 2.1m. The soil was top soil in the upper 300mm and loose shale within the remainder of the hole. Table E1 (Response Matrix for DWWTSSs) of the EPA Code of Practice Domestic Wastewater Treatment (Population Equivalent  $\leq$  10), 2021, identifies an R1 response category i.e. "Acceptable subject to normal good practice (i.e. system selection, construction, operation and maintenance in accordance with this CoP).
- 7.4.2. The T-test result was 15.28 and the P-test 13.92. I consider the results to be consistent with the ground conditions observed on site. Section 3.1 of the Site Characterisation Form states the ground condition was dry at the time of inspection. Though the trial hole and percolation test holes had been filled in, the site comprises an agricultural field with no indication of, for example, water ponding, outcrops etc. However, I note that a watercourse runs (Templeraing Stream) along the eastern site boundary which was not identified on the Site Characterisation form. Notwithstanding this, the

separation distances provided exceed those set out in Table 6.2 (i.e. minimum separation distance of 10m) of the Code of Practice. Section 4.0 (Conclusion of Site Characterisation) of the Site Characterisation form states that the site is suitable for development including a secondary treatment system and tertiary treatment system, all of which are discharging to ground water. Section 5.0 (Recommendation) of the Site Characterisation Form recommends that a tertiary treatment system and infiltration/treatment area be installed on site. However, I note that the Site Layout Plan and the cover letter prepared by the Applicant's consultant indicates that a secondary treatment system pump to a sand polishing filter of 20sq.m. is proposed.

- 7.4.3. Notwithstanding these discrepancies, I am generally satisfied that the Applicant's proposals for the disposal and treatment of wastewater are acceptable. Should the Board be minded to grant permission for the proposed development, I would recommend the inclusion of a condition which shall require the design and installation of the proposed WWTS to comply with the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent  $\leq 10$  (2021).

## **7.5. Appropriate Assessment**

- 7.5.1. I note the un-serviced nature of this rural location which means that the site does not benefit from access to public mains drainage or water supply. Nor does there appear to be access to a group water scheme in this area. I also acknowledge the prevalence of agricultural activities in the immediate vicinity of the appeal site.
- 7.5.2. Despite these factors, I am nonetheless of the opinion that taking into consideration the modest nature, extent and scope of the proposed development and based on best scientific information alongside having regard to the documentation on file which includes a Site Characterisation Report, 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**

I recommend that the planning application be refused for the following reasons and considerations.

## **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 and within an area that is designated as Level 10 (The Rural Area) settlement in the Wicklow County Development Plan, 2022-2028. Furthermore, the subject site is located in an area that is designated as an area 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 and having regard to the viability of smaller towns and rural settlements. Having regard to the documentation submitted with the planning application and appeal, the Board is not satisfied that the Applicant has a demonstrable economic or social need to live in this rural area, or that the housing need of the Applicant could not be met in a smaller town or rural 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. The proposed development would result in a haphazard and unsustainable form of development in an un-serviced area, it would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment that is sensitive to change. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. In order to provide adequate sightlines in each direction, the proposed development would appear to necessitate the removal and reinstatement of the existing roadside boundary which includes a mature hedgerow. The Board is not satisfied on the basis of the information on file, that it has been adequately demonstrated that the overall extent of hedgerow removal is unavoidable (i.e.

c. 240m of roadside boundary). In addition, it also unclear whether it would be necessary to remove the 2 no. existing mature trees located to the north of the entrance to facilitate the proposed sightlines. Given the overall extent of hedgerow removal, the proposed development would adversely impact the rural amenity and character of the area and the proposed development is therefore considered to be contrary to CPO 17.23 of the Wicklow County Development Plan, 2022-2028. In this regard, the proposed development would be contrary to the proper planning and sustainable development of the area.

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Enda Duignan  
Planning Inspector

07/02/2023