



An
Bord
Pleanála

Inspector's Report ABP-313796-22

Development	Construction of a new single storey dwelling, wastewater treatment system, bored well & all associated site works.
Location	Ballydowling, Glenealy, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	22337
Applicant(s)	Ciaran & Sandra Molumby
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party v. Decision
Appellant(s)	Ciaran & Sandra Molumby
Observer(s)	None.
Date of Site Inspection	14 th September, 2022
Inspector	Robert Speer

1.0 Site Location and Description

1.1. The proposed development site is located in the rural townland of Ballydowling, Co, Wicklow, approximately 3.0km west of the village of Glenealy and 4.8km northeast of Rathdrum, in an area characterised by the gradual transition between those lower lying lands to the southeast and the foothills of the Wicklow Mountains to the west / northwest, where the broader landscape is characterised by a patchwork of fields, wooded areas, and large tracts of forestry (with Trooperstown Hill to the northwest). It occupies a locally elevated hillside position to the rear of an area of existing forestry on lands that rise over the local road to the southwest. It has a stated site area of 0.365 hectares, is rectangular in shape, and comprises a vacant plot of land to the immediate northwest of the applicant's existing dwelling house (a conventional single-storey bungalow) that is bounded by a combination of post & wire fencing and planting.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a single-storey bungalow based on an 'L'-shaped floor plan with a stated floor area of 125m² and a ridge height of 5.54m. The overall design is conventional with an asymmetrical front elevation incorporating a front gable feature, vertically emphasised fenestration, and a shallow roof pitch. External finishes will include a napp plaster, selected granite window cills, and blue / black roof tiles.
- 2.2. Vehicular access will be obtained via a right of way over an existing private laneway that extends from its junction with the public road c. 100m to the northwest to serve the neighbouring dwelling house and adjacent lands.
- 2.3. It is also proposed to install a wastewater treatment plant which will discharge to a soil polishing filter while a water supply will be obtained from a new bored well on site.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 18th May, 2022 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 3 No. reasons:

- The proposed development would not represent a necessary dwelling in this landscape designated an Area of High Amenity, contrary to the provisions of Section 4.4 of the County Development Plan 2016-2022. These provisions are required to maintain scenic amenities, recreational utility, existing character, and to preserve views of special amenity value and special interest and to conserve the attractiveness of the county for the development of tourism and tourist related employment.

The Council's settlement strategy seeks to encourage further growth of existing settlements and to restrict rural housing development to cases where there is a bona fide necessity to live in the rural area instead of in existing settlements. It is considered that the applicant has failed to adequately demonstrate that they come within the scope of the housing need criteria as set out under Objective HD23 of the County Development Plan. Proliferation of non-essential housing in rural landscape areas erodes the landscape value of these areas and seriously detracts from views of special amenity value.

- Having regard to the location of the proposed development on an elevated site in a scenic high quality rural area designated as an area of high amenity in the Wicklow County Development Plan 2016, together with a reliance on screening of the site from mature trees that are outside the control of the applicant, it is considered that the applicants have failed to submit adequate evidence to show that the proposed development could be absorbed and integrated into the landscape and in the absence of same the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately and would significantly and unnecessarily alter the natural landscape contrary to Objective NH51 of the said Development Plan.

The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

- The proposed development would endanger public safety by reason of a traffic hazard because the applicant has failed to demonstrate that a safe entrance in terms of sightline distances can be provided at the entrance onto the public road to serve the development.

3.2. Planning Authority Reports

3.2.1. *Planning Reports:*

Details the site context, including the relevant policy considerations, and states that Objective HD23 of the Development Plan is applicable in this instance given the site location in a rural area. It proceeds to consider the submitted particulars as regards compliance with the rural housing eligibility criteria and notes that the applicants already own their existing dwelling on the adjacent site before concluding that they have failed to offer any meaningful justification for the construction of the proposed dwelling. In terms of visual impact, reference is made to the site location on elevated lands in a scenic and visually sensitive 'Area of High Amenity'. It is subsequently stated that while the site is presently well screened by an existing tree belt with the result that the visual impact of the proposed dwelling when viewed from the nearby roadway would be minimal, should the tree line be removed (noting that it is outside of the applicants' control) the proposed dwelling will be highly visible. It is further noted that the proposal would be visible from vantage points to the northwest by reason of its elevated location. Concerns are also raised as regards the failure to show the available sightlines at the entrance onto the public road. The report thus concludes by recommending that permission be refused for the reasons stated.

3.2.2. *Other Technical Reports:*

Environmental Health Officer: No objection, subject to conditions.

Wicklow Municipal District Engineer: States that notwithstanding the proposal to use an existing entrance arrangement off Local Road No. L2116, clarity is required as to the adequacy of the available sightlines. It is also stated that no surface water runoff should be permitted to discharge onto the public road and that the unbound material

at the site entrance should be replaced so as to avoid gravel & chippings etc. from being dragged onto the roadway.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

4.1. **On Site:**

None.

4.2. **On Adjacent Sites (to the immediate southeast):**

PA Ref. No. 977059. Was granted on 15th July, 1998 permitting Richard Crocker permission for a dwelling and septic tank at Ballydowling, Glenealy, Co. Wicklow.

PA Ref. No. 041419. Was granted on 31st August, 2005 permitting Richard Paul Crocker permission for the retention of a single storey dwelling, septic tank & well, as per planning register reference 97/7059 & removal of Condition No. 2. All at Ballydowling, Glenealy, Co. Wicklow.

5.0 **Policy and Context**

5.1. **National and Regional Policy**

5.1.1. The '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*' promote the development of appropriate rural housing for various categories of individual as a means of ensuring the sustainable development of rural areas and communities.

Notably, the proposed development site is located in an '*Area under Strong Urban Influence*' as indicatively identified by the Guidelines.

5.2. Development Plan

5.2.1. Wicklow County Development Plan, 2016-2022:

Chapter 3: Settlement Strategy:

Level 10: The Rural Area:

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

Chapter 4: Housing:

Section 4.3: Key Housing Principles:

Section 4.3.5: Rural Housing:

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

Section 4.4: Housing Objectives:

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

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

HD20: Urban generated housing shall not be permitted in the rural areas of the County, other than in rural settlements that have been deemed

suitable to absorb an element of urban generated development (see *objective HD19*).

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

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

1. A permanent native resident seeking to build a house for his / her own family and not as speculation. A permanent native resident shall be a person who has resided in a rural area in County Wicklow for at least 10 years in total (including permanent native residents of levels 8 and 9), or resided in the rural area for at least 10 years in total prior to the application for planning permission.
2. A son or daughter, or niece/nephew considered to merit the same position as a son/daughter within the law (i.e. when the uncle/aunt has no children of his/her own), of a permanent native resident of a rural area, who can demonstrate a definable social or economic need to live in the area in which the proposal relates and not as speculation.
3. A son or daughter, or niece/nephew considered to merit the same position as a son/daughter within the law (i.e. when the uncle/aunt has no children of his/her own), of a permanent native resident of a rural area, whose place of employment is outside of the immediate environs of the local rural area to which the application relates and who can demonstrate a definable social or economic need to live in the area to which the proposal relates and not as speculation.
4. Replacing a farm dwelling for the needs of a farming family, not as speculation. If suitable the old dwelling may be let for short term tourist letting and this shall be tied to the existing owner of the new farm dwelling where it is considered appropriate and subject to the proper planning and development of the area.

5. A person whose principal occupation is in agriculture and can demonstrate that the nature of the agricultural employment is sufficient to support full time or significant part time occupation.
6. An immediate family member (i.e. son or daughter) of a person described in 5, who is occupied in agriculture and can demonstrate that the nature of the agricultural employment is sufficient to support full time or significant part time occupation.
7. A person whose principal occupation is in a rural resource-based activity (i.e. agriculture, forestry, mariculture, agri-tourism etc.) can demonstrate a need to live in a rural area in order to carry out their occupation. The Planning Authority will strictly require any applicant to show that there is a particular aspect or characteristic of their employment that requires them to live in that rural area, as opposed to a local settlement.
8. A close relative who has inherited, either as a gift or on death, an agricultural holding or site for his/her own purposes and not for speculation and who can demonstrate a definable social and / or economic need to live in the area to which the proposal relates.
9. The son or daughter of a landowner who has inherited a site for the purpose of building a one-off rural house and where the land has been in family ownership as at 11th 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 11th October 2004.
14. A person whose business requires them to reside in the rural area and who can demonstrate the adequacy of the business proposals and the capacity of the business to support them full time.
15. Permanent native residents of the rural area who require a new purpose built specially adapted house due to a verified medical condition and who can show that their existing home cannot be adapted to meet their particular needs.
16. Persons who were permanent native residents of a rural area but due to the expansion of an adjacent town / village, the family home place is now located within the development boundary of the town / village.

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

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

HD24: Where permission is granted for a single rural house, the applicant will be required to lodge with the Land Registry a burden on the property,

in the form of a Section 47 agreement, restricting the use of the dwelling for a period of 7 years to the applicant, or to those persons who fulfil the criteria set out in Objective HD23 or to other such persons as the Planning Authority may agree to in writing.

Chapter 10: Heritage:

Section 10.3: Natural Heritage and Landscape:

Section 10.3.9: Wicklow's Landscape:

2. Area of High Amenity:

3(a) - The North East Mountain Lowlands:

Transitional lands located between the corridor zone and the 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.

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.

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.

Appendix 1: Development and Design Standards:

Section 11: Heritage: Natural Heritage: AONB and other sensitive landscapes:

Development proposals in Areas of Outstanding Natural Beauty and other sensitive landscapes shall require a Landscape Impact Assessment to assess the visual impact of the development (including any ancillary works) on the landscape and to outline mitigation measures to reduce the impact of the development. At the

discretion of the Planning Authority, smaller scale works that would be unlikely to impact on the landscape, such as dwelling extensions, will not be subject to this requirement.

Appendix 2: Wicklow County Council: Single Rural Houses: Design Guidelines for New Homes in Rural Wicklow

Appendix 5: Landscape Assessment:

Section 4.5: Wicklow's Landscape Areas:

Section 4.5.3: Area of High Amenity:

3(a) - The North East Mountain Lowlands

Transitional lands located between the corridor zone and the AONB, comprising of Trooperstown Hill, large tracts of forestry lands, including Devils Glen (a listed County Geological site) and a number of views and prospects in particular those surrounding the Vartry Reservoir.

Section 5: Policy Provision:

Section 5.3.1: General Development Considerations (GDC):

Section 5.3.11: North East Mountain Lowlands KDC:

1. To protect and facilitate the conservation of structures, sites and objects within the north east Mt. lowlands which are part of the County's cultural heritage, whether or not such structures, sites and objects are included on the Record of Protect Structures.
2. To encourage the preservation and enhancement of native species within and surrounding the Devil's Glen area and the Vale of Clara.
3. To support and facilitate the provision of amenity routes, in a manner which does not detract from the scenic nature of the area and ensure that new development is sited such that any impacts on the recreational amenity of any such route is minimised.
4. Through appropriate siting and design to ensure that developments along local/regional roads in particular those bordering the Mountain Uplands AONB will not be conspicuous or have a disproportionate or dominating visual impact

on the surrounding environment as seen from the local scenic routes and settlements.

The proposed development site is located within the 'North East Mountain Lowlands' Area of High Amenity landscape category as detailed in Figure 4.11: 'The Landscape Category Map' and Map 10.13(c) of the Landscape Assessment.

5.2.2. Wicklow County Development Plan, 2022-2028:

N.B. The Board is advised that the Wicklow County Development Plan, 2022-2028 was adopted by the elected members of Wicklow County Council at a special council meeting held on 12th September, 2022 and is due to come into full effect after a period of six weeks has elapsed on 23rd October, 2022 (unless a draft Ministerial direction is received in relation to any aspect of the Plan).

Chapter 4: Settlement Strategy

Section 4.2: County Wicklow Settlement Strategy:

Level 10: The rural area (open countryside):

The key development parameter in the rural area is to facilitate appropriate and necessary activities and development, but to protect the natural environment within which these activities are undertaken. Protecting the natural environment is essential for the maintenance and protection of ecological biodiversity and landscape quality, as well as meeting climate change and green infrastructure aspirations. In order to safeguard the future viability of rural activities and to ensure that the rural area flourishes, it is essential that the development of the rural area is managed in a sustainable manner into the future. It is necessary to support and protect the rural area and ensure the appropriate management of rural uses including rural housing, key rural services, agricultural activities, use of aggregate resources, green and alternative businesses, rural transport, rural tourism and rural entrepreneurship.

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

Chapter 6: Housing:

Section 6.3.8: Rural Housing:

Wicklow's countryside hosts a variety of uses including rural communities, attractive towns and villages, agriculture, forestry, tourism, renewable energy, rural enterprise and scenic landscapes. The Planning Authority will continue to carefully manage demand for housing in the countryside in order to protect natural resources, continue to cater for a variety of land uses, protect the environment and rural landscape, to avoid urban generated rural housing and ensure the needs of those with a bona fide necessity to live in the rural area are facilitated. It is also important that the scale of rural housing permitted does not undermine the role of small towns and villages and threaten their viability.

The NPF identifies the following national policy objective which the Development Plan must be consistent with:

- *National Policy Objective 19:*

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;
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

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). In rural areas under urban influence it is necessary to demonstrate a functional economic or social

requirement for housing need. This is also subject to siting and design considerations.

Rural areas are more sensitive to development and therefore require a quality design response to help assimilate development into the landscape. All new rural housing is required to apply the design principles set out in the Wicklow Rural Housing Design Guide which is included in the appendices.

CPO 6.41: 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.

Table 6.3 Rural Housing Policy:

Housing Need / Necessary Dwelling:

This 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.

Economic Need:

The Planning Authority recognises the rural housing need of persons whose livelihood is intrinsically linked to rural areas subject to it being demonstrated that a home in the open countryside is essential to the making of that livelihood and that livelihood could not be maintained while living in a nearby settlement.

In this regard, persons whose livelihood is intrinsically linked to rural areas may include:

a) Those involved in agriculture:

The Planning Authority will positively consider applications from those who are engaged in a significant agricultural enterprise and require a dwelling on the agricultural holding that they work. In such cases, it will be necessary for the applicant to satisfy the Planning Authority with supporting documents that due to the nature of the agricultural employment, a dwelling on the holding is essential for the ongoing successful operation and maintenance of the farm. In this regard, the Planning Authority will consider whether there is already a dwelling / dwellings on the farm holding when determining if a new dwelling can be justified.

b) Those involved in non-agricultural rural enterprise / employment:

The Planning Authority will support applications from those whose business / full time employment is intrinsically linked to the rural area that can demonstrate a need to live in the vicinity of their employment in order to carry out their full time 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.

Where an applicant's case for a new dwelling on the basis of economic need is based on establishing a new or alternative agricultural / non-agricultural rural enterprise and they have no previous experience in agriculture / rural enterprise, the Planning

Authority shall not consider the above requirements met until the applicant can show that the new agricultural / non-agricultural rural enterprise has been legally and continuously ongoing for at least 5 years prior to the making of the application for a dwelling, and is the applicant's primary occupation and source of income. Applicants whose proposed business is not location-dependent will not be considered.

- c) Other such persons as may have definable economic need to reside in the open countryside, as may arise on a case by case basis.

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.

In this regard, 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 on 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.

In the event of conflict of any other settlement strategy objective / Landscape Zones and categories, a person who qualifies under policy CPO 6.41 their needs shall be supreme, except where the proposed development would be a likely traffic hazard or public health hazard.

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

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.

Chapter 17: Natural Heritage and Biodiversity:

Section 17.3: Landscape:

3. Area of High Amenity:

3(a) - The North East Mountain Lowlands

Transitional lands located between the corridor zone and the 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.

Section 17.4: Natural Heritage & Biodiversity Objectives:

CPO 17.1: To protect, sustainably manage and enhance the natural heritage, biodiversity, geological heritage, landscape and environment of County Wicklow in recognition of its importance for nature conservation and biodiversity and as a non-renewable resource.

CPO 17.35: 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 the 2016 County Development Plan) and the 'Key Development Considerations' set out for each landscape area set out in Section 5 of the Wicklow Landscape Assessment.

The proposed development site is located within the '*North East Mountain Lowlands*' *Area of High Amenity* landscape category as detailed in Map 17.09A: '*Wicklow Landscape Category Map*' and Map 17.09C of the Plan.

Appendix 2: Single Rural Houses Design Guidelines

5.3. Natural Heritage Designations

5.3.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Glenealy Woods Proposed Natural Heritage Area (Site Code: 001756), approximately 140m southwest of the site.
- The Vale of Clara (Rathdrum Wood) Proposed Natural Heritage Area (Site Code: 000733), approximately 1.7km west of the site.
- The Vale of Clara (Rathdrum Wood) Special Area of Conservation (Site Code: 000733), approximately 1.7km west of the site.
- The Deputy's Pass Nature Reserve Special Area of Conservation (Site Code: 000717), approximately 2.3km southeast of the site.

5.4. EIA Screening

5.4.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- The applicants have resided in the area for almost 22 No. years and are immersed in rural life. Although they do not work in agriculture, they are engaged in other rural related areas, including Wicklow SPCA and animal rescue. They are also active in the local community such as helping to maintain the area by organising litter collections.
- The applicants have a defined social need to live in the area, however, their current home is now too large for their needs.

- The concept of downsizing or 'right-sizing' is supported by '*Housing for All – A New Housing Plan for Ireland*' and national policy is being developed to highlight the potential of right-sizing for households that no longer fully occupy their privately owned accommodation. The applicants' current residence (a four-bedroom dwelling of c. 250m²) is in excess of their needs and is becoming difficult to maintain as they approach retirement while the property itself is more suited to a larger family. Given the current housing crisis, it would seem prudent to permit the applicants to build a dwelling house in line with their current needs thereby allowing their existing home to be made available to a family.
- The applicants did not build their current home and have never previously sought permission to build a house for themselves.
- There are presently no suitable houses available in the area which could accommodate the applicants' downsizing needs.
- If rural communities are to thrive, housing must be allowed that will suit people at all stage of their lives within that community.
- The Planning Authority has overstated the impact of the proposed development on the landscape.
- The proposed dwelling will be situated along the same contour and adjacent to the applicants' existing dwelling house and will be no more elevated than that property. Once the proposed planting has been completed and matured, the proposed dwelling will be no more obtrusive than the existing house.
- The site layout plan details the existing and proposed planting that will provide significant screening to the development.
- Excavated soil will be used to form a mound to the front of the dwelling which will be planted with additional screening. This is an accepted method of screening and is recommended in Wicklow County Council's 'Design Guidelines for New Homes in Rural Wicklow'.
- The reliance on trees beyond the applicants' control can be mitigated through new tree planting on the lower parts of the application site. This will ensure that the applicants maintain control of the visual boundaries which will allow

the proposed dwelling to be assimilated into the landscape. It should also be noted that the existing roadside planting outside of the applicants' control comprises mature woodland which is unlikely to be removed any time in the near future thereby allowing significant time for the applicants' proposed planting to mature.

- The applicants are amenable to a condition requiring the submission of a planting / landscaping schedule to the Planning Authority, for written approval, prior to the commencement of development.
- The proposed development will be accessed via the existing entrance arrangement that has served the adjacent dwelling house for c. 30 years. This is a shared entrance which provides access to neighbouring dwellings, Carraig Dúlra Organic & Permaculture Farm, and a right of way to fields behind the applicants' site.
- The existing entrance arrangement has at all times provided for safe access without issue. Sightlines of approximately 70m and 90m are available to the north and south respectively. Bends in the road beyond these distances ensure that vehicles do not travel at excessive speeds in the area.
- It is considered that the use of an established shared entrance would not serve to endanger public safety by reason of traffic hazard.

6.2. Planning Authority Response

None.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- Procedural issues
- The principle of the proposed development / rural housing policy
- Overall design / visual impact
- Traffic implications
- Appropriate assessment

These are assessed as follows:

7.2. Procedural Issues:

7.2.1. This assessment has been undertaken in the context of the current Wicklow County Development Plan, 2016-2022, however, I would advise the Board that this Plan is due to be superseded by the Wicklow County Development Plan, 2022-2028 which was adopted by the elected members of Wicklow County Council at a special council meeting held on 12th September, 2022 and is due to come into full effect after a period of six weeks has elapsed on 23rd October, 2022 (unless a draft Ministerial direction is received in relation to any aspect of the Plan).

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

7.3.1. In terms of assessing the principle of the proposed development having regard to the applicable rural housing policy, it is of relevance in the first instance to note that the proposed development site is located in an '*Area under Strong Urban Influence*' as indicatively identified by the '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*' and that there is no further identification of rural area types at a county level contained in the Wicklow County Development Plan, 2016. The Guidelines also state that these areas will exhibit characteristics such as their proximity to the immediate environs or the close commuting catchments of large cities and towns (e.g. Wicklow Town) and will generally be under considerable pressure for the development of housing due to their proximity to these urban centres or the major transport corridors accessing same (e.g. the M11 / N11 corridor). Notably, within these '*areas under urban influence*', the National Planning

Framework ('Project Ireland 2040: Building Ireland's Future') states that it will be necessary for applicants to demonstrate *'a functional economic or social requirement for housing need'* (with National Policy Objective No. 19 stating that the provision of single housing in rural areas under urban influence is to be based on the core consideration of a demonstrable economic or social need to live in a rural area and the siting and design criteria for rural housing contained in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements) while the Guidelines further state that the housing requirements of persons with roots or links in rural areas are to be facilitated and that planning policies should be tailored to local circumstances.

- 7.3.2. While the Wicklow County Development Plan, 2016 does not provide any further detailed identification of rural area types at a county level, presumably because of the specific circumstances of the county given its proximity to Dublin City and the M11 Corridor, having conducted a site inspection, I am satisfied that the proposed development site could be construed as being within an *'Area under Strong Urban Influence'* given the site location relative to the urban centre of Wicklow, the Greater Dublin Area, and the M11 / N11 Corridor.
- 7.3.3. Section 4.3.5: *'Rural Housing'* of the County Development Plan emphasises the need to avoid urban-generated rural housing and to facilitate those who have a *'bona fide'* need to live in a rural area. In this respect I would refer the Board to Objective HD23 which states that residential development will only be considered in the open countryside when it is intended for use by persons with a *'definable social or economic need'* by reference to one of 16 No. qualifying criteria.
- 7.3.4. From a review of the available information, including the planning history of the application site, it is apparent that the applicants have resided in the existing dwelling house adjacent to the development site for approximately 17 No. years. In this regard, it would appear that they moved to the area from an undisclosed location having acquired their current home in 2005 when permission was granted to a third party under PA Ref. No. 041419 for the retention of the dwelling as constructed and the omission of a condition originally imposed under PA Ref. No. 977059.
- 7.3.5. The rationale for the subject proposal would seem to arise from a combination of factors but primarily derives from the applicants' assertion that their existing (four-

bedroom) dwelling house is now too large for their needs and has proven to be a financial drain on their resources. The case has thus been put forward that the applicants wish to sell their current home, which is considered to be more suited to family living, in order to 'down-size' through the construction of a more sustainable and energy efficient two-bedroom dwelling on the adjacent lands (thereby allowing them to remain in the area). In further support of the application, it has also been submitted that the applicants are actively engaged in local activities and have developed close ties to the local area & community.

7.3.6. In assessing the merits of the subject proposal and whether the applicants could be held to satisfy the relevant eligibility criteria in terms of having a definable economic or social housing need to reside at the location proposed, I would suggest that the fundamental issue in this instance is the matter of 'housing need'. In this respect, it is apparent that the applicants own their current place of residence and that the intention is to sell that property with a view to developing the proposed dwelling. In my opinion, it would be unsustainable to accept that the disposal of a property and the consequent generation of a 'housing need' could be held to amount to the establishment of an economic or social need to live in a rural area. Such a scenario would undermine key principles of the county settlement strategy and the '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*' (a key aspect of the latter being to facilitate persons who are an intrinsic part of the rural community and are building their 'first homes'). While I would acknowledge the desire of the applicants to 'downsize' to a smaller property, in my opinion, this does not amount to a housing need given the circumstances i.e. they are already resident in the area and retain ownership of their current dwelling.

7.3.7. A further consideration is the site location within the visually sensitive '*North East Mountain Lowlands Area of High Amenity*' and the potential for the construction of unnecessary housing etc. to add to the proliferation of development threatening to degrade the local landscape thereby eroding its rural character and scenic qualities contrary to the '*Sustainable Rural Housing, Guidelines for Planning Authorities*' (notwithstanding the provision in the Development Plan which states that the needs of a person who qualifies under Objective HD23 are to be held 'supreme' in the event of any conflict with a landscape conservation objective).

7.3.8. Having considered the foregoing, it is my opinion that the need for an additional dwelling house in this highly scenic and visually sensitive location, which is also within an ‘*area under strong urban influence*’, has not been adequately justified and thus the development would be contrary to Objective 19 of the NPF and the guidance set out in the Sustainable Rural Housing Guidelines. In this regard, I am not satisfied that the applicants’ circumstances warrant the provision of a new dwelling in this sensitive rural area in light of the fact that their ‘housing need’ arises from an intention to sell their current place of residence on immediately adjacent lands. Furthermore, the provision of an additional dwelling house within this visually sensitive ‘Area of High Amenity’ value, which has not been shown to derive from an essential rural housing need, would add to the proliferation of development and threaten to degrade the local landscape thereby eroding its rural character and scenic quality contrary to the ‘*Sustainable Rural Housing, Guidelines for Planning Authorities*’. I am also unconvinced that the applicants desire to ‘downsize’ could not be satisfactorily accommodated elsewhere such as within any of the designated settlements in the surrounding area having regard to the need to support the viability of smaller towns and settlements as per Objective 19 of the NPF. Additional concerns arise as regards the undesirable precedent which could be set for further housing in the area and the potential cumulative impacts arising.

7.4. **Overall Design / Visual Impact:**

7.4.1. In terms of assessing the visual impact of the proposed development, it is of relevance in the first instance to note that the subject site is located within the ‘*North East Mountain Lowlands Area of High Amenity*’ landscape category as detailed in Figure 4.11: ‘*The Landscape Category Map*’ and Map 10.13(c) of the Landscape Assessment contained in the Wicklow County Development Plan, 2016. This is considered to be a transitional landscape located between the ‘Eastern Corridor’ and the ‘Mountains Uplands Area of Outstanding Natural Beauty’ and is described as including Trooperstown Hill, large tracts of forestry lands, and a number of views and prospects listed for protection / preservation. Within this area it is the policy of the Planning Authority (as set out in Section 4.5.3: ‘*Area of High Amenity: The North East Mountain Lowlands*’ of the Landscape Assessment included at Appendix 5 of the Development Plan) to ensure through appropriate siting and design that new development along local / regional roads, with particular reference to those bordering

the Mountain Uplands AONB, will not be conspicuous or have a disproportionate or dominating visual impact on the surrounding environment as seen from the local scenic routes and settlements. In this regard, I would also draw the Board's attention to the provisions of Section 11: '*Heritage*' of Appendix 1: '*Development and Design Standards*' of the Development Plan wherein it is stated that development proposals in Areas of Outstanding Natural Beauty and '*other sensitive landscapes*' should be accompanied by a Landscape Impact Assessment in order to assess the visual impact of the development (including any ancillary works) on the landscape and to outline mitigation measures to reduce the impact of the development. At the discretion of the Planning Authority, smaller scale works that would be unlikely to impact on the landscape, such as dwelling extensions, will not be subject to this requirement.

(Although not expressly stated it would seem reasonable to categorise '*Areas of High Amenity*' as encompassing '*other sensitive landscapes*' given that only the '*Areas of Outstanding Natural Beauty*' would appear to have been allocated a higher sensitivity rating within the hierarchy of landscape classifications contained in the County Landscape Assessment included at Appendix 5 of the Development Plan).

- 7.4.2. In a local context, the proposed development site occupies an elevated hillside position on lands which rise steeply away from the public road on travelling north-eastwards. While the site is well screened from lower elevations due to the presence of a significant belt of trees along the roadside, with views from surrounding public roads also largely mitigated by the prevailing topography and intervening planting / vegetation, the intended positioning of the proposed dwelling house will enjoy views north-westwards over the wider landscape.
- 7.4.3. In relation to the actual siting and design of the proposed dwelling, regard should be had to the provisions of the '*Single Rural Houses: Design Guidelines for New Homes in Rural Wicklow*' set out in Appendix 2 of the County Development Plan. In this respect, I would have concerns at the outset as regards the appropriateness of siting a dwelling house in such an elevated hillside position within a visually sensitive '*Area of High Amenity*' notwithstanding the screening presently offered by nearby tree lines etc. Indeed, I would share the concerns of the Planning Authority that in order to mitigate the potential visual impact arising from the elevated positioning of the proposed dwelling, a considerable reliance is being placed on the maintenance /

retention of screening offered by existing tree planting etc. on lands outside of the applicants' control. In response to the foregoing, the dwelling house is proposed to be cut into the hillside with excavated soil to be used to construct a planted berm / mound to the front of the property to provide for additional screening. The design of the dwelling house itself is rather conventional and somewhat typical of single-storey bungalow construction being based on a two-room deep plan with an asymmetrical building footprint incorporating a projecting front gable feature, although its overall form is simple and uncomplicated.

- 7.4.4. Having considered the foregoing, whilst I would acknowledge that the visual impact of the proposed dwelling will be somewhat limited in a local context primarily because of the level of screening presently offered by the wooded lands to the south / southwest and other intervening features / vegetation, I am nevertheless cognisant of its elevated hillside position and the site location within the visually sensitive 'North East Mountain Lowlands Area of High Amenity'. In this regard, I would have reservations as regards the wider visual impact and the continued erosion of the rural character of the surrounding area attributable to the development of unwarranted additional piecemeal housing in the absence of a clear need for same. Accordingly, whilst the visual impact of the proposed development could be held to be somewhat limited, given the site context and the absence of a demonstrable justification for the proposed development at this location, it is my opinion that the proposal would further diminish the rural character and scenic quality of the area and would seriously injure the visual amenities of the area.

7.5. Traffic Implications:

- 7.5.1. Access to the proposed development will be obtained via a new entrance arrangement onto a right of way over a private laneway that extends from the public road to serve the applicants' existing dwelling house and adjacent farmland. The junction of this laneway with Local Road No. L2116 is shared with a further access serving the Carraig Dúlra Organic & Permaculture Farm and neighbouring agricultural land.
- 7.5.2. While I would acknowledge that the applicant has failed to show the sightlines available at the junction of the existing laneway with the public road, I am cognisant that this is a well-established shared access arrangement which would appear to

have previously been deemed acceptable from a traffic safety perspective by reference to the approval of PA Ref. Nos. 977059 & 041419. Moreover, having conducted a site inspection, I am satisfied that given the comparatively lightly trafficked nature of this rural roadway, and the likelihood of reduced traffic speeds due to its overall condition, width and alignment, adequate sightlines are available from the existing access and, therefore, the proposed development will not endanger public safety by reason of traffic hazard.

7.6. Appropriate Assessment:

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

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. Having regard to:

- The location of the site within a rural area under strong urban influence in accordance with the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government in April, 2005,
- National Policy Objective 19 of the National Planning Framework (February 2018) which for rural areas under urban influence seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstratable economic or social need to live in a

rural area, having regard to the viability of smaller towns and rural settlements,

- The provisions of Objective HD23 of the Wicklow County Development Plan, 2016-2022 which provides for consideration to be given to residential development in the open countryside only when it is for those with a definable social or economic need to live in the open countryside,
- The documentation on the file, including the applicants' links to the area and their current housing circumstances,

The Board had regard to the current housing circumstances of the applicants and the stated need for the applicants to be residing on site as described in the documentation and is not satisfied on the basis of the information on the file that the applicants come within the scope of either the economic or social housing need criteria as set out in the overarching National Guidelines.

The proposed development, in the absence of any demonstrable need for an additional house at this location, would result in a haphazard and unsustainable form of development in an unserved rural area, would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure, and would undermine the settlement strategy set out in the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the elevated hillside site location in a visually sensitive landscape which has been designated as an 'Area of High Amenity' in the current Wicklow County Development Plan, 2016-2022, and the absence of any demonstrable need for a further dwelling house at this location, it is considered that the proposed development would further diminish the rural character and scenic quality of the area 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.

Robert Speer

Planning Inspector

30th September, 2022