



An
Bord
Pleanála

Inspector's Report ABP-314437-22

Development	Construction of a House.
Location	Grange North, Blackditch, Newcastle, Co. Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	22/88
Applicant	Ben Doyle.
Type of Application	Permission.
Planning Authority Decision	Refusal of Permission.
Type of Appeal	First Party v Refusal of Permission
Appellant	Ben Boyle.
Observer(s)	None.
Date of Site Inspection	20/12/2022
Inspector	Enda Duignan

1.0 Site Location and Description

- 1.1.** The address of the appeal site is Grange North, Blackditch, Newcastle, Co. Wicklow, and is located c. 1.8km to the south-east of the existing settlement of Newcastle. The site is positioned on the northern side of a local road (L-5065-0), c. 400m to the east of the junction of the L-5065-0 and the R761. The existing local road continues in an easterly direction, where it serves a number of rural dwellings and agricultural landholdings and culminates at Five Mile Point Bay Beach.
- 1.2.** The appeal site comprises a portion of a larger agricultural field which is currently under grass. In terms of topography, the site is relatively flat and its roadside boundary comprises an embankment and a dense hedgerow. A hedgerow forms the western site boundary and there is an existing agricultural lane and agricultural buildings located further to the west. There are no formal northern or eastern boundaries. Lands within the surrounds of the appeal site are identified as being within the ownership of the Applicant's family. The appeal site has a stated area of c. 0.4ha.
- 1.3.** In terms of the site surrounds, there are a number of rural dwellings within the surrounds of the appeal site on either side of the L-5065-0. There are also a cluster of dwellings situated to the west at the junction of the L-5065-0 and the R761. 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 part single/part double storey dwelling on the subject site. The proposed dwelling has a stated floor area of c. 300sq.m. and will have contemporary architectural expression. The single and double storey elements of the dwelling are gable fronted and connected by a flat roof, single storey link.
- 2.2.** The dwelling will be sited within the north-western portion of the site and will be accessed via a new recessed vehicular entrance within the centre of its roadside boundary. A new connecting driveway will lead to a car parking area to the east of the dwelling. The dwelling will be served by a front garden and a large area of amenity space to its side (east). A new timber fence, back planted with native hedging will form

the new eastern and northern site boundaries. The proposal seeks to set back the existing hedge in order to provide sightlines in westerly and easterly direction from the proposed entrance.

- 2.3.** The proposed development also includes the installation of a wastewater treatment system and percolation area which is to be located to within the south-eastern portion of the site.

3.0 Planning Authority Decision

3.1. Decision

Wicklow County Council refused planning permission for the proposed development for the following 1 no. reason:

1. The proposed development would not represent a necessary dwelling in this Landscape designated Mountain and Lakeshore AONB, 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 is 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 demonstrate that he comes within the scope of the housing need criteria as set out under Objective HD23 of the County Development Plan. The 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.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Wicklow County Council Planning Report form the basis of the decision. The report provides a description of the site and surrounds and an outline of the proposed development. The report provides an overview of the policy that is applicable to the

development proposal and summaries the planning history of the site and surrounds that is relevant to the development proposal.

In terms of the assessment and the Applicant's qualification for a rural house, the Planning Authority indicate that the Applicant's primary income is derived from employment as a publican. It was therefore considered that the Applicant would not qualify for special consideration to build in this rural area under policy HD23 of the County Development Plan.

No issues were raised with respect to the design of the proposed dwelling. However, concerns were raised in terms of increased traffic movements on the local road, and it is stated that any new development should be reserved for those who are local to this particular area.

A refusal of permission was recommended for 1 no. reason. A supplementary note was attached to the Planning Report which highlights that there are more fundamental issues with the proposal in respect of Objective HD23. The note makes reference to the Applicant's family's planning history and non-compliance with the relevant occupancy conditions.

3.2.2. Other Technical Reports

EHO: Report received recommending further information.

3.2.3. Prescribed Bodies

None

3.2.4. Third Party Observations

One (1) no. representation was received on the Planning File by Cllr. Shay Cullen.

4.0 Planning History

4.1. Appeal Site

21/727: Planning application withdrawn for the provision of new 300sq.m. two-storey detached dwelling and effluent treatment system, the Construction of new vehicular

entrance to serve the proposed dwelling and all necessary ancillary & site works to facilitate this development.

20/871: Planning application refused by the Planning Authority for the provision of new 300sq.m. two-storey detached dwelling and effluent treatment system, the Construction of new vehicular entrance to serve the proposed dwelling and all necessary ancillary & site works to facilitate this development. The application was refused for the following 1 no. reason:

1. The proposed development would not represent a necessary dwelling in this Landscape designated Mountain and Lakeshore AONB, 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 is 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 demonstrate that he comes within the scope of the housing need criteria as set out under Objective HD23 of the County Development Plan. The 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.

4.2. Relevant History

04/1561: Planning application granted by the Planning Authority for the construction of a house, septic tank and ancillary works. The permission was granted to the Applicant's sister and is currently occupied by the Applicant and their parents. The dwelling is constructed and is located c. 180m to the west of the appeal site on the southern side of the L-5065-0.

5.0 Policy and Context

5.1. Local Policy

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

Under the Wicklow Dublin County Development Plan (CDP), 2022-2028, 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.

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 ‘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.

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 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 the Northern

Coastline of the 'Coastal Areas Area of Outstanding Natural Beauty (AONB)'. The Northern Coastline comprises of lands north of Wicklow Town-Rathnew extending to south of Greystones. The northern coastline provides intermittent views of the sea from the coast road with this area being somewhat more developed than the southern coastline. This landscape category includes a number of key environmental features such as the Murrough SAC/SPA, a designated European site and Natural Heritage Area (NHA). While this section of the Wicklow coastline is not as heavily utilised from a tourist perspective compared to the southern coastline it does act as a significant recreational resource to the local residential population, the use of which must be managed in an appropriate manner. Relevant policies of the plan include:

- **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 17.2** Ensure the protection of ecosystems and ecosystem services by integrating full consideration of these into all decision making.

Relevant Appendices

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

5.2. National Policy

5.2.1. Climate Action Plan 2023 (CAP23)

5.2.2. 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.

5.2.3. 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.

5.2.4. 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.

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

5.2.6. EPA Wastewater Treatment and Disposal Systems Serving Single Houses, Population Equivalent ≤ 10 (2009).

5.3. Natural Heritage Designations

There are no European designated sites within the immediate vicinity of the site. The nearest designated sites are The Murrough Special Protection Area (SPA) (Site Code: 004186) and The Murrough Wetlands Special Area of Conservation (SAC) (Site Code: 002249), c. 300m to the east of the appeal 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 First Party planning appeal has been prepared and submitted on behalf of the Applicant. The grounds of appeal can be summarised as follows:

- The Planning Authority's reference to the site being located in a landscape designated Mountain and Lakeshore AONB is factually incorrect. It is stated that the site is in fact located within the Coastal Area AONB (Hierarchy 2). Therefore, this should not be relied upon as part of the refusal reason.
- It is contended that location of the proposed development within the Northern Coastline of the Coastal Area AONB should not pose any risk to the landscape value of this area, given the limited nature of the proposed structure and its ability to blend within other similar family properties along this local road. In addition, there is no scenic views or protected views that would be impacted upon by the proposed development, nor would it have a negative impact on the development of the tourism product of the County.
- In terms of the reason for refusal, it is stated that it does not spell out or clarify why or how the Applicant does not comply with Policy Objective HD23 of the County Development Plan. The following points are highlighted which demonstrates the Applicant's qualification for a rural dwelling:
 - o The Applicant has lived in the rural area for in excess of 10 years and the proposed dwelling will be a first-time residence for the recently

married couple.

- The Applicant has resided in the rural area in proximity to the proposed site and is also the son of a landowner of farmlands within which the site is located. It is stated that his father is a rural dweller and landowner. The applicant currently owns 25% of the family farm and works part time on the farm with his father at weekends. His father is of retirement age and has a challenging health condition and accordingly, the Applicant is in the process of entering a partnership with his father for the farm with the ultimate aim of taking over on a full-time basis.
- The Applicant will move from part-time farming to a full-time farming role on the lands and he will be living on the lands with his family in their first family home.
- It is stated that the proposed dwelling would not cause any traffic hazard or public health hazard.
- The location of the proposed dwelling would not have an impact or negative effect on the protection or conservation of views and prospects and the proposed dwelling will be a first-time new family home and would be similar to the other homes located along this local road.
- Included as an appendix, the Applicant has submitted a letter from his solicitor which sets out the process he is going through to facilitate the partnership with his father and ultimately to transfer it into his full ownership.

6.2. Planning Authority Response

None.

6.3. Observations

None.

6.4. Further Responses

None.

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
- Design and Landscape Character
- Vehicular Access & Sightlines
- Wastewater 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 following documentation was submitted by the Applicant:

- A cover letter outlining that the applicant was raised in Delgany and moved to Blackditch with his parents in 2007 following the compulsory purchase of the family lands. It is stated that the planning permission for his current family home was obtained by his sister. However, it is confirmed that she never resided in the property. The letter outlines the Applicant's involvement in the family farm and his intention to take over the landholding and work full-time in this area.
- Baptism certificate, confirming that the Applicant was born in Drummin East Delgany, located circa 8km to the north-west of the site.
- School reports.

- Documentation confirming current address.
- Letter confirming that the Applicant is in receipt of farm income which he declares as part of his annual self-assessment income tax return.
- Invoices from years 2014-2021 inclusive.
- Documentation from Department of Agriculture, Food and the Marine dated 2014.
- Revenue documentation dated 2017.
- Certificates in farm administration and agriculture.
- Letter from GP regarding health status of the Applicant's father
- Proof of address and farming background of the Applicant's father.
- Documentation regarding the family landholding.
- Map view showing the family home (since c. 2007), current residence and lands in family ownership & dwellings on these lands.
- Details with respect to the Applicant's sister, including:
 - o Confirmation of address.
 - o Confirmation she never resided in the dwelling granted to her in 2004 (PRR04/1561).
 - o Solicitors letter confirming that they have been instructed to lodge an assent with the land registry so that the undertaking required under Condition 2(a) will be registered as a burden on Mr. Doyle's property in accordance with the requirements of PRR04/1561.

Within their assessment of the application, the Planning Authority was not satisfied that the Applicant had a definable social or economic need for a new dwelling in this rural area as he was not born or raised in the rural area but moved to the area as an adult in 2007. In addition, the Planning Authority noted that the Applicant is both a publican and engaged in farming on family lands and his employment is not substantially rural based insofar as it does not require him to reside in the rural area. The Planning Authority's assessment also refers to the Applicant's current family home which was completed and occupied by the Applicant's parents. However, it is stated that this dwelling was granted on the basis of it being a necessary dwelling for the Applicant's sister.

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'. Although a sworn affidavit confirming that the Applicant has never owned a dwelling has not accompanied the planning application, the Planning Authority refer to the sworn affidavit submitted under Ref. 20/871. A point which is also confirmed in the Applicant's supporting cover letter. I am therefore satisfied that the Applicant has demonstrated a need for housing as per Table 6.3 of the current CDP.

- 7.1.4. The appeal submission has placed a significant emphasis on the Applicant's role as a part time farmer. It is stated that he currently owns 25% of the family farm and it is his intention to ultimately take over the family farm which is confirmed in the supporting documentation. In terms of 'economic need', Table 6.3 of the current CDP notes that for '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. From a review of the planning history of the wider area, it would appear that the Applicant was previously refused planning permission for the construction of a dwelling on a site located adjacent to the settlement of Newcastle under Ref. 18/54 (ABP-302287-18). Within the Planning Inspector's report, it was confirmed that the Applicant (Ben Doyle) was a business owner of the Castle Inn in Newcastle. It is unclear from the current application documents whether he remains a business owner, but the Planning Authority note in their assessment that the Applicant currently works as a publican. Although I accept that it may be the Applicant's intention to take over the family farm, I am not satisfied on the basis of the information on file that it has been demonstrated this will serve as his full-time occupation. In addition, there is insufficient evidence to demonstrate that a dwelling on the landholding is essential for the ongoing successful operation and maintenance of the farm. I am therefore not satisfied that the

Applicant has a demonstrable economic need for a dwelling at this specific location, which could not be more readily absorbed on suitably zoned land within a nearby settlement.

7.1.5. 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. The CDP defines a permanent native resident as a person who was born and reared in the same rural area as the proposed development site and permanently resides there. As detailed earlier in this report, the Applicant moved to the area in c. 2007 and therefore cannot be defined as a permanent native resident. However, Table 6.3 does allow consideration of '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. Notwithstanding this, I have had regard to the commentary of the Planning Authority in the supplementary Planner's Report on the planning file. This confirms that planning permission was previously granted (under Ref. 04/1561) to the Applicant's sister for a rural dwelling located to the west of the appeal site. However, it is confirmed in the application documents that the dwelling was not occupied by the Applicant's sister, in accordance with Condition No. 2 of said permission. The Planning Authority formed the opinion that to allow a further family dwelling in the absence of the regularisation of the dwelling permitted by Ref. 04/1561, which could be utilised by the Applicant, would undermine the Settlement Strategy of the County Development Plan, and of previous plans, and would set a precedent for similar development/non-compliance. Although the Applicant has confirmed that they have resided within this local area for a period in excess of 10 years, I would agree with the Planning Authority that the Applicant's ties to this particular area are linked to the fact that they have resided in a dwelling with their parents that was granted specifically to his sister. Therefore, it is evident from the documentation on file that there are planning enforcement related issues with respect to that permission (i.e. Ref. 04/1561) that remain unresolved. For this reason, I am not satisfied that a social need has been adequately demonstrated as per the requirements of Table 6.3 of the current CDP and I have concerns that the proposal may establish an undesirable precedent for similar development in the future.

- 7.1.6. 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'.
- 7.1.7. 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. 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.

- 7.1.8. 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. 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. Should the Board come to a different decision on this matter, I recommend the inclusion of an occupancy condition restricting occupancy of the house specifically to the Applicant as set out in CPO 6.42 of the current CDP.

7.2. Design & Landscape Character

- 7.2.1. The proposal seeks planning consent for the construction of a part single/part double storey dwelling on the appeal site. The dwelling is proposed to be sited within the north-western portion of the site and is set back c. 25m from the roadside boundary. The proposed dwelling has a gable fronted pitched roof form within a single storey link connecting the single and double storey elements. The proposed dwelling will have a maximum height of c. 8.5m and materials and finishes will comprise a combination of render and stone for the principal elevations with a slate and metal clad roof. Within their assessment of the Planning Application, the Planning Authority raised no concerns with respect to the visual impact or design of the dwelling and it was considered that its design would substantially accord with the standards set out in the Design Guidelines for New Homes in Rural Wicklow and the proposal would not have a significant impact upon the visual amenities or the character of the rural area. Notwithstanding this, the refusal reason refers to the location of the dwelling within a

Landscape designated Mountain and Lakeshore AONB and notes that the proposal is contrary to the provisions of the Plan (Section 4.4 of the Wicklow County Development Plan, 2016-2022) which 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.

- 7.2.2. I would concur with the Appellant's contention that the site is in fact located with a Coastal Area AONB (Hierarchy 2) as per Map No. 17.09A of the current CDP. I am generally satisfied that the dwelling is designed to a good standard and has been sited with the least prominent area of the existing agricultural field, proximate to existing agricultural buildings. I am therefore generally satisfied that the proposal would not adversely impact or detract from the visual amenities of this designated landscape character area. Notwithstanding this, I would concur with the Planning Authority insofar as the proposed development does not represent a necessary dwelling at this location as outlined in Section 7.1 of this report and the proposal would therefore contribute to the encroachment of random rural development in the area and it would militate against the preservation of the rural environment that is sensitive to change. For this reason, I recommend that planning permission be refused for the development proposal.

7.3. Vehicular Access & Sightlines

- 7.3.1. In order to provide access to the appeal site, the proposal seeks to provide a new recessed entrance within the centre of the site's roadside boundary. 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 60m sightlines in each direction, the existing roadside boundary is proposed to be removed and a new set back hedge will be from the roadside boundary of the site. The proposal would necessitate the removal of c. 65m of hedgerow and it would appear that some hedgerow to the immediate east and west of the site would also need to be removed to facilitate the proposed sightlines. I note that these lands are identified as being within the ownership of the Applicant's family. 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)'. Overall, I am generally satisfied that the extent of hedgerow removal is acceptable in this instance. I note that the Planning Authority have raised concerns with respect to increased traffic movements on the local road, and it is stated that any new development should be reserved for those who are local to this particular area. Whilst I do not share the Planning Authority's concerns with respect to the increase in traffic movements associated with 1 no. additional dwelling, I again note the principle of a new dwelling at this location for the reasons outlined in Section 7.1 of this report would be contrary the relevant policies of the current CDP. For this reason, I have recommended that the proposed development should be refused planning permission.

7.4. Wastewater Treatment

- 7.4.1. Planning permission is sought for the installation of a wastewater treatment system (WWTS) and percolation area which is to be located within the south-eastern portion of the site, to the front of the proposed dwelling. I note that 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 locally important aquifer of high vulnerability. The Site Characterisation Form notes that groundwater was not encountered in the 1.8m deep trial hole. Bedrock was also not encountered at a depth of 1.8m. The soil was top soil in the upper 300mm with sandy gravel silt within the remainder of the hole. I note that the Site Characterisation Form identifies a Groundwater Response of R2¹. The application documents confirm that the proposed wastewater treatment system is designed in accordance with the EPA 2009 Regulations.
- 7.4.2. The T-test result was 9.81. I consider the results to be generally consistent with the ground conditions observed on site. Section 3.1 of the Site Characterisation Form states the ground condition was firm at the time of inspection. The site comprises an

agricultural field with no indication of, for example, outcrops, rushes etc. 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. Step 4 of the Site Characterisation Form indicates that the site is deemed suitable once developed as proposed. Having regard to the information on file and having inspected the appeal site, 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 Wastewater Treatment and Disposal Systems Serving Single Houses, Population Equivalent ≤ 10 (2009).

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, including the 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. It is considered that the 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 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. In this regard, the Applicant does not come within the scope of the housing need criteria as set out under Objective CPO 6.41 of the Wicklow County Development Plan, 2020-2028. The proposed development would, therefore, result in a haphazard and unsustainable form of development in a rural 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. For this reason, the proposed development would be contrary to the proper planning and sustainable development of the area.

Enda Duignan
Planning Inspector

21/02/2023