



An
Bord
Pleanála

Inspector's Report
ABP-314807-22

Development	Replacement of Existing House & Installation of a New On-Site Wastewater Treatment System & all assoc. Site Works
Location	Courtown Demesne, Courtown, Gorey, Co. Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20220970
Applicant	Laurence & Anne Leavy
Type of Application	Planning Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellants	Laurence & Anne Leavy
Observer(s)	None
Date of Site Inspection	26/07/2023
Inspector	L.W. Howard

1.0 Site Location and Description

- 1.1. The application site is located within a rural area, on the northern fringe of Courtown, Co. Wexford.
- 1.2. Currently on site, there is a modest sized singly storey timber dwelling (stated as 157m²), with rear extensions to a render finish, all positioned to the rear of the site.
- 1.3. Topographically, the generally rectangular shaped site is elevated in its local rural environs, with what may be regarded as the crown situated on the rear portion of the site, and with the slope dropping off gently from rear (north) to front (south) fronting onto the local road running west to east along the site frontage. The slope drops off more steeply from the 'crown', offsite to the north and to the east. The existing dwelling is located on the 'crown, set back from the sites road frontage.
- 1.4. At the time of inspection the single, single storey residential dwelling appeared in a state of disrepair, and had clearly not been occupied for some time. Similarly, the garden was overgrown and had not been maintained.
- 1.5. The site is well screened particularly along its southern frontage onto the local public road (thick, mature hedgerow and tree planting), and along its longer western lateral boundary (large mature trees particularly). Whilst some planting exists along the eastern lateral boundary, and less so along the sites northern (rear) boundary, the site and the dwellinghouse are more exposed from this aspect.
- 1.6. Land use locally appeared consistent with the rural context, with open, well grassed fields surrounding the application site. No active grazing was apparent. Whilst the existing single dwelling is the only one to the north of the local road, several (c.5no. dwellings) are located across the road to the south and southeast of the site.
- 1.7. A single gated entrance exists along the sites southern boundary road frontage. The local gravel road along the site frontage is straight, level and in good condition. Sightline visibility from the existing entrance to each of the western and eastern approaches, is restricted by the thick, mature hedgerow and tree planting along the road frontage'.

(see Location maps, Satellite imagery and photographs taken at the time of physical inspection, all attached with the inspectors report).

2.0 Proposed Development

2.1. Permission is being sought for development advertised as follows :

“THE DEVELOPMENT WILL CONSIST OF

Planning permission for the replacement of an existing dwellinghouse and for the installation of a new on-site wastewater treatment system and all associated Site Works.”

(see copy of Site Notice date stamped received by the Planning Authority on the 15th July 2022, on file).

2.2. Notable accompanying documents, include :

- ‘Hydrogeological Report for Proposed Wastewater Treatment System Serving Dwelling House’ – prepared by O’Leary Consulting Engineers & Chartered Environmental Consultants (c/o Terry O’Leary).
- ‘Site Characterisation Form’, including site specific report (testing methodology, site test results, and recommended ‘Tertiary treatment System & Infiltration / Treatment Area’, and discharge to Groundwater – prepared by O’Leary Consulting Engineers & Chartered Environmental Consultants (c/o Terry O’Leary).
- Proposed Upgrade of Existing Sewage Facilities (having regard to above ‘Site Characterisation Form’ Report) – prepared by ‘Bio-Crete’ (c/o Deidre Delaney, dated 27th June 2022).
- Associated Site Layout Map, Plans and Drawings – prepared by O’Leary Consulting Engineers, Registered Building Surveyors & Town Planners

3.0 Planning Authority Decision

3.1. Decision

Decision to ‘Refuse’ planning permission (see Order No.P.1204/22, dated 07th September 2022), for 3no. stated ‘Refusal Reasons’ as follows –

“No.1 Section 18.12.2 of the County Development Plan 2013-2019 (as extended), refers to the minimum required site size relative to the floor area of dwellings.

The proposed 288m² replacement dwelling is considered excessive in size given the limited site size area of 0.11ha, and is therefore considered contrary to the minimum site size requirements as set out under Section 18.2.2 of the Wexford County Development Plan 2013-2019 (as extended), and would be contrary to the proper planning and sustainable development of the area”.

“No.2 Inadequate information has been provided with regards to the proposed public water supply which would appear not to be available in this location. In the absence of this information the proposed development would be considered prejudicial to public health, and contrary to the proper planning and sustainable development of the area”.

“No.3 Inadequate information has been provided with regards to the location of private well water supplies within 150m of the proposed effluent system and also with regards to the of the proposed sand polishing filter. In the absence of this information the proposed development would be considered prejudicial to public health, and contrary to the proper planning and sustainable development of the area”.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The key planning issues as reflected in Planning Officers report dated 01st September 2022 considered as follows :

Proposed development

- “Permission is sought for the replacement of the existing chalet measuring 157m² with a total proposed new dwelling area of 288.92m²”.

Wexford County Development Plan 2013-2029

- Noted exclusive reference to the provisions of the Wexford Co. Dev. Plan 2013-2029, in the assessment of the proposed development.

(**Note** : However, the relevant statutory County Development Plan at this time was the Wexford Co. Dev. Plan 2022-2029. Stated as “... made by the Members of Wexford Co. Co. on Monday, 13th June 2022”).

- Specific reference to the following provisions in the Planning Officers assessment report.

Sect.4.3.4.1 Replacement of Dwellings & Refurbishment of Dwellings

Sect.12.6 Managing Flood Risk

Sect. 13.5 Coastal Zone

Sect. 14.4.2 Landscape Character Assessment

Sect. 17.7 Rural Design Guide

Sect. 18.12 Rural Housing

Sect. 18.8 Accessibility

Sect. 18.32 On-site Wastewater Treatment Facilities

Objective RH11 To facilitate⁴ the replacement of dwellings where it has been demonstrated that a dwelling cannot be retained having regard to sustainability or structural condition or where the dwelling concerned is not worthy of retention subject to the criteria outlined in Table No.13, normal planning and environmental criteria and the Development Management Standards laid down in Chapter 18.

Objective CZM11 To encourage proposals to reinstate, conserve and or replace existing or disused dwellings for permanent or second home residential use subject to compliance with the Rural Housing objectives in the Sustainable Rural Housing Strategy in Chapter 4 and subject to compliance with normal planning and environmental criteria and the Development Management Standards contained in Chapter 18.

Table No.13 “Replacement of Dwellings & Refurbishment of Non-Habitable Dwellings”.

Replacement of Habitable Dwellings

Favourably Considered In all 'Rural Area Types', replacement on the same site with –

a dwelling of the same size; or

a dwelling of such larger size as would be reasonably considered as an extension of the original dwellinghouse.

- Criteria
- The dwelling shall generally be on the same footprint as the existing dwelling or such other footprint as would have lesser associated impacts.
 - Applicant is advised to consult with the Planning Authority in advance of the submission of a planning application.
 - The development shall be subject to the Development Management Standards in Chapter 18.
 - Occupancy and Permanent Residence Conditions will not be attached to these permissions.
 - Applicant will be required to demonstrate that the dwelling has been recently (last 5-years) inhabited or that the use has not been abandoned (eg. utility bills)

Table No.38 'Site Size' / 'Dwelling Floor Area' Ratios

<u>Dwelling Floor Area</u>	<u>Site Size (Acres / Hectares)</u>
< 200m ²	0.5 – 0.2
200m ² - 300m ²	0.75 – 0.3
> 300m ²	1.0 – 0.4

Replacement Dwelling Policy

- Reference provisions of Ch.4.-Sustainable Rural Housing Strategy, Ch.18.12- Rural Housing, Table 13 – 'Replacement of Dwellings & Refurbishment of Non-Habitable Dwellings', & Table 38 – 'Site Size / Dwelling Floor Area', all of the Wexford County Development Plan 2013-2019.
- As per the above provisions, "the replacement dwelling is proposed on a similar footprint as the existing dwelling".

- “The existing dwelling is 157m² stated and the proposed is consistent with a minor extension”.
- “Occupancy and permanent residency Conditions do not apply”.
- “The policy also requires that the applicant will be required to demonstrate that the dwelling has been recently (last 5-years) inhabited or that the use has not been abandoned (eg. utility bills). This has not been included in this application but was sought under previous application Plan **Ref.20190476** as further information”.

Section '18.12.2 – Siting & Design of One-Off Rural Dwellings' (Wexford Co. Dev. Plan 2013-2019)

- “Proposed Dormer 288m² dwelling and ridge height of 6.4m”.
- Under Section 18.12.2, “the following minimum site size applies of 0.3ha”.
- “The proposed development does not comply with this Standard”.

Table 38 – ‘Site Size / Dwelling Floor Area’ (Wexford Co. Dev. Plan 2013-2019)

- Table 38 sets out that for proposed dwellings between 200m² to 300m², a site size of 0.3ha is required (see copy of Table 38 attached, as well as copy contained within the Planning Officers report).
- Application site is stated as 0.11ha. The proposed “288m² dwelling requires 0.3ha which is not achieved”.
- “The proposed dwelling is not in compliance with minimum site sizes and floor areas for dwellings”.

External Materials

- “Render and slate roof with some stone cladding to features”.

Landscaping

- “Existing site boundaries remain unchanged”.

Drainage

- “SUDS Soakaways shown on site layout”.

Visual Impact & Landscapes

- Location within “Coastal”.

Access

- “County Road. Existing Access”.

Water Supply

- “Public water mains indicated however there is no public mains water supply in the area”.

Effluent Treatment

- “On site private effluent treatment with discharge to ground”.

Flood Risk Assessment

- ‘OPW Flood Map Category C’.

Access for All

- No ‘Disability Access Certificate’ required.

Conclusion

- The proposed development “advertised as a replacement dwelling in public notices and site notice”. Accordingly, planning assessment “as advertised a replacement dwelling”.

Note that “the cover letter in the application refers to extensions which is misleading”.

The proposed dwelling is 288m² “which is in excess of the minimum floor area and site area requirements as set out under Section 18.12.2 of the County Development Plan 2013-2019 (as extended)”.

- “Inadequate information has been provided with regards to the proposed effluent treatment system and locations of nearby wells, and I note the recommendation for Further Information from ‘Environment Section’”.
- “I note the indication of a public water supply however it is noted there is no public water supply in this area and the water supply would appear to be a shared well”.

- “The content of the Objection is also noted in this assessment and the previous Planning History Plan Ref:20190476 which was refused for public health reasons”.

Recommendation

“**REFUSE** permission for the above proposed development based on the reasons and considerations set out below.”

3.2.2. Other Technical Reports

Roads Department

“Recommend Grant with Conditions” (see report dated 10th August 2022)

The suite of Conditions recommended include – establishing and maintaining satisfactory sightlines, satisfactory on-site and road-side surface / stormwater drainage and management, amongst others.

Environment Section

The comments and recommendation of the ‘Senior Executive Scientist (Environment)’ are set out in the report dated 18th August 2022 (copy enclosed with appeal documentation). The report –

- references the applicants previous application for similar development of the 0.11ha site, refused under **Reg.Ref.20190476**, for 2no. ‘Refusal Reasons’ relating to –
 1. no demonstrated ‘minimal separation distance of 60m required from a public water supply ... and a Percolation Area or Polishing Filter’ , and
 2. non-compliance with the F.I. request to prepare a comprehensive hydrogeological report, notwithstanding the separation distance increase to 57m from the public well supply to the proposed sand polishing filter enabling. Such report to enable Council “to be satisfied that the proposed

development will have no impact with regard to public health on the existing Water Supply Abstraction Well”.

- sets out concern relating to the current proposed development as follows –
 - “Depth of Trial Hole = 2.2m with water table at 1.5m below ground level”,
 - “T-Test Fail with P-Test = Fail the agent refers to the result as 120, but the tests have not been completed and reference is made to the presoak water remaining in Holes”.
 - In house consultations with view to determine required Further information F.I.
- recommends **F.I.** request as follows -
 - “1.The applicant is required to supply a site layout map indicating clearly the presence of all private well supplies with a 150m radius of the proposed waste water treatment system.
 - 2.The applicant is required to amend the design of the sand polishing filter proposed to comply with Table 8.2 Typical intermittent sand filter specifications to include the minimum subsoil required underneath the basal gravel layer. The base of the sand polishing filter shall be located such that there is a minimum thickness of 0.9m of unsaturated subsoil beneath the basal gravel layer, as per Table 8.2 and Figure 8.4 of the Code of Practice

3.3. Prescribed Bodies

Irish Water No response apparent, to the Planning Authority request (see copy on file).

3.4. Third Party Observations

A single 3rd party observation received by the Planning Authority from Ms. Maeve Breen (Pillar House, Courtown Demesne), summarised as follows –

- Over-development of the site, and does not meet the minimum site size requirements,
- Existing septic tank located outside of the site edged red and the unsuitable percolation rate in the macimore type soil,
- no public mains water supply, existing water supply is for a shared well,
- the existing dwelling was a timber chalet type construction intended as a holiday home, and was never a permanent residence,
- the existing road network is substandard, and there are no sightlines at the entrance, and the proposed (development) will result in a traffic hazard,
- the impact of the style and scale of the dwelling with balconies is more suitable for an urban environment, and not a rural coastal setting,
- impact of the proposed (development) on the setting of the nearby protected structure – ‘Pillar House’.

Having regard to the 3rd party submission received, the Planning Officer comments that “the items raised in the objection have been taken into consideration in this assessment in the planning report”.

4.0 Planning History

Reg.Ref.No.20190476 Planning permission REFUSED to Laurence & Anne Leavy (the current applicants) for proposed development comprising –

- (1) Demolish existing habitable dwelling and erect a 2-storey dwelling as a replacement, and
 - (2) permission to upgrade existing sewage facilities and all associated site and ancillary works,
- all at Courtown Demesne, Co. Wexford

Noteworthy Refusal Reason No.1 stated –`

“In the absence of a hydrogeological assessment and given the poor percolation results, it is considered that the proposed separation distance from the communal well is insufficient to adequately demonstrate that the development as proposed would not result in a public health hazard”.

Note To Applicant within the ‘Order’ stated :

“Any future planning application should not increase the number of bedrooms over that of the existing dwelling which contains 3-bedrooms, and should clearly identify the location of the existing septic tank, include information as to how it is to be decommissioned and if necessary, include the permission of any relevant landowner(s)”.

Reg.Ref.No.20220871 Invalidated by Planning Authority re. ‘Development Description Incorrect’

5.0 Policy Context

5.1. National

Sustainable Rural Housing Guidelines 2005

Both the National Spatial Strategy and the Sustainable Rural Housing Guidelines 2005 distinguish between rural generated housing and urban generated housing and seek to ensure that the needs of rural communities are identified in the development plan process. The guidelines make clear that in all cases, consideration of individual sites will be subject to satisfying normal planning considerations relating to siting and design, including vehicular access, drainage, integration with the physical surroundings and compliance with the objectives of the development plan in general.

EPA Code of Practice

The EPA “Code of Practice: Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10)”, March 2021 applies.

5.2. Development Plan

Wexford County Development Plan 2022-2028

The Wexford County Development Plan 2022-2028 was adopted by the Elected Members of Wexford County Council at the Special Meeting of the Council held on Monday, 13th June 2022. The Plan came into effect on Monday, 25th July 2022.

Note : The Planning Authority received the application for planning permission under **Reg.Ref.20220970**, date stamped 15th July 2022. The Planning Officers report dated 01st September 2022. The Managers Decision to ‘Refuse’ planning permission (see **Order No.P.1204/22**), dated 07th September 2022, for the 3no. stated ‘Refusal Reasons’. The applicants’ 1st Part Appeal submission dated the 27th September 2022, and date stamped received by An Bord Pleanala on 04th October 2022 (**ABP-314807-22**).

The Plan sets out the policies and objectives for the development of the County over the plan period.

Of relevance to the consideration and assessment of the current application, are the following extracts (copies of more detailed provisions are included with the inspectors report) :

Wexford Co. Dev. Plan 2022-2028 – Vol. No.1 ‘Written Statement’

Chapter 4 Sustainable Housing

Section 4.9 Housing in the Open Countryside

Para. 4.9.4 Refurbishment & Replacement of Rural Dwellings

The reuse of the county’s existing housing stock is a sustainable use of existing resources, and such reuse to be encouraged by the Planning Authority. However, the reuse is only sustainable if the amount of work to be done to the property is significantly less than a new dwelling (in terms of embedded energy and waste), or if it preserves vernacular heritage.

‘Non-Vernacular’

Whereas a stricter suite of guiding principles and criteria relate to protected ‘vernacular houses’, the Planning Authority will apply a more relaxed approach to the refurbishment (& replacement) of ‘non-vernacular’ housing stock in rural areas. **Table 4.7** sets out the guiding principles and criteria relating to the “Replacement of ‘habitable’ and ‘substantially intact’ dwellings” (see **Table 4.7** extract below).

The following definitions apply:

‘Substantially intact’ for the purposes of this section means the four walls and roof are intact.

‘Derelict’ for the purposes of this section means a structure which is not substantially intact. This includes where the roof is partially missing / damaged.

Table No 4.7 “Refurbishment & Replacement of Dwelling-Houses”.

Category of Development

- Replacement of ‘Habitable’ & ‘Substantially Intact’ Dwellings

Guiding Principles

- Consideration will be given to the replacement of habitable or substantially intact non-vernacular dwellings (generally post 1970 buildings of little architectural merit).
- While such cases will not have to comply with the rural housing policy for new single houses in that rural area, the development must comply with normal planning and environmental criteria.

Criteria

- (i) The applicant will **not** be required to comply with the local need criteria relating to the rural area that the dwelling is located in, and occupancy and permanent residence Conditions shall not apply.
- (ii) The design of the replacement dwelling must be of a high standard, and its scale and character appropriate to the site and its rural setting.
- (iii) The dwelling shall generally be on the same footprint as the existing dwelling or such other footprint as would have lesser associated impacts. The development must comply with all normal planning and environmental criteria.
- (iv) Normal environmental criteria will apply to treatment of wastewater, safe access and water supply.
- (v) Minimum Site Sizes will Apply.

Category of Development

- Replacement of a ‘Derelict’ Dwelling

Guiding Principles

- Consideration will be given to the replacement of a derelict non-vernacular dwelling.

- Such cases will be assessed as a greenfield site and the rural housing policy for new single houses in that rural area will be applied, as will all other normal planning and environmental criteria.

Criteria

- (i) The applicant **shall** comply with the 'local need criteria' relating to the rural area that the dwelling is located in, and the applicant will be required to accept the occupancy Condition and permanent residence Condition.
- (ii) The design of the replacement dwelling must be of a high standard and its scale and character appropriate to the site and its rural setting.
- (iii) The dwelling shall generally be on the same footprint as the existing dwelling or such other footprint as would have lesser associated impacts. The development must comply with all normal planning and environmental criteria.
- (iv) Normal environmental criteria will apply to treatment of wastewater, safe access and water supply.
- (v) Minimum site sites will apply

Replacement and Refurbishment in the Open Countryside

Having regard to the details comprising the proposed development, as advertised, the following Objective is considered relevant and applicable.

Objective SH48 To consider the replacement or refurbishment of 'existing non-vernacular dwellings' subject to compliance with the relevant criteria outlined in Table No. 4-7, compliance with normal planning and environmental criteria and the proper planning and sustainable development of the area.

Section 3 Residential Developments

3.1 Single Dwellings in Rural Areas

3.1.1 Design Guidance for Single Houses in Rural Areas

Having regard to the relevant issues comprising the nature, size and scope of the proposed development, to the ‘Refusal Reasons’ stated by the Planning Authority both for the current application **Reg.Ref.20220970** and the historical application Refused planning permission under **Reg.Ref.20190476**, the principally relevant provisions enabling ‘Design Guidance’ for single houses in rural areas in the current case, are ‘Siting’ and ‘Rural Architecture’. Others are ‘Shelter & Enclosure’, ‘Contours’ and ‘Landscaping’.

Siting ::

- Rural areas are more sensitive to development and require a quality design response to help assimilate development into the landscape.
- Buildings in the rural landscape should be sited to take advantage of shelter and existing landscape features which will help assimilate the development into its surroundings.

Table 3-1 Principles for Siting

- | |
|---|
| <ul style="list-style-type: none">• Buildings should be set into the landscape• Avoid exposed, elevated and prominent locations where potential for visual impact is greatest• Take advantage of shelter and existing landscaping / trees / hedgerows• Avoid altering the natural levels of the site• Avoid ‘Cut & Fill’ and locating dwellings on platforms• Orientate the house to maximise sunlight and reduce exposure to the wind |
|---|

Rural Architecture ::

- Rural house design should deliver high quality buildings that cater for modern lifestyles while respecting and embracing their rural setting.
- The design of new dwelling houses should be sympathetic to the surrounding landscape and where appropriate reference traditional building characteristics.
- The size of the proposed dwelling should be appropriate for the size of the site in order for the site to be able to assimilate the development into the landscape.
- On sites that are elevated or exposed and where new development has the potential to be conspicuous, development should be restricted to single storey.
- New dwelling houses should try to replicate simple traditional forms and ensure that the dwelling in terms of proportion, height, scale and form is appropriate for a rural setting.
- Where a large dwelling is proposed, the design should include measures to break down the massing of the house in order to reduce bulk.
- Traditionally in Wexford, farm buildings were used effectively to create enclosure and sheltered space. There are still examples where houses and outbuildings are used together to create both farmyards and gardens with remarkable control of space and form.

Table 3-2 Principles for Rural Architecture

- | |
|---|
| <ul style="list-style-type: none">• Restraint – A Modest selection of Materials and Finishes reflecting the simple colour structure of Vernacular Architecture.• Simple palette of Quality Materials |
|---|

3.1.2 Standards for Single Dwellings in Rural Areas

Note that planning applications for the development of a single dwelling in a rural area are required to demonstrate compliance with the following development management standards (copy of the complete suite of 'Standards' are included with the inspectors report) :

1. The applicant must satisfy the rural housing criteria for that location as set out in Volume 1 Chapter 4 Sustainable Housing. Compliance with the rural housing criteria alone does not infer that planning permission will be granted.
2. The site must be capable of accommodating a suitably designed private wastewater treatment system which meets required current regulations and a satisfactory and safe supply of drinking water. Both the on-site wastewater system and the water supply must be located within the site edged red (save unless provided by public infrastructure).
3. The site must be capable of being safely accessed in perpetuity with the necessary sightlines for the category of road being achievable within the site edged red and with a minimal removal of existing hedgerow and natural boundaries. Where the hedgerows are required to be removed this will be assessed in accordance with Section 2.9.1 and Section 6.2. Where vehicular access is proposed from a private lane, the necessary legal consents should be in place and the lane should be in satisfactory condition to accommodate the development.
4. The development should not result in ribbon development as defined in Volume 1 Chapter 4 Sustainable Housing.

5. The development of the site should not have adverse impacts on protected structures, archaeological sites or designated sites of nature conservation value (SACs, cSACs, SPAs & pNHAs).
6. The site must be capable of accommodating the dwelling which has regard to and avoids potential adverse impacts on existing properties adjoining the site.
7. The development must not be vulnerable to flood risk (See Volume 1 Chapter 9 Infrastructure Strategy), or coastal erosion (See Chapter 12 Coastal Zone Management and Marine Spatial Planning).
8. The site should be capable of accommodating a dwelling house which blends into, and is not visually intrusive in the landscape.
9. The site must be capable of accommodating proposals to manage surface water drainage within its boundaries and without significant discharges affecting public road drainage.

In terms of siting, scale and design, the proposal should have regard to the principles of rural house design as set out in Section 3.1.1. The Planning Authority will require the following to be demonstrated and complied with :

- New dwellings in rural areas should be appropriately sited, in accordance with Table 3-1 Principles for Siting, to take advantage of shelter, topography and existing landscape features, which will help assimilate the development into its surroundings and minimise its impact on the visual amenities of the area.
- New rural dwellings must be well-designed, simple, unobtrusive, respond to the site's characteristics and be informed by the principles for rural architecture. All new rural dwelling houses

should demonstrate good integration within the wider landscape. The external materials should enable the development to blend into the landscape. The visual suitability of pre-fabricated timber homes (e.g. log cabins) on rural sites will also be considered in accordance with the criteria set out in Section 4.9.6 in Chapter 4 Sustainable Housing.

- New rural dwellings must be given adequate consideration to existing neighbouring development in terms of siting, setting and design and affords adequate protection to existing residential amenity.
- New vehicular entrances in rural areas should be designed to be discreet and attractive and easily assimilated in their rural setting in accordance with Section 2.8.1.
- Landscaping and boundary treatments must be appropriate for a rural setting and should not erode the rural character of the area. The siting, scale and design should minimise adverse impacts on existing site specific landscaping, e.g. trees and hedges with medium and long term landscaping / screening value and demonstrate that Objective GI01 in Volume 1 Chapter 11 Landscape and Green Infrastructure is complied with, where relevant. The Planning Authority may request that a planning application be accompanied by a detailed landscaping plan, prepared by a suitably qualified landscape professional, which specifies all proposed landscaping of the site.
- Provisions must be made within the site for biodiversity, and in this regard, the following standards will be applied (see Table 3-3):
 - For rural dwellings with a floor area of 100m² to 300m² a minimum of 20% of the site must be set aside for additional tree planting and measures to promote biodiversity.

- For dwellings over 300m² 50% of the site area must be set aside for additional tree planting and measures to promote biodiversity
- Plans for these areas must be included with any planning application for a single rural dwelling.
- The set back of the dwelling from the roadside boundary will be assessed on a case by-case basis.
- The size of the dwelling house must comply with the site size/floor area ratios set out in Table 3-3.

Table 3-3 Site Size, Dwelling Floor Area Ratio and Biodiversity Requirements

<u>Dwelling Floor Area</u>	<u>Site Size (Acres / Hectares)</u>	<u>Biodiversity</u>
< 100m ²	0.2	Boundary Reinforcement
100m ² - 200m ²	0.2	20% of Site
200m ² - 300m ²	0.4	20% of Site
> 300m ²	1.0	50% of Site

By way of comparison, and having regard to the fact that 'Site Size' / 'Dwelling Floor Area Ratio'

Table No.38 'Site Size' / 'Dwelling Floor Area' Ratios

<u>Dwelling Floor Area</u>	<u>Site Size (Acres / Hectares)</u>
< 200m ²	0.5 – 0.2
200m ² - 300m ²	0.75 – 0.3
> 300m ²	1.0 – 0.4

5.3. Natural Heritage Designations

None apparent.

6.0 The Appeal

6.1. Grounds of Appeal – Mr. Laurance Leavy & Mrs. Anne Leavy (Courtown Demense, Courtown, Gorey, Co.Wexford) :

6.1.1. The 1st party grounds of appeal (c/o Terry O’Leary, O’Leary Consulting Engineers & Chartered Town Planners), are set out fully in the appeal documentation date stamped 04th October 2022. These may be summarised as follows :

6.1.2. The applicants / 1st party appellants completed the purchase of the application site on the 27th November 2017. They intend the property become their permanent residence post-retirement. Improvements to the property are necessary in order to achieve the necessary Standards required for such permanent residence.

6.1.3. Previous planning application Reg.Ref.No.20190476

- Previous application **Reg.Ref.No.20190476**, was refused for 1no. stated ‘Refusal Reason’.
- The single refusal reason asserted that having regard to the absence of, limited information submitted with the application documentation, the Planning Authority considered as “insufficient to adequately demonstrate that the development as proposed would not result in a public health hazard”.
- Further, under this Decision Order, the applicants were notified that with respect to any future planning application –
 - not to increase the number of bedrooms over that of the existing dwelling, which is stated as having 3-bedrooms, and
 - to clearly identify the location of the existing septic tank (including information as to how it is to be decommissioned, and if necessary the permission of any relevant landowner).
- Notwithstanding the scope of the current application / 1st party appeal, consider that the details contained in the planning report under **Reg.Ref.No.20190476**

are relevant for the context of the appeal to the refusal of planning permission **Reg.Ref.No.20220970**.

- Reference Figs. 4 & 5 – “Extracts from Planning Report for Planning Permission **Reg.Ref.No.20190476**”, and Fig.6 – “Table 38 Site Size / Dwelling Floor Area Ratios of Co. Wexford Dev. Plan 2013-2019 (as extended), all included at pages 6 & 7 of the 1st party appeal document.

6.1.4. **Refusal Reason No.1 – Proposed Property Size ::**

- The applicants intend to use some components of the existing dwelling on site in the proposed development.
- The applicants contend that –
 - “the proposed development constitutes a refurbishment and extension of an existing house rather than an entirely new dwelling”, and
 - “this is exactly how the proposal was initially described as outlined in planning permission **Reg.Ref.No.20220871** (note – previous application by applicants invalidated by the Planning Authority), and as confirmed in Fig.8 below”. (see pg.9 of 1st party appeal document).
- Reference that previous application **Reg.Ref.No.20220871**, “was invalidated by Wexford County Council on the grounds that the development description was incorrect”.
- Previous ‘invalidated’ application **Reg.Ref.No.20220871**, described the proposed development as “... the alteration and extension of existing dwellinghouse and for the installation of a new on-site wastewater treatment system, and all associated site works”
- Assert that Section 18.13.1 of the Co. Dev. Plan 2013-2019 (as extended), “should apply in this instance as the proposal is an extension of an existing habitable residence” (see pg.11 of 1st party appeal document).
- The proposed development will be occupied by the applicants – a retired couple, with the exception of when their extended family (ie. children and grandchildren) visit for holidays. The limitation of the dwelling to 3no. bedrooms only, “will be prejudicial to their needs and will adversely impact on their capacity to accommodate family visits”. Argue this restriction is in contravention of Sect.18.13.1 of the Co.Dev.Plan 2013-2019 (as extended), and “there is no

mandatory design criteria that can predispose the maximum number of bedrooms that can be provided in a dwelling”.

- Reference the “sales brochure” for the application site, which outlined that the property “has been a 4-bedroomed house” (see Fig.12 on pag.12 of the 1st party appeal document). Comment that “this is what the appellants wish to maintain in the redeveloped structure”.
- Argue the Planning Authority’s consideration of the proposed development as an “entirely new dwelling”, and the application of Table 38 of the Co.Dev.Plan 2013-2019 (as extended), “demonstrates an inconsistent and incoherent adoption of policy”.
- Distinguish that in the previous application under **Reg.Ref.No.20190476**, “the design was not subject to the requirements Table 38 as it was considered as a “replacement dwelling” and not a greenfield site”.
- However, in the current application **Reg.Ref.No.20220970**, the proposed development “is being treated as an entirely new house on a greenfield and the requirements of Table 38 are being applied”.
- Comment that the applicants / 1st party appellants have been “enforced by Wexford County Council to describe the proposed works as a “replacement dwelling” when now the Design Standards being applied by Wexford County Council are being taken from Section 18.12.2 of the Co. Dev. Plan 2013-2019 (as extended) which assumes an undeveloped greenfield site”. .
- Reference Fig.9 – “Floor Plan Drawing Highlighting in Green some Components to be Reused in New Floor Plan”, included at pg.9 of the 1st party appeal document. Distinguish that Fig.9 “clearly illustrates that the footprint of the new extended building is almost identical on the ground floor to the current dwelling, and makes little change to the distances to established boundaries”.
- The inclusion of the 1st floor is required to address the 1st party appellants extended family accommodation requirements.
- Notwithstanding these familial accommodation requirements, express willingness to reducing the 1st floor area, should An Bord Pleanala deem this necessary. Confirm 1st party appellants can submit “revised drawings if Conditioned within the Appeal process”.
- However, consider that the proposed ground floor footprint “is materially the same as what exists on the site currently and it is not considered excessive”.

Accordingly, express hope the ground floor area as designed, could be maintained as per the design drawings submitted.

6.1.5. **Refusal Reason No.2 – Water Supply**

- The application site, approximately 50 years old, "... has established connections to the access lane from the public road, connection to the local water supply and also an on-site septic tank system".
- Concede existing water supply is not by Irish Water, nor is it a Municipal Supply. Nonetheless water supply exists, is established and consistent.
- Suggest proposed development being considered as a "greenfield" site, where no existing services are in place.
- Assert the view that such "is inaccurate and unfair and does not accurately reflect Sect.18.13.1 of the County Wexford Development Plan 2013-2019 (as extended).
- In Fact the existing dwelling on the application site and the current proposed dwelling benefit from a water supply from a communal / public well that serves other dwellings locally.
- Whereas this issue may be relevant in a greenfield site scenario, it is not where an existing house is in place.
- Accordingly, Refusal Reason No.2 is considered to be "inappropriate in the context of the proper planning and sustainable development of the area".
- Point out this issue was not raised as a concern by the Planning Authority under **Reg.Ref.No.20190476**.
- Assert this "demonstrates an inconsistent adoption of policy".

6.1.6. **Refusal Reason No.3 – Well Water Supplies within 150m ::**

- The Hydrology report included as part of documentation under **Reg.Ref.No.20220970**, details groundwater flow direction, as required in previous application refused under **Reg.Ref.No.20190476**.
- Reference opinion of the Co. Environment Section set out in 'report' (dated 29th May 2019) in response the previous refused application **Reg.Ref.No.20190476**. Note that under 'Further Information (F.I.)' the

Environment Section set out that the applicant be required to prepare “a comprehensive hydro geological report to enable ... Council to be satisfied that the proposed development will have no impact with regard to public health on the existing Water Supply Abstraction Well”.

- Refusal Reason No.3 states concern about private well water supplies within a 150m radius of the proposed development.
- The Hydrology Report submitted demonstrates “quite clearly that the groundwater flow direction is in a northerly direction away from all surrounding development” (ref. Figures 14, 15 & 16 included with the 1st party appeal documentation).
- The current Septic Tank System servicing the application site “is extremely basic and offers little, if any, Biological treatment of wastewater prior to discharge to groundwater.
- The proposed new ‘sand filter’ will provide a significantly improved standard of wastewater treatment and can be considered to be an environmental gain. .
- Hydrology report confirms groundwater flow is in the direction of the surface water receptor to the north, which is at a “substantially lower contour level, and there are no borewells in that direction”.
- Modifications to the ‘sand-filter’ are as prescribed under **Reg.Ref.No.20220970**, and “achievable by raising the sand filter by 900mm as per Fig.8.4 of the EPA Code of Practice for Domestic Wastewater treatment Systems. ...”. • .

6.1.7. **The 3rd Party Submission – Ms. Maeve Breen, Pillar House, Courtown :**

- 01.** Notwithstanding the current location and status of the septic tank, the proposed new system is to be relocated centrally within the application site, and will be in accordance with the EPA (2021) Standard. The 3rd party (Ms.M Breen, Pillar House) concerns thereby addressed.
- 02.** The site size and configuration is established and Registered with the Property Registration Authority Ireland (PRAI) in Folio WX62767F. The new waste water

treatment system achieves the minimum separation distance of 3m from all boundaries to EPA (2021) Standard.

- 03.** Entirely refute the 3rd party suggested encroachment onto the 3rd party lands by the applicants. Reference Folio File Plan WX62767F accurately reflects the current and proposed development.
- 04.** Assert the existing water supply to the application site, in the ownership of the applicants / 1st party appellants, is established. Consider that this is not relevant to the 3rd party.
- 05.** The hydrology report confirms the direction of groundwater flow away from the existing extraction well. This is established by way of a technical site investigation.
- 06.** The applicants / 1st party appellants dispute their proposed development will have any negative impact on livestock.
- 07.** Assert that no negative impacts will arise from the proposed development, on the 3rd party property at "Pillar House". Further, subjective comment by the 3rd party as to the suitability of the application site as a permanent home, are unjustified.
- 08.** Assert the 3rd party "is incorrect in her suggestion that the subject property was used as a "weekend hideaway", ... "in fact it was used as a permanent residence". Further, comment that no planning legislation apparent preventing a property being occupied permanently, as opposed to being used as a holiday home.
- 09.** No increased traffic movements will result, with no consequent hazard.
- 10.** No "Health Hazard" will result from the proposed development. Whilst an extension in floor area will result, "... significant benefits accrue from the new

proposed on-site wastewater treatment system which will be to the benefit of the wider environment”.

11. State “categorically that they have not in any way interfered with indigenous trees belonging to the 3rd party. Rather their activities have been limited to within the boundaries of the property over which they are the undisputed owners. Refer 3rd party to the Property Registration Authority of Ireland (PRAI), with regard to any dispute with the registered boundaries for the application site.

6.1.8. **Conclusion :**

- Thank the Board for their adjudication on their 1st party appeal.
- Their 1st party appeal made such that the Board, “... grant the applicants permission to extend and modernise their family home”.
- Affirm the 1st party appellants “are open to the reduction in floor area, if An Bord Pleanala see this necessary”. In this regard confirm “the ground floor footprint of the proposed works is predominantly in accordance with what currently exists on the site”.

6.2. **Planning Authority Response**

No response apparent from the Planning Authority.

6.3. **Observations**

None

7.0 **Assessment**

- 7.1. I have examined the file and available planning history, considered the prevailing local and national policies, physically inspected the site and assessed the proposal and all of the submissions. The following assessment covers the points made in the appeal

submissions, and also encapsulates my de novo consideration of the application. The relevant planning issues relate to :

- The Wexford County Development Plan 2022-2028
- Principle and Location of the proposed 'Replacement Rural House Development'
- Section 3.1.2 – 'Standards for Single Dwellings in Rural Areas', including Table 3.3 – 'Site Size, Dwelling Floor Area Ratio & Biodiversity Requirements' (Wexford County Development Plan 2022-2028, Volume No.2 – Development Management Manual)
- Rural Landscapes & Associated Visual Amenity Impact
- Water Services Infrastructure & Drainage
- Road Access & Traffic Safety, and
- Appropriate Assessment.

7.2. The Wexford County Development Plan 2022-2028

- 7.2.1. Having regard to all of the information available, with particular reference to the planning history on the application site, and to the substantive arguments and motivations made by both of the applicants (1st Party Appellants) and the Planning Authority, I consider it necessary to clarify, for the purpose of relevant consideration and assessment of the current proposed development, the correct statutory County Development Plan in place, enabling such assessment of and recommendation on the proposed development.
- 7.2.2. At Section 5.2 "Development Plan" above, I clarify that the Wexford County Development Plan 2022-2028 was adopted by the 'Elected Members' of Wexford County Council on Monday, 13th June 2022, and that the plan subsequently came into effect on Monday 25th July 2022.
- 7.2.3. Against this statutory status of the Wexford County Development Plan 2022-2028, I believe it reasonable and appropriate to logically contextualise the current proposed development decided by the Planning Authority under **Reg.Ref.No.20220970**, and

now before An Bord Pleanála for decision under 1st Party Appeal **Reg.Ref.No.ABP-314807-22**.

7.2.4. In this regard I sequence the relevant actions taken by each of the applicants (1st Party Appellants) and of the Planning Authority, as follows :

- The Wexford County Development Plan 2022-2028 came into effect on Monday, 25th July 2022.
- The Planning Authority received the application for planning permission under **Reg.Ref.No.20220970**, date stamped 15th July 2022.
- The Planning Officers report, setting out the assessment of and recommendations for decision on the proposed development, is dated 01st September 2022.
- The Managers Decision to 'Refuse' planning permission (see Order No.P.1204/22), dated 07th September 2022, for the 3no. stated 'Refusal Reasons'.

7.2.5. The Planning Authority received the application for planning permission under **Reg.Ref.No.20220970**, date stamped 15th July 2022. Clearly therefore, the application was lodged 32no. days after the Wexford County Development Plan 2022-2028 was adopted by the 'Elected Members' of Wexford County Council on Monday, 13th June 2022, and 10no. days before the Wexford County Development Plan 2022-2028 came into effect on Monday, 25th July 2022.

7.2.6. In my view therefore, from Monday, 25th July 2022, the Wexford County Development Plan 2022-2028 replaced the Wexford County Development Plan 2013-2019 as the relevant Statutory County Development Plan in force. The Wexford County Development Plan 2022-2028, sets out the planning policies and objectives for the development of the County over the plan period. Each of the applicants (1st Party Appellants) and the Planning Authority must have regard to these up to date County Development Plan provisions, in fulfilling their respective roles in the planning permission process.

- 7.2.7. Accordingly, I understand that each of the applicants (1st Party Appellants) and the Planning Authority were in error in referencing the provisions of the County Development Plan 2013-2019 in the substantive and detailed motivation for the proposed development (the applicants), in the planning assessment of the merits of the proposed development (the Planning Authority) and formulation of recommendation resulting in the Managers Decision to 'Refuse' planning permission (see Order No.P.1204/22), dated 07th September 2022, for the 3no. stated 'Refusal Reasons' (the Planning Authority).
- 7.2.8. I note that unfortunately, this error was sustained by the applicants (1st Party Appellants) through to their lodgement of the current 1st Party Appeal (**ABP-314807-22**).
- 7.2.9. The applicants' detailed and comprehensive 1st Party Appeal submission dated the 27th September 2022, and date stamped received by An Bord Pleanála on 04th October 2022 (**ABP-314807-22**). The arguments and motivations made by the applicants in the 1st Party Appeal documentation relied exclusively on the provisions of the Wexford County Development Plan 2013-2019.
- 7.2.10. Accordingly, having regard to all of the above, my own consideration and planning assessment of the merits of the proposed development, and recommendation to the Board, will be in terms of the relevant provisions of the Wexford County Development Plan 2022-2028 only.

7.3. Principle and Location of the proposed 'Replacement Rural House' development

- 7.3.1. Having regard to the information available, the following provisions of the Wexford County Development Plan 2022-2028 are of relevance to the consideration and assessment of the current application (copies of more detailed provisions are included with the inspectors report). With regard to Vol.1 – Written Statement, in my view, Chapter 4 – 'Sustainable Housing' and Section 4.9 – 'Housing in the Open

Countryside’, and specifically Para.4.9.4 – ‘Refurbishment & Replacement of Rural Dwellings’ thereof, are relevant.

- 7.3.2. I note that Para.4.9.4 provides that the reuse of the county’s existing housing stock is a sustainable use of existing resources and that its reuse will be encouraged by the Planning Authority. Clearly the current application site, and the older vacant dwellinghouse situated on it, can reasonably be regarded as an example of such housing stock.
- 7.3.3. However, qualification is made such that the reuse is only sustainable if the amount of work to be done to the property “is significantly less than a new dwelling (in terms of embedded energy and waste) or if it preserves our vernacular heritage”. Clearly the dwellinghouse on the application site is not ‘vernacular’, nor has it been designated with ‘Protected’ Status.
- 7.3.4. Whereas Para.4.9.4 sets out a stricter suite of guiding principles and criteria relate to protected ‘vernacular houses’, the Planning Authority will apply a more relaxed approach to the refurbishment & replacement of ‘non-vernacular’ housing stock in rural areas. Table 4.7 sets out the guiding principles and criteria relating to the “Replacement of ‘habitable’ and ‘substantially intact’ dwellings” (see Table 4.7 extract below).
- 7.3.5. In this regard I reference the clear wording of the statutory public and site notices notifying of the proposed development, as follows –
- “The development will consist of*
- Planning permission for the replacement of an existing dwellinghouse and ...”*
- 7.3.6. For the purpose of further relevant application of Para.4.9.4 and Table No.4.7 (see below) in the assessment of the proposed development, and having regard to the descriptions made by both of the applicants (1st Party Appellents) and the Planning Authority, and to my own observations made at the time of physical inspection (see photographs attached taken at the time of inspection), I believe the existing

dwellinghouse on the application site to be 'Substantially Intact' meaning that "the four walls and roof are intact". This as opposed to being 'Derelict', defined as being "a structure which is not substantially intact. This includes where the roof is partially missing / damaged" (see Para.4.9.4 Definitions 'Substantially Intact' and 'Derelict').

7.3.7. The Wexford County Development Plan 2022-2028 then further enables consideration and assessment of the proposed development at Table No. 4.7 – "Refurbishment & Replacement of Dwelling-Houses" located in the open countryside (see copy of relevant extracts attached). Of the 'Categories of Development' provided in Table No. 4.7, I believe the current proposed development is best defined and enabled (of the 3no. categories provided) within the "Replacement of 'Habitable' & 'Substantially Intact' Dwellings" Category.

7.3.8. The guiding principles for this Category, positively enabling the proposed development, are that –

- consideration will be given to the replacement of habitable or substantially intact non-vernacular dwellings (ie. generally post 1970 buildings of little architectural merit), and
- while such cases will not have to comply with the rural housing policy for new single houses within the local Courtown Demesne rural area, the 'replacement' single house development proposed must comply with normal planning and environmental criteria. This particularly as outlined within the Wexford County Development Plan 2022-2028 generally, and "Volume 2 – 'Development Management Manual'" specifically.

7.3.9. Establishing principle in favour of the proposed development, "Criteria (i)" enables the current applicants (1st Party Appellants), such that they will **not** be required "to comply with the local need criteria relating to the rural area that the dwelling is located in, and occupancy and permanent residence Conditions shall not apply". In my view, this is a significant advantage in favour of the applicants (1st Part Appellants).

- 7.3.10. Of the remaining 4no. Criteria provided at “Table 4.7 – ‘Refurbishment’ & ‘Replacement’ of Dwelling Houses”, within this “Replacement of ‘Habitable’ and ‘Substantially Intact’ Dwellings” Category of Single House Development within the rural areas of County Wexford, Criteria No.(v) is most relevant, particularly having regard to the planning history on the application site, specifically Refusal Reason No.1 stated by the Planning Authority for its decision to Refuse planning permission under **Reg.Ref.No.20220970**. Criteria No.(v) clearly sets out that for rural single house developments considered under the “Replacement of ‘Habitable’ and ‘Substantially Intact’ dwellings Category at Table 4.7, “Minimum site sizes will apply”.
- 7.3.11. ‘Section 3.1 – Single Dwellings in Rural Areas’, of ‘Volume No.2 – Development Management Manual’, all of the Wexford County Development Plan 2022-2028, then becomes the planning ‘toolbox’ enabling assessment of the proposed development against of each of the remaining 4no. Criteria generally, and Criteria No.(v) – “Minimum site sizes will apply” particularly.
- 7.3.12. Accordingly, having regard to all of the above, I believe that the ‘principle’ of the proposed development has been satisfactorily established. However, Section 3.1.2 – ‘Standards for Single Dwellings in Rural Areas, of ‘Volume No.2 – Development Management Manual’ of County Development Plan 2022-2028, sets out clearly that compliance with Volume No.1, Chapter 4 – ‘Sustainable Housing’, “does not infer that planning permission will be granted”.
- 7.3.13. In my view, satisfactory compliance with Criteria No.(v) – “Minimum site sizes will apply” (Volume No.1), Section 3.1.2 – ‘Standards for Single Dwellings in Rural Areas’, and ‘Table 3.3 – Site Size, Dwelling Floor Area Ratio & Biodiversity Requirements’ (all of ‘Volume No.2’) particularly, are the principal challenges facing the applicants (1st Party Appellants) in demonstrating compliance with the Wexford County Development Plan 2022-2028, and the proper planning and sustainable development of the area.
- 7.3.14. I will address these in further detail below.

- 7.4. **Section 3.1.2 – ‘Standards for Single Dwellings in Rural Areas’, including Table 3.3 – ‘Site Size, Dwelling Floor Area Ratio and Biodiversity Requirements’ (Wexford County Development Plan 2022-2028, Volume No.2 – Development Management Manual)**
- 7.4.1. The proposed development of a single replacement dwelling, within the Courtown Demesne rural surrounds, must demonstrate compliance with the suite of Development Management Standards, as set out comprehensively at Section 3.1.2, Paragraphs 1-9, and ‘Table 3.3 – Site Size, Dwelling Floor Area Ratio & Biodiversity Requirements’ (copy of the complete suite of ‘Standards’ are included with the inspectors report).
- 7.4.2. In terms of siting, scale and design, the proposed development must have regard to the principles of rural house design as set out in Section 3.1.1, and with the Standards provided at Section 3.1.2. The applicants (1st Party Appellants) must demonstrate compliance with these County Development Plan 2022-2028 provisions.
- 7.4.3. Whilst included at the end of Section 3.1.2, Paragraphs 1-9, ‘Table 3.3 – Site Size, Dwelling Floor Area Ratio & Biodiversity Requirements’ is in my view, the priority Standard, against which the proposed developments compliance is to be determined. Secondary considerations of satisfactory House Design and Size, Visual and Other Amenity Impacts, Water Supply, Biodiversity Requirements, On-site Wastewater Treatment and Disposal, Vehicular Access, are directly influenced in my view, by the scope and capacity for compliance by the proposed development, with Table 3.3 (I have included a copy of Table 3.3 below).
- 7.4.4. In the current proposed development, the size of the proposed replacement dwellinghouse, must comply with the site size/floor area ratios set out in Table 3-3.

Table 3-3 Site Size, Dwelling Floor Area Ratio and Biodiversity Requirements

<u>Dwelling Floor Area</u>	<u>Site Size (Acres / Hectares)</u>	<u>Biodiversity</u>
< 100m ²	0.2	Boundary Reinforcement
100m ² - 200m ²	0.2	20% of Site
200m² - 300m²	0.4	20% of Site
> 300m ²	1.0	50% of Site

- 7.4.5. Whereas the existing dwellinghouse onsite is stated as being 157m², the replacement dwelling, as shown in the applicants (1st Party Appellants) 'Architect Plans & Drawings', is proposed to be 288m², and will be 2-storeys. It would appear that the replacement dwelling is proposed to be positioned to the rear of the application site, on a similar footprint as the existing dwelling on-site.
- 7.4.6. Table 3.3 clearly sets out that for proposed dwellings with a 'Floor Area' of between 200m² and 300m², a site size of 0.4ha is required (see copy of Table 3.3 above). With the application site stated as being of 0.11ha in area, the 0.4ha minimum site size, required for the proposed 288m² replacement house is not achieved. In fact, there is clearly no possible way that the applicants can achieve the required 0.4ha site size, in order to accommodate the proposed development (ie. a 0.3ha / 3000m² increase to current site area).
- 7.4.7. The challenge facing the applicants is further complicated with the inclusion at Table 3.3 of 'Biodiversity Requirements', required under Section 3.1.2. Whilst Table 3.3 requires the proposed 288m² replacement dwelling, be located on a property size of 0.4ha, a further 20% of the existing 0.11ha application site is to be set aside for 'Biodiversity Requirements'. This would appear to be an area of 220m², to be clearly set aside within an already congested application site (see Site Layout Plan Drawing dated July 2022, prepared by O'Leary Consulting Engineers).
- 7.4.8. Of further noteworthiness, with sustained challenge to the developability of the 0.11ha application site by the applicants (1st Party Appellants), is the provision at Table 3.3 such that if the replacement dwelling were to be proposed with a comparable 'floor

area' to that currently on site (ie. 157m²), 20% of the site would still be required to be set aside for 'Biodiversity Requirements'. At Table 3.3, whereas different minimum site sizes are required for replacement dwellings with a proposed 'floor area' between 100m² to 300m² (ie. 0.2ha or 0.4ha), a single sustained percentage of 20% of the site area is required for 'Biodiversity Requirements' for all 'replacement dwellings' proposed with a 'floor area' of between 100m² and 300m².

- 7.4.9. Therefore, having regard to Section 3.1.2, together with Table 3.3, I understand that for the proposed replacement dwelling, at 288m² floor area, "a minimum of 20% of the application site must be set aside for additional tree planting and measures to promote biodiversity. Further, Section 3.1.2 requires that plans for these 'Biodiversity' areas within the site, must be included with the documentation for any planning application for a single rural dwelling.

On the information available the applicants do not appear to have complied with firstly the setting aside of 20% of the site, or 220m², for 'Biodiversity Requirements', nor have the necessary plans been submitted demonstrating such Biodiversity commitment.

- 7.4.10. Having regard to all of the above, and with particular reference to Table 3.3, I further note that the application site is severely challenged as to its developability beyond that comparable with the size and scope of the dwellinghouse currently on site, if at all. I articulate this concern for the applicants (1st Party Appellants), contextualising the application site area stated as 0.11ha (1100m²), against the provisions detailed in Table 3.3. Clearly, any site with an area of 0.11ha is not accommodated within Table 3.3 as an indicator of the type, size and scope of replacement dwellinghouse on a site. Rather, the smallest site area envisaged in Table 3.3 is 0.2ha (2000m²), to accommodate all dwelling floor areas up to 200m². This bottom end of the minimum site size scale at Table 3.3, is almost double the site area of the application site (0.11ha). In isolation from consideration of the current proposed development **Reg.Ref.No.20220970**, the existing status quo development on site must clearly be considered as contrary to the provisions of 'Table 3.3 – Site Size, Dwelling Floor Area Ratio & Biodiversity Requirements', Volume No.2 of the Wexford County Development Plan 2022-2028 (copy of the complete suite of 'Standards' are included with the inspectors report). Accordingly in my understanding, the existing status quo

development on the application site must be regarded as being pre-existing the Wexford County Development Plan 2022-2028 (and the 2013-2019 County Development Plan before it), and with use rights and privileges as normally bestowed upon such 'pre-existing' development and associated uses.

7.4.11. Accordingly in my view, Section 3.1.2 – 'Standards for Single Dwellings in Rural Areas', Paragraphs 1-9, and 'Table 3.3 – Site Size, Dwelling Floor Area Ratio & Biodiversity Requirements', all of 'Volume No.2 – Development Management Manual' of Wexford County Development Plan 2022-2028, reasonably establish a reference framework for the assessment and determination of the feasibility of any 'replacement dwellinghouse development, such as that currently proposed on the application site under **Reg.Ref.No.20220970**. Towards this end, Section 3.1.2 together with Table 3.3 specifically, establish a ratio continuum of minimum required site area sizes, relative to the floor area of single dwellings located on such sites.

7.4.12. Notwithstanding the reasonable and understandable arguments made by the applicants (1st Party Appellants) in motivation of their accommodation requirements for the proposed 'replacement' dwelling development, I consider the proposed 288m², 2-storey 'replacement' dwelling to be excessive in size given the limited and restrictive 0.11ha (1100m²) area of the application site at Courtown Demesne, County Wexford.

7.4.13. Accordingly, the 288m² replacement dwelling proposed on the 0.11ha application site must be considered as contrary to the 'Standards' set out at Section 3.1.2 and at Table 3.3, which require that the proposed 288m² 'replacement' dwelling be located on a site of 0.4ha (4000m²) minimum area.

7.4.14. In this regard I note that the 0.11ha application site exists as a stand-alone site, and not part of a larger landholding for example, which could enable the possibility for increasing the site area to Standard (ie.0.4ha). Under such a scenario, such hypothetical landholding would need to be contiguous the application site and in the ownership of the applicants (1st Party Appellants). Neither does the Wexford County Development Plan 2022-2028 enable any discretionary flexibility by the Planning

Authority, in regard to the application of the minimum site area Standard, in favour of the applicants.

- 7.4.15. Accordingly, having regard to all of the above, I conclude the proposed 'replacement' dwelling development as being in conflict with the Wexford County Development Plan 2022-2028 Volumes 1 & 2, and therefore contrary to the proper planning and sustainable development of the area. I recommend to the Board accordingly.
- 7.4.16. I note that the substance and wording of this 'Refusal Reason' is generally the same as that articulated by the Planning Authority in their recommended 'Refusal Reason No1', included in Councils decision to 'Refuse' planning permission under **Reg.Ref.No.20220970**, for three (3no.) stated 'refusal reasons' (see Decision Order No.P.1204/22, dated 07th September 2022. Further, regard was given by the Planning Authority to the considered relevant provisions of the Wexford County Development Plan 2013-2019 in the substantiation of the 'Refusal Reasons' given at that time. .
- 7.4.17. I have clarified what in my view would be the erroneous application of the provisions of the 2013 County Development Plan, by each of the parties in progressing the application for planning permission to its 'Refusal' Decision conclusion under **Reg.Ref.No.20220970**, and by the applicants (1st Party Appellants) in substantiation of their 1st Party 'Grounds for Appeal' to An Bord Pleanala under **ABP-314807-22** (see paragraph 5.2 above).
- 7.4.18. I have further clarified and confirmed these provisions addressing 'Single dwellinghouse development in the Open Countryside', were sustained and similarly included within the current Wexford County Development Plan 2022-2028, Volumes 1 & 2, replacing the 2013-2019 Plan.
- 7.4.19. Accordingly, I recommend that the 'Refusal Reason No.1' be sustained, however with relevant reference to and application of the wording and provisions of the Wexford County Development Plan 2022-2028.

7.5. Rural Landscapes & associated Visual Amenity Impact

- 7.5.1. At paragraph 7.3 above, I conclude that the 288m² replacement dwelling proposed on the 0.11ha application site must be considered as contrary to the 'Standards' set out at Section 3.1.2 and at Table 3.3 (of the Wexford County Development Plan 2022-2028, Vol.2), which require that the proposed 288m² 'replacement' dwelling be located on a site of 0.4ha (4000m²) minimum area. This is not physically possible. Therefore as proposed, the size of the replacement dwelling, fails to comply with the site size / floor area ratios set out in Table 3.3.
- 7.5.2. Considered on its merits as proposed, I believe it reasonable to consider that at 288m², positioned to the rear most elevated portion of the restrictive 0.11ha site, the 2-storey replacement dwelling notwithstanding its footprint onsite approximating that occupied by the existing dwelling on site, would logically result in overdevelopment of the site. Indicative of this in my view, is that it would consequently appear not to be possible to comply with the 'Standard' set out at Section 3.1.2 and at Table 3.3 requiring that 20% of the site be set aside for 'Biodiversity Requirements'. These requirements such as additional tree planting and measures to promote biodiversity, would not only serve to enable integration into the local contextual biodiversity, but also enable mitigation of potential adverse visual impact from the replacement dwellinghouse, on the local rural landscape at Courtown Demesne, and associated visual amenity.
- 7.5.3. Having regard to the size, height, scale, design style and materials and finishes proposed, I am inclined to the view that the replacement dwelling proposed would be more suited to a urban location within Courtown, than located on the rural outskirts at Courtown Demesne. In this regard I share the view expressed by the 3rd party Observer (Ms. Maeve Breen, Pillar House, Courtown Demesne).
- 7.5.4. Accordingly, having regard to the above I consider the applicants (1st Party Appellants) have not satisfactorily demonstrated compliance with the siting, scale and design 'principles' of rural house design as set out in Section 3.1.1, and with the 'Standards' provided at Section 3.1.2, and Table 3.3 particularly, all of the Wexford County Development Plan 2022-2028, Vol.2.

As proposed therefore, the 288m² 2-storey replacement dwellinghouse located on the 0.11ha application site would be contrary to the proper planning and sustainable development of the area. I recommend to the Board accordingly.

7.6. Water Services Infrastructure & Drainage

- 7.6.1. The issues of water supply to the application site, on-site wastewater treatment and drainage, and surface water drainage on site have been a consistent concern expressed by the Planning Authority and the County Environmental / Water Sections throughout the planning history of the site.
- 7.6.2. Each of the previous application under **Reg.Ref.No.20190476**, and the current application under **Reg.Ref.No.20220970 (ABP-314807-22)** were refused planning permission because the Planning Authority concluded the view that the applicants had not satisfactorily demonstrated that the proposed replacement dwelling development would not result in a public health hazard. I note threat to public and environmental health concerns were sustained by both of the Planning Authority and the Co. Environment Section, under **Reg.Ref.No.20220970**, notwithstanding the applicants submission of significant new information and reports not available under 'refused' **Reg.Ref.No.20190476**.
- 7.6.3. Such new information and reports include a "Hydrogeological Report for proposed wastewater treatment system serving Dwellinghouse", prepared by O'Leary Consulting Engineers & Chartered Environmental Consultants' (undated), and noted required by the Planning Authority as part of the 'refusal' decision order made under **Reg.Ref.No.20190476**.
- 7.6.4. I share the precautionary approach apparent by the Planning Authority in their regard for each of –
- sustainable water supply to the application site, without compromise from the proposed development,

- on site storm / surface water collection, drainage and disposal, and
- on-site wastewater treatment and drainage disposal.

7.6.5. Having weighted reference to the concerns sustained by the ‘Senior Executive Scientist (Environment)’ in their report dated 18th August 2022 (copy included on file), I accept as reasonable the Planning Authority conclusion that on the information available (and notwithstanding the submission of the “Hydrogeological Report” by the applicants), the applicants have not satisfactorily demonstrated that no public and environmental health hazard will result, and consequently that the proposed 288m² replacement dwelling on the 0.11ha application site, would be in accordance with the proper planning and sustainable development of the local Courtown Demesne area.

I conclude this view noting further that notwithstanding the ‘Senior Executive Scientist (Environment)’, emphasis in the report dated 18th August 2022, that the applicant “supply a layout map indicating clearly the presence of all private well supplies with(in) a 150m radius of the proposed wastewater treatment system”, such information does not appear to have been submitted by the applicant either to the Planning Authority as part of the application for planning permission process, or to the Board as part of the 1st Party Appeal documentation. The clarity of the wording of ‘Refusal Reason No.3’ by the Planning Authority, in my view, appears to highlight this shortcoming particularly. In this regard I note the weighted reference made by the applicants (1st Party Appellants) to their ‘Hydrogeological Report’.

However, whereas the ‘Hydrogeological Report’ comments as to the identification of “a potable borewell to the southern side at c.15 linear metres from the proposed sand polishing filter (see pages 06 & 23), nowhere within the report, or in other documents and mapping submitted by the applicants (1st Party Appellants), is the location of this, or any other “private well supply”, clearly, spatially referenced in proximity to the proposed ‘sand polishing filter’ particularly.

Rather, the applicants (1st Party Appellants) appear to emphasise the point established via the ‘Hydrogeological Re[port]’ that ground water drains generally northwards away from the proposed development to the nearest ‘water receptor’

approximately 200m to the north, and that “any possible impacts from the discharge will be located outside of the zone of contribution of this well ...” (see page 24).

- 7.6.6. Similarly, in my view, the applicants (1st Party Appellants) have not satisfactorily demonstrated the sustainability of water supply to the application site, without threat of compromise from the proposed development. I share the precautionary approach apparent by the Planning Authority in this regard.

Whereas the applicants correctly clarify that a local water supply already exists to the application site, and has been in place for approximately 50-years, no detailed clarity with respect to such ‘local communal water supply’, the location and extent of ‘in-situ’ wells and associated communal water supply infrastructure, the quantity and quality of such local supply, the number of households / developments served, and existing institutional arrangements in place, if any, ensuring managed sustainability of such local communal water supply, has been presented by the applicants (1st Party Appellants).

Rather, I understand their arguments in response to ‘Refusal Reason No.2’ particularly, to be that their property is already connected to the local water supply, and having regard to their proposed development being for the ‘replacement’ of the existing unoccupied dwelling house on site, and not for a new ‘greenfield’ single house development, the fact of the existing water supply connection will enable the proposed replacement development, is sufficient.

In my view, this expressed conviction by the applicants (1st Party Appellants) does not satisfactorily demonstrate compliance with “Standard No.2”, of Section 3.1.2 – ‘Standards for Single Dwellings in Rural Areas’ (of the Wexford County Development Plan 2022-2028, Vol.2 – ‘Development Management Manual’), which requires that the site “be capable of accommodating a satisfactory and safe supply of drinking water. Both the on-site wastewater treatment system and the water supply must be located within the site edged red (save unless provided by public infrastructure)”.

Whilst water supply to the application site is not provided by public infrastructure, nor by a single bore well located within the application site boundaries, no details are clearly apparent by the applicants (1st Party Appellants) regarding the local communal water supply system, upon which the proposed replacement dwelling development is dependent.

Whereas the applicants emphasise the sufficiency of the “existing connection” to the local communal supply network, in and of itself, it is not clear if this connection to, and consequent water supply is currently open and available to the site, having regard to the existing dwelling being in a state of considerable disrepair, and having been unoccupied for several years. If water supply to the site has indeed been stopped, arrangements would clearly be required enabling reconnection.

- 7.6.7. On this basis, having regard to 7.6.5 and 7.6.6 above, I am satisfied that Refusal Reasons 2 and 3, as articulated by the Planning Authority in the Decision Order No.P.1204/22, dated 07th September, be sustained. I recommend to the Board accordingly.
- 7.6.8. I further re-emphasise my own conviction that satisfactory servicing of the ‘replacement dwelling’ development with on-site with water supply, wastewater treatment and storm /surface water drainage, is further complicated having regard to the application of the ‘Standards’ for single rural house development set out at Paragraphs 1-9 of Section 3.1.2, and at ‘Table 3.3 – Site Size, Dwelling Floor Area Ratio & Biodiversity Requirements’, particularly. The satisfactory servicing of the site, and installation of necessary physical infrastructure is directly influenced in my view, by the scope and capacity for compliance by the proposed development, with Table 3.3 (I have included a copy of Table 3.3 above).
- 7.6.9. As proposed, with a floor area of 288m², the replacement dwelling fails to satisfactorily comply with the site size / floor area ratios set out in Table 3.3. In my view therefore, at 288m² floor area, the 2-storey replacement dwelling proposed on the restrictive 0.11ha application site, would logically result in overdevelopment of the site.

7.6.10. I have concluded at para.7.3 above, the proposed developments non-compliance with 'Table 3.3' particularly, and which on its own reasonably substantiates the 'Refusal Reason' outlined.

7.7. Road Access and Traffic Safety

7.7.1. Clearly, the application site is serviced, with an existing entrance located approximately midway along the sites southern frontage onto the local road. This entrance I understand, has been in place for as long as the site has been developed for residential use. The sites frontage is currently demarcated by a thickly vegetated hedgerow and trees, which in my view must become a consideration of the necessary upgrade of the entrance to 'Standard' (see photographs attached taken at the time of physical inspection).

7.7.2. I note the opinion and recommendations made by the County Roads Department (see report dated 10th August 2022), which "Recommend Grant with Conditions".

7.7.3. I understand vehicular access onto and off the application site will be achieved by way of consolidation and upgrade to the existing entrance. Whilst I have no objection, 'in principle' to the proposed access arrangements, without the further information and drawings clearly demonstrating the necessary compliance to Standard, as part of the application for planning permission process, I do not share the conviction apparent by the Roads Department that these compliances be achieved by way of Condition attached to a Decision to Grant planning permission.

7.7.4. I express this precaution, having particular regard to compliance with 'sightline visibility' requirements to Standard. Having regard to the physical and natural features along the sites moderate frontage width onto the public road, I am not satisfied on the information available, that the required sightlines can be achieved firstly within the confines of the application site boundaries, and without consent from adjoining landowners. I would also expect that achieving sightline visibility to Standard, along each of the westerly and easterly approaches to the entrance, would require significant

removal of the substantial hedgerow vegetation along the frontage, with consequent scarring and negative impacts on local visual amenity.

7.7.5. In preference, I believe it would have been appropriate that compliance with relevant Standards (eg. sightlines amongst others) be demonstrated by the applicants (1st Party Appellants) as part of 'Further Information' request and response within the planning permission process, rather than by way of Condition which appears to have been the approach taken by the Roads Department.

7.7.6. Whilst articulating these concerns, I do not believe it necessary to include an additional 'Refusal Reason' along these grounds, above those recommended.

7.8. Appropriate Assessment

7.8.1. Having regard to the nature and modest scale of the proposed development, to the location of the site within a rural environment, and to the separation distance and absence of a clear direct pathway to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend that planning permission should be Refused for the reasons set out below.

9.0 Reasons and Considerations

1. Section 3.1.2 together with Table 3.3 – 'Site Size, Dwelling Floor Area & Biodiversity Requirements' of the Wexford County Development Plan 2022-2028 (Vol.2), refers to the minimum required site size relative to the floor area of dwellings. The proposed 288m² replacement dwelling is considered excessive in size given the limited site size area of 0.11ha. Therefore the

proposed development is considered contrary to the minimum site size requirements as set out under Section 3.1.2 and Table 3.3 of the Wexford County Development Plan 2022-2028, and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the information available, it is considered that inadequate information has been provided with regard to the proposed connection into the local communal water supply network. In the absence of such information, it is considered that the applicants have not clearly demonstrated that the proposed development would not be prejudicial to public and environmental health. Accordingly therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.
3. Having regard to the information available, it is considered that inadequate information has been provided with regards to the location of private well water supplies within 150m of the proposed wastewater treatment system, and also of the proposed sand polishing filter. In the absence of such information, it is considered that the applicants have not clearly demonstrated that the proposed development would not be prejudicial to public and environmental health. Accordingly therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

L.W. Howard

Planning Inspector

16th February 2024