



An
Bord
Pleanála

Inspector's Report ABP-314871-22

Development	Retention of a house for use as tourist accommodation and associated site works.
Location	Ballybla House, Ballybla, Ashford, Co. Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	22/790
Applicant	Jane Davies.
Type of Application	Retention Permission.
Planning Authority Decision	Refusal of Retention Permission.
Type of Appeal	First Party v Refusal of Retention Permission
Appellant	Jane Davies.
Observer(s)	None.
Date of Site Inspection	15/11/2023
Inspector	Enda Duignan

1.0 Site Location and Description

- 1.1.** The address of the appeal site is Ballybla House, Ballybla, Ashford, Co. Wicklow. The appeal site is accessed from an existing agricultural entrance on the northern side of Kiloughter Lane and is located c. 700m to the east of the junction of Kiloughter Lane and the R761. The appeal site forms part of the attendant grounds of Ballybla House and farm and the submitted documentation indicates that the site has an area of c. 3.93ha. It is also noted within the documentation on file that the Applicant's entire landholding extends to c. 255ha. The building for which retention permission is sought is positioned to the south-east of Ballybla house. There are also a number of farm buildings and other structures to the immediate west of the subject building, the use of which have not been identified. It would appear that access to the site is to be maintained via the existing agricultural entrance and track which is located to the south east of the subject building. A separate vehicular entrance is located to the south-west of the site which provides access to Ballybla House and the associated farm buildings. There are a number of water features to the south of the existing building, between it and Kiloughter Lane and an existing stream traverses the site which flows into the Murrrough SPA and SAC further downstream.
- 1.2.** In terms of the surrounding area, lands are predominantly in agricultural use. There are also a number of one-off rural houses and farm buildings along the surrounding road network.

2.0 Proposed Development

- 2.1.** The proposal seeks planning consent for the retention of an existing 2-bed residential unit for agri-tourism accommodation as constructed on the site of the existing farmstead, together with site access and associated site works. The existing building has a stated floor area of c. 145sq.m., has an 'L' shaped plan which comprises 2 no. ensuite bathrooms, utility room, toilet, entrance lobby and an open plan kitchen/living room. A covered veranda extends around the southern and eastern side of the building. The residential unit has a low profile, pitched roof form with a maximum height of c. 3.5m. Materials and finishes for the building comprise a pressure treated timber cladding for the principal elevations with a tile effect steel roof.

- 2.2.** There is an existing gravel area to the south and east of the dwelling for the parking of cars. The appeal documentation notes the main driveway to the house can be used for access to the dwelling and it is stated that there is no real necessity to provide access to the dwelling via the agricultural entrance as indicated in the planning application package.
- 2.3.** Planning permission is also sought for the installation of a new effluent treatment system to serve the subject building, all together with associated site works. Surface water from the development is to be directed to a soakaway and it is proposed to connect to an existing private well located further west within the farm complex.

3.0 Planning Authority Decision

3.1. Decision

Wicklow County Council refused planning permission for the proposed development for the following 2 no. reasons:

1. Having regard to:
 - i. The scale, form and layout of the proposed development including the provision of separate access and separate effluent treatment system.
 - ii. The location of the proposed development within an Area of Outstanding Natural Beauty.
 - iii. The tourism objectives of the County Development Plan 2016 - 2022 in particular objectives T6, T13 and T15 which restrict holiday homes in Area of Outstanding Natural Beauty, and only to allow holiday home / self-catering developments on a farm holding by a farmhouse extension or by the utilisation of other existing dwellings structures on the property, and only where it has been demonstrated that these are not viable options, will permission be considered for new development.

The proposed development would materially contravene objectives T6, T13 and T15 of the County Development Plan 2016 - 2022, would given its separation / scale be more in character with a single residential unit and to allow the structure in absence of adequate justification / integration with the farm center would materially contravene the Rural Settlement Objectives, would if

permitted lead to the further proliferation of haphazard development in this rural area, and lead to its suburbanisation contrary to the visual amenities of the area, and the protection of this landscape Area of Outstanding Natural Beauty. The development would therefore be contrary to proper planning and sustainable development.

2. From site inspection, and aerial imagery, it is evident that there has been a number of structures provided within the farm complex adjoining the site for which no planning permission exists, and for which no information has been provided. In the absence of full details in respect to the structures etc., it is considered to allow this development would represent consolidation of unauthorised development, the provision of such a form of development unduly impacts on the amenities of the area, public health, the visual amenities of the area, undermines planning regulations that would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

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

In terms of their assessment of the application, the Planning Authority noted that the Applicant had failed to provide any details of the agri-tourism business operation as a justification for the retention of the existing dwelling on the appeal site. In addition, it was noted that there are a larger number of structures adjacent to the appeal site, within the overall landholding including structures which resembled residential buildings which may not benefit from planning permission. Concerns were raised that any permission may lead to the consolidation of unauthorised development.

In terms of the design and scale of the building, it was considered that the structure, with its own private access would constitute a standalone dwelling. It was stated that

the standalone dwelling unit was not in keeping with the more traditional structures on site and is out of character with the farm complex, has changed the topography of the landscape and it was not considered to be compliant with policies of the County Development Plan. For this reason, it was considered that the proposed development would represent sporadic development, a poor precedent and the proposal should therefore be refused planning permission. Concerns were also highlighted with respect to the visual impact of the proposed development given its location within an Area of Outstanding Natural Beauty and concerns were highlighted given the applicant had not submitted a visual impact assessment for the sensitive site. The Planning authority also noted that the proposed access arrangement would not be appropriate as a separate residential/tourist entrance, especially as no details of any changes to the entrance were proposed.

The initial planner's report recommended for the application be refused for 3 no. reasons. I note that there is a supplementary report on the planning file from the Senior Executive Planner which acknowledges the concerns raised in the initial report in relation to the impact of the development on the Listed Prospect along the railway track to the east. However, it was considered that given the existing vegetation and distance from this prospect, there was no likelihood of any impact on this view. It was stated that the structure itself appears to have been dug into the site, and its impact in general relates to the further suburbanisation of this landscape, in the absence of justification, and the precedent it would set. A refusal of permission was therefore recommended for 2 no. reasons.

3.2.2. Other Technical Reports

EHO: Report received stating no objection.

Fire Service: Report received recommending additional information.

3.2.3. Prescribed Bodies

Irish Water: No objection.

3.2.4. Third Party Observations

None.

4.0 Planning History

4.1. Appeal Site

None.

I note that there is a history of planning enforcement on the appeal site in relation to the erection of a structure for alleged use as a habitable dwelling (Ref. No. UD5530).

5.0 Policy and Context

5.1. Local Policy

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

The Wicklow Dublin County Development Plan (CDP), 2022-2028 came into effect on 23rd October 2022 and after the decision of the Planning Authority to refuse permission. Given the nature of the proposal and the location of the appeal site within a rural area, 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.

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.

Given the development to be retained is described as agri-tourism accommodation, the following objectives are of relevance to the development proposal:

- **CPO 11.6:** To ensure that tourism and recreation related developments are appropriately located in the County. Subject to the following exceptions, all tourist and recreation related developments are 'open for consideration' in all landscape areas:
 - The following tourist uses will not be permitted within the Area of Outstanding Natural Beauty (both the Mountain Uplands Area and the Coastal Area): Static caravans and mobile homes,
 - Holiday homes will not be permitted in any landscape category other than urban zones except where they comply with objectives CPO 11.13, CPO 11.14, CPO 11.15 and CPO 11.16.
- **CPO 11.13:** To require new holiday home / self-catering developments to locate within either established settlements or at established tourism / recreation facilities, other than those developments involving the renovation / conversion of existing buildings.
- **CPO 11.14:** To require the developers / owners of new holiday homes / self catering developments to enter strict legal agreement (under Section 47 of the Planning & Development Act) with the Planning Authority specifying that:
 - the units may only be used for tourism purposes and shall not be allowed to be used as a permanent residences;
 - in the case of small-scale developments, the entire development, including all buildings, land and any on-site tourist facility, shall be held in single ownership and shall not be subdivided. All units shall be available for short term letting only of a maximum duration of 4 weeks; and
 - in the case of larger scale developments, all lands, including any on-site tourist facility shall be held under the management of a single Estate Company (including all lands included in the site boundary and land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the applicant or the person who owns the land which is the subject of the application) and in the event that any unit is sold or leased, the owner/lessee shall enter a legal agreement with the

Estate Company stipulating that the purchaser, lessee and any successors in title be, and remain, members of the Estate Company, and stipulating that the unit may only be used by the owner/lessee for holiday use for a maximum of 3 months in any year and shall at all other times be used/leased/marketed by the Estate Company for short term (maximum 4 weeks) tourism use.

- **CPO 11.15:** Holiday home / self-catering developments on a farm holding shall be provided by farmhouse extension or by the utilisation of other existing dwellings / structures on the property. Only where it has been demonstrated that these are not viable options, will permission be considered for new build development. Any new build development shall be in close proximity to the existing farmhouse.

Given the proposals for a domestic wastewater treatment system and the site's rural location, CPO 13.16 of the Plan is considered to be relevant in this regard. The policy states that permission will be considered for private wastewater treatment plants where:

- The specific ground conditions have been shown to be suitable for the construction of a treatment plant and any associated percolation area;
- The system will not give rise to unacceptable adverse impacts on ground waters / aquifers and the type of treatment proposed has been drawn up in accordance with the appropriate groundwater protection response set out in the Wicklow Groundwater Protection Scheme (2003);
- The proposed method of treatment and disposal complies with Wicklow County Council's 'Policy for Wastewater Treatment & Disposal Systems for Single Houses (PE ≤ 10)' and the Environmental Protection Agency "Waste Water Treatment Manuals"; and
- In all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitively demonstrate that the proposed development will not have an adverse impact on water quality standards and requirements set out in EU and national legislation and guidance documents.

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 and Guidance

Regard is had to:

- Climate Action Plan 2023 (CAP23).
- Project Ireland 2040 National Planning Framework (NPF).
- Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).
- Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021.

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), located c. 210m to the east of the appeal site.

5.4. EIA Screening

Having regard to the nature and scale the development to be retained which consists of an agri-tourism residential unit 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

- 6.1.1. A First Party planning appeal has been prepared and submitted on behalf of the Applicant. The appeal submission provides a description of the site and the subject proposal and sets out the policy at national, regional and local level that is deemed to be relevant to the consideration of the appeal. The grounds of appeal can be summarised as follows:

Rebuttal of Refusal Reason No. 1

- 6.1.2. The appeal submission indicates that this reason for refusal comprises several elements which are broken-down and addressed under a number of headings. In addition, it is stated that the reason for refusal is incongruous, repetitive and counter-logical to the reality of the development and its location for the following reasons:
- It is stated that the Planning Authority completely mischaracterises the development as 'haphazard' and 'suburbanisation' and contrary to visual amenity.
 - It is contended that the development is located within a traditional rural farmyard layout, with a structure and layout that is anything but suburban in nature.
 - The structure is located in a rural landscape, but is not visible outside the farm or from the public road; indeed it is contended that it is barely visible within the farm and therefore does not adversely affect any visual amenity.

- The development is fully contained within the farm yard complex setting and its rationale and situation is wholly distinct and has no bearing on development in 'the rural area'.

6.1.3. *The scale, form and layout of the proposed development including the provision of a separate access and separate effluent treatment system.*

6.1.4. The Applicant indicates that the proposed building is situated within Ballybla House and farmstead and does not constitute as a standalone dwelling, given its relationship to the existing structures within the farm complex. It is stated that the scale of the development is proportionate and in line with the existing structures on site and is not obstructive to the surrounding landscape. In addition, it is stated that the site's topography avoids any interference with the existing views and there is a reciprocal relationship between the existing structures within the farm complex and the landscape. It is confirmed that this proposed access arrangement provides an alternative, but it is not a fundamental need for the dwelling and the existing driveway to Ballybla House could readily be utilised in this instance to avoid the provision of a separate access to the site (if required). In terms of wastewater management, it is stated that the additional building on site poses no undue pressure on the existing services on the larger site.

6.1.5. *Location of the development within an Area of Outstanding Natural Beauty*

6.1.6. It is contended that the subject building does not impose or obstruct the Area of Outstanding Natural Beauty in any capacity, and it is self-evident that it will not unnecessarily alter the natural landscape and topography or have any negative landscape impacts either locally or strategically.

6.1.7. *The tourism objectives of the County Development Plan 2016 - 2022 in particular objectives T6, T13, T15 which restrict holiday homes in Area of Outstanding Natural Beauty, and only to allow holiday home/ self catering development on a farm holding by a farmhouse extension or by utilisation of other existing dwellings/ structures on the property, and only where it has been demonstrated that these are not viable options*

will permission be considered for new build development.

- 6.1.8. As the application for retention, it is stated that the visual impact in reality is self-evident and no photomontages are required. A planning professional is provided with the real-world basis on which to make an informed assessment. It is argued that the development promotes agri-tourism and rural economic diversification as much as it seeks to restrict rural development. The Development Plan is internally contradictory and it is contended that no effort has been made in the Planning Authority's assessment to balance or weight these policy criteria. Reference is made to national policy and it is highlighted within the submission that the Board is empowered under section 37(2) of the Planning and Development Act, 2000 (as amended) to have regard to conflicting objectives in the development plan.
- 6.1.9. The appeal submission confirms that the existing building is not a holiday home, and it also refers to the appended letter which sets out the ongoing agri-tourism activities occurring on site and outlines the proposed future plans for agri-tourism on the lands. The supporting letter notes that as small scale beef farming has become economically unviable on their farm, they now have had to look at alternative sources of income. As a result, the prominent use on site is agri-tourism with plans of expanding their eco-tourist and agri-tourist activities. The appeal submission also refers to the letters of support which have been attached as appendices which they note add further weight to the economic justification for the project.
- 6.1.10. In terms of compliance with Objective T15 of the previous CDP, it is stated that the conversion and development of the agri-tourism accommodation on the farmstead has evolved incrementally as the demand in the area for tourist accommodation grew. It was confirmed that the existing farm structures on site will be utilised as lecture and workshop spaces to support the agri-tourism activities at the location. As a result, an additional new build development was deemed necessary to fulfil the demand associated with the current tourism demands as well as perspective activities detailed in the accompanying letter by the Applicant. Consequently, the subject building was located within the confines of the existing farm complex of Ballybla House and it is contended that the proposed development has been developed in accordance with

Objective T15.

6.1.11. *The proposed development would materially contravene objectives T6, T13 and T15 of the County Development Plan 2016 – 2022.*

6.1.12. For the reasons outlined in the foregoing, it is submitted that the subject proposal complies with Objectives T6, T13 and T15 of the county Development Plan 2016 – 2022 and the reason for refusal is not applicable to the proposed development and is contrary to the Development Management Guidelines issued under section 28 of the Planning and Development Act, 2000 (as amended).

6.1.13. In response to the Planning Authority's claims that the proposal would materially contravene the Rural Settlement Objectives in the absence of adequate justification/integration within the farm centre, it is stated that the Applicant has established and demonstrated the need to diversify their farm holding due to the unviable nature of traditional farming operations. It is confirmed that the Applicant is in ownership of c.2 55ha. of land at Ballybla and they have been cognisant of confining development within the farm centre, hence why the Applicant has consolidated agri-tourism accommodation and activities proximate to Ballybla House and within the farmstead.

6.1.14. The appeal submission reiterates that the proposed development is situated within the farmstead of Ballybla House and is not a haphazard development, but one that is clearly understandable as a farm and barnyard complex. It is stated that it is clear that there is no suburbanisation at the farmstead and there is no loss of visual amenities from the building nor any impact to the Area of Outstanding Natural Beauty. It is contended that the proposal fully accords with national planning policy (NPO 21 & 23) and the retention of the development should therefore be permitted.

Rebuttal of Refusal Reason No. 2

6.1.15. In terms of the second refusal reason, it is stated that there is no requirement under the Planning Regulations to submit 'full details in respect of structures etc.' that are not included in the planning application proposal. It is confirmed that the proposed structure is part of a farm complex, but there is no requirement to include detailed

drawings within the complex. The appeal submission notes that Wicklow County Council has in effect sought to condemn and refuse a development that is not before them. The Applicant did not apply for permission for farmyard complexes; so how can permission be construed to include a Reason for Refusal for such structures? It is highlighted that Wicklow County Council's enforcement section undertook a site visit as part of the assessment for the cabin structure and it is notable that the Council did not issue any enforcement proceedings in respect of the barn yard structures and there are no enforcement issues outstanding in respect of the farmyard. It is submitted that the subject building on the appeal site should be considered on its own merits under National, Regional and Local policy.

6.1.16. It is stated that the Planning Authority's assertion that the development 'undermines the planning regulations' is obtuse, ambiguous and inaccurate and it is not credible to cite 'the planning regulations' without reference to a single article and present it as Reason for Refusal. It is reiterated that the development is located within a self-contained farmstead which will form the accommodation element to the agri-tourism activities on site as well as cater for visitors to Ashford Studios, who have provided their support to this development. The submission notes that the visual amenities of the area are not obstructed by the presence of the building on site and there is no need for a visual assessment or photomontages as the lack of visual impact is self-evident. The Board is therefore invited to overturn the Planning Authority's decision to refuse retention permission.

6.1.17. In support of the appeal, the Applicant has enclosed multiple letters of support for the development proposal. The Applicant has also enclosed an Appropriate Assessment Screening Report.

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 appellant's grounds of appeal 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:

- Principle of Development & Policy Compliance
- Design & Visual Impact
- Wastewater Treatment
- Appropriate Assessment

7.1. Principle of Development & Policy Compliance

- 7.1.1. As detailed in Section 2 of this report, the proposal seeks retention permission for the construction of what is described as agri-tourism accommodation in the form of a single storey, 2 no. bedroom residential unit. Planning permission is also sought for the installation of a new effluent treatment system to serve the subject building, all together with associated site works. The cabin style structure is located to the immediate south-east of a cluster of existing buildings associated with Ballybla House and farm. Since the Planning Authority's decision to refuse permission, the Wicklow County Development Plan, 2022-2028 has been adopted. The policies referred to within the Planning Authority's assessment and their consequent reasons for refusal remain largely unchanged within the current iteration of the CDP. Objective CPO 11.6 of the current Plan seeks to ensure that tourism and recreation related developments are appropriately located in the County and the policy indicates that all tourist and recreation related developments are deemed to be 'open for consideration' in all landscape areas. The exceptions to this are static caravans and mobile homes within Areas of Outstanding Natural Beauty or holiday homes in any landscape other than urban zones except where they comply with objectives CPO 11.13, CPO 11.14, CPO 11.15 and CPO 11.16. Although not defined in the current CDP, it is evident that the proposal does not comprise a holiday home and would be classified as a form of self-catering accommodation. The restrictions contained within Objective CPO 11.6

therefore do not apply to the subject proposal and I am satisfied that the proposal can be considered on its own merits, subject to compliance with the pertinent objectives/policies of the Plan.

7.1.2. Objectives CPO 11.13 and CPO 11.15 are directly relevant in this regard. Firstly, the policy (CPO 11.13) of the Plan requires self-catering developments to locate within either established settlements or at established tourism/recreation facilities, other than those developments involving the renovation/conversion of existing buildings. As the proposal relates to the retention of a newly built structure, developments should therefore either be located within established settlements or at established tourism/recreation facilities. In this instance, the development is described as agri-tourism accommodation, but I note that there is limited information on the file or in the public domain in terms of the actual agri-tourism related activities that are undertaken on site. The grounds of appeal highlight that the prominent use on site is agri-tourism with plans of expanding their eco-tourist and agri-tourist activities. In addition, it is stated that the other structures within the farm site will be utilised as lecture and workshop spaces to support the agri-tourism activities at this location. Whilst there may be an intention to expand these activities, one could not reasonably conclude on the basis of the information on file or having inspected the appeal site that Ballybla House and farm is an established tourism facility as required by the policy of the Plan. The analogy of the 'cart before the horse' comes to mind in this regard. Should these plans ever eventuate, then it may be feasible to consider a proposal of this nature in the future. However, for the reason outlined above, it is my view that the development to be retained is considered to be contrary to Objective CPO 11.13 of the CDP and should therefore be refused permission.

7.1.3. It is also policy (CPO 11.15) of the Plan for self-catering developments on a farm holding to be either provided by farmhouse extension or by the utilisation of other existing dwellings / structures on the property. The policy goes on to note that only where it has been demonstrated that these are not viable options, will permission be considered for new build development and any new build development shall be in close proximity to the existing farmhouse. The appeal submission contends that the conversion and development of the agri-tourism accommodation on the farmstead has

evolved incrementally as the demand in the area for tourist accommodation grew. It is also reiterated that the existing farm structures on site will be utilised as lecture and workshop spaces to support the agri-tourism activities at the location. As a consequence, an additional new build development was deemed by the Applicant to be necessary to fulfil the demand associated with the current tourism demands as well as perspective activities.

7.1.4. As the Applicant is referring to the use/future use of existing structures within the wider farm complex, it is relevant to have regard to the Planning Authority's second reason for refusal. The Planning Authority noted that there are a number of structures provided within the farm complex adjoining the site for which no planning permission exists, and for which no information has been provided. In the absence of full details, it was considered that to allow the proposals, would represent the consolidation of unauthorised development. I accept the Applicant's arguments that generally there is no obligation for details of structures outside the application boundary to be documented. However, I note that this application is somewhat more nuanced, insofar as the Applicant is intentionally trying to establish a link between the existing/proposed uses on the larger landholding and the development to be retained, i.e. as a justification/rationale for the proposal. Although the Applicant may have intentions to develop these structures for agri-tourism relates uses in the future, it is not clear whether these are established/permitted uses. In addition, it has not been adequately demonstrated that the refurbishment of other structures on the property is not a viable option for a development of this nature (i.e. self-catering accommodation). Whilst I do not consider that a separate refusal reason is warranted, it is my view that the proposed development and the development to be retained fails to accord with Objective CPO 11.15 of the Plan. For this reason, I recommend that permission be refused.

7.1.5. Within their grounds of appeal, the Applicant has pointed to policies at National level which they deem to be relevant to the consideration of the proposal, notably NPO 21 and NPO 23. These policies generally seek to encourage the development and competitiveness of the rural economy. I note that the CDP (2016-2022) in place at the time of the Planning Authority's decision was adopted prior to the publication of the

NPF. Whilst I have had regard to and acknowledge the national policy provisions, the current CDP outlines clear parameters for developments of this nature and their suitability, dependent on their location which I have discussed in detail in the foregoing. In my view, it is not clear that any notable conflicts exist in terms of the various policy provisions at local and national level.

7.2. Design & Visual Impact

- 7.2.1. Within their assessment of the application, the Planning Authority noted that the accommodation was not in keeping with the more traditional/vernacular structures on-site, was out of character with the area/farm complex and had changed the topography of the landscape. In addition, the Planning Authority referred to the site's location within an Area of Outstanding Natural Beauty (AONB) and concerns were raised that the development may be having an additional negative impact on the area, Prospect ID: 7 (located to the east) and the AONB. The failure to submit a visual impact assessment was also noted. The initial planning report on file included a refusal reason referring to these issues. However, the additional report on file from the Senior Executive Planner omitted this refusal reason as it was considered that there is no likelihood of any negative impact on this view given the structure appears to have been dug into the site, the existing vegetation cover and distance to the listed prospect. It was noted that the impact in general is the further suburbanisation of this sensitive landscape in the absence of a justification and the precedent this may establish.
- 7.2.2. The existing building has a stated floor area of c. 145sq.m. with an 'L' shaped plan. The pitched roof building has a maximum height of c. 3.5m with a low profile and materials and finishes comprise a pressure treated timber cladding for the principal elevations with a tile effect steel roof. Whilst the design of the building is not typically in keeping with the vernacular character of the area or the existing structures on wider site, the overall scale of the structure is relatively modest with only glimpses of the structure being achieved from outside the site due to the existing vegetation cover and the setback of the building from the site boundaries. Given the structure exists, I would concur with the appellant that the requirement for the submission of a visual impact assessment is not required in this instance. Having regard to the overall scale, height and form of the structure and its setback from the site boundaries, I am satisfied that

the design of the development in this instance does not detract or impact the character of the AONB or the visual amenities of the site and surrounding area. Notwithstanding this, the proposal fails to comply with pertinent policies of the current CDP which I have outlined above and should therefore be refused planning permission.

7.3. Wastewater Treatment

- 7.3.1. As part of the proposal, the Applicant seeks to planning consent for the installation of a wastewater treatment system (WWTS) and percolation area which is to be located to the east of the existing accommodation. I note that the Planning Authority has raised no objection to the Applicant's proposals for the disposal and treatment of wastewater on site. Assessment of the wastewater treatment element of rural houses is a standard consideration. The site is in an area with a locally important (LI) aquifer of low vulnerability. The Site Characterisation Form notes that groundwater was not encountered in the 2.1m deep trial hole. Bedrock was also not encountered at a depth of 2.1m. The soil was deep loam topsoil in the upper 600mm and gravely silt with occasional sandstone within the remainder of the hole. I note that the Site Characterisation Form identifies a Groundwater Response of R1, i.e. 'Acceptable subject to normal good practice (i.e. system selection, construction, operation and maintenance in accordance with this CoP)'.
- 7.3.2. The T-test result was 14.56. A P-Test was also carried out on site, giving a result of 12.19. 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 underfoot with no indicators of poor drainage at the time of inspection. The portion of the site within which the system is to be located 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 a septic tank system, a secondary treatment system and a tertiary treatment system and infiltration area all of which will discharge to ground water. The wastewater treatment system proposed in this instance is a septic tank and percolation area which is to be located to the east of the dwelling within a relatively flat area of the site. A site plan and section diagrams showing the wastewater treatment system in the context of the existing accommodation and the site and separation

distances is enclosed within the Applicant's documentation. Having regard to the documentation on file, including the Site Characterisation Form 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 Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021.

7.4. Appropriate Assessment

- 7.4.1. The nearest designated sites are The Murrough Wetlands Special Area of Conservation (SAC) (Site Code: 002249) and The Murrough Special Protection Area (SPA) (Site Code: 004186), which are located c. 210m and c. 240m to the east of the appeal site respectively. In support of the appeal, the Applicant has submitted a Screening Report which outlines that the Inchanappa watercourse traverses along the southern boundary of the overall site outline and it is noted that this watercourse ultimately outfalls to the marine environment at The Murrough Wetlands. However, it is stated that this watercourse has, historically (1980's), undergone works which resulted in the watercourse being diverted to an existing watercourse on the southern boundary of the site. The watercourse that once traversed through the subject site is currently a partially infilled drainage ditch that no longer discharges to outfall into the marine environment, nor does it link to the Inchanappa watercourse. As a result of these historical works there is no direct pathway to designated sites from the site works.
- 7.4.2. The screening report also highlights that the site development area is located 100m to the north of the diverted watercourse (Figure 11 of Screening Report). It is considered within the report that having regard to the distance (100m) to the current watercourse (with a hedgerow separating the site from the watercourse), the scale of the works, the fact that foul wastewater will be treated on-site, and the fact that surface water drainage during operation percolates into the ground, in the absence of mitigation measures, that there is no direct or indirect hydrological connection to any European Sites. The Screening Report concludes that having taken into consideration the

surface water discharge from the development works, the distance between the development site to designated conservation sites, and the lack of direct or indirect hydrological pathway or biodiversity corridor link to conservation sites, that this development would not give rise to any significant effects to designated sites and the construction and operation of the development will not impact on the conservation objectives of features of interest of Natura 2000 sites.

- 7.4.3. Taking into consideration the modest nature, extent and scope of the proposed development and the development to be retained, the nature of the receiving environment, with no direct hydrological or ecological pathway to the European site and based on best scientific information, including the submitted Site Characterisation Report, that no appropriate assessment issues arise and that the proposed development and the development to be retained 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 for retention permission and permission be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. Objective CPO 11.13 of the Wicklow County Development Plan, 2022-2028 requires new build self-catering developments to locate within either established settlements or at an established tourism/recreation facility. In addition, Objective CPO 11.15 of the Plan requires self-catering developments on a farm holding to be either provided by farmhouse extension or by the utilisation of other existing dwellings / structures on the property. Only where it has been demonstrated that these are not viable options, will permission be considered for new build development. On the basis of the information submitted with the application and appeal, the Board is not satisfied that the development is located within an established tourism facility that would justify a proposal of this nature. In addition, the Applicant has failed to demonstrate that it was not viable to provide accommodation of this nature within other

existing structures on the subject landholding. In this regard, the proposed development and the development to be retained fails to accord with Objectives CPO 11.13 and CPO 11.15 Wicklow County Development Plan (CDP), 2022-2028 and would therefore be contrary to proper planning and sustainable development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Enda Duignan
Planning Inspector

16/11/2023