



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315470-23

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<b>Development</b>	House, wastewater treatment unit, well, upgrading of vehicular entrance and driveway to form shared access lane with existing house etc.
<b>Location</b>	Ballinastoe Td., Roundwood, Co. Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	22/135
<b>Applicant(s)</b>	Grace Kavanagh
<b>Type of Application</b>	Permission (s. 34)
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party (s. 37)
<b>Appellant(s)</b>	Grace Kavanagh
<b>Observer(s)</b>	Damhnait Ní Suaird
<b>Date of Site Inspection</b>	3 <sup>rd</sup> November 2023
<b>Inspector</b>	Philip Maguire

## 1.0 Site Location and Description

- 1.1. The appeal site comprises of part of an agricultural field in the eastern foothills of the Wicklow Mountains, within the townland of Ballinastoe, some 4.5km north, northeast of Roundwood. The site is located off, and south of, the L5036, west, northwest of its junction with the R755 (Roundwood to Kilmacanogue). The surrounding area is characterised by agricultural upland with a distinctive ribbon of houses along the road.
- 1.2. The appeal site is rectangular shaped, under grass and relatively firm underfoot although heavy in parts as a result of pugging from horses stabled nearby. It has a stated area of 0.22ha but lacks road frontage, with access via an existing entrance serving an adjacent dwelling. Site topography is generally flat with a gentle fall in an east, south-easterly direction. The northern boundary is defined by a stockproof fence and a number of tall evergreen trees, beyond which lies a detached shed. The southern boundary is defined by a stockproof fence and some deciduous saplings. The eastern boundary is defined by a stockproof fence and some trees, scrub and hedgerow, beyond which lies a detached farm shed, albeit now derelict. The western boundary is open and undefined. There are two houses further west and accessed via a laneway off the L5036. Overhead wires, aligned east to west, traverse the site.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for a single-storey, 3-bed house, domestic wastewater treatment system (DWWTS), private well and shared vehicular access via an existing entrance serving a dwelling, known as “Wyndrush Lodge”, with upgrades to same.
- 2.2. The proposed house is sited roughly 125m from the road edge and orientated to the west, addressing a courtyard shared with a proposed house concurrently on appeal under ABP-315471-23. Both houses would be to the rear of the predominant building line. As noted, the appeal site would be accessed via a shared entrance with the adjacent house to the northwest, identified as the applicant’s family home. The proposed house has a finished floor level of 259.371mAOD and a stated floor area of 192sq.m. It is laid out in a H-block consisting of two pitched roof structures, 4.75m high, with flat roof link. The structures have ridge spans of 15.50m and 18.50m respectively, with 6.00m wide gable ends. External finishes are slate and plaster. The

DWWTS and surface water soakaway are sited to the south of the house. Water supply would be via a private well to the north. Additional landscaping is also proposed.

- 2.3. The application was accompanied by a Planning Report, a Design Statement and a Visual Impact & Site Assessment (Joseph Kavanagh); a report on groundwater quality (Trinity Green Environmental); and a Site Characterisation Report (SCR) (LK Design).
- 2.4. The applicant submitted unsolicited further information on 10<sup>th</sup> October 2022. It stated that the 'backland' issue can now be considered under CPO 6.45 of the new Plan.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. Permission was refused on 5<sup>th</sup> December 2022 for the following reason:

1. *Having regard to the location of the development on lands wholly to the rear of existing houses/structures, it is considered this development would represent substandard backland development on a restricted site which would set a precedent for further undesirable patterns of development in this area and would be contrary to the amenities of the existing dwelling and to the proper planning and sustainable development of the area.*

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

- Planning Report (01/04/22): It considered that the applicant qualified for a rural house on the basis of the information submitted with the application. It noted that the existing sightlines are restricted and the proposed upgrades of 101m in each direction are acceptable. It stated that the proposed house design would fit in with the area, which is characterised by varying designs, but it constitutes 'backland' development nonetheless, and if permitted would reinforce similar development leading to suburban sprawl in a rural area. It considered the examples of backland development put forward by the applicant as precedent and discounted many on the basis that there was an existing access lane *in situ*. It noted that the site was screened from the road by existing planting and did not consider any overlooking

issues arose with the adjacent property to the west. It considered that the proposal would impact on the private amenity area of the dwelling to the north, and would result in two distinct houses sitting at opposite ends of the applicant's family land. Refusal was recommended on this basis. No drainage, AA or EIA issues arose.

- Planning Report (28/11/22): It considered the applicant's unsolicited further information submission. Having regard to the location and design of the proposal and the objectives of the new Development Plan, it considered that it would not seriously injure the visual amenities of the area, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health, and would therefore be in accordance with the proper planning and development of the area.
- Planning Report (29/11/22): Basis for the Planning Authority decision. It considered the unsolicited further information in the context of Objective CPO 6.45 of the new Plan in relation to 'backland' development. It noted that this is a new objective, albeit based on the existing Rural Housing Design Guide, which it stated informed the initial recommendation. Refusal was recommended on this basis.

#### 3.2.2. Other Technical Reports

- EHO (07/03/22): No objection subject to condition.
- DCC – Vartry Waterworks (23/02/22): No objection.

#### 3.3. Prescribed Bodies

None.

#### 3.4. Third Party Observations

- 3.4.1. Third party submissions were received from Damhnait Ní Suaird of Ballinastoe, Roundwood, Co. Wicklow, c. 110m west of the appeal site.
- 3.4.2. The issues raised are similar to the appeal observations – see section 6.3 below.

#### 4.0 Planning History

- 4.1. None on appeal site although I note that two previous applications, under PA refs. 20/600 and 21/898, were withdrawn following recommendations for refusal.

4.2. Relevant sites in the vicinity:

Immediately west

PA ref. 22/136 – permission refused in December 2022 for a detached house and DWWTs, with access and courtyard shared with appeal site. Having regard to the location of the development on lands wholly to the rear of existing houses/structures, the Planning Authority considered that this proposal would represent substandard 'backland' development on a restricted site which would set a precedent for further undesirable patterns of development in this area and would be contrary to the amenities of the existing dwelling etc. Currently on appeal under ABP-315471-23.

I note that previous applications under PA refs. 20/636 and 21/899 were withdrawn.

c. 110m west, northwest

PA ref. 05/2235 – permission granted in May 2005 for a detached house and sewage treatment system etc. Condition 13 required tree planting along the eastern boundary.

c. 190m west, northwest

PA ref. 21/971 – permission granted in February 2022 for a detached house, garage, sewage treatment system etc. with upgrades to existing entrance lane including the provision of a new passing bay and improvements to the alignment and sightlines. Condition 6 restricts occupation of the house until access upgrades are carried out.

c. 200m east, southeast

PA ref. 19/1248 – permission granted in July 2020 for a detached house and sewage treatment system etc. with entrance on to existing laneway. Condition 4 requires construction of the vehicular access prior to commencement.

c. 285m southeast

PA ref. 18/1215 – permission granted in February 2019 for a detached house and sewage treatment system etc. and subsequently amended under PA ref. 20/134. Condition 4 required construction of the vehicular access prior to commencement.

c. 350m west, northwest

PA ref. 08/448 – permission granted in July 2008 for a detached house and sewage treatment system etc. with revised access onto existing entrance lane.

## 5.0 Policy Context

### 5.1. Wicklow County Development Plan 2022-2028

5.1.1. The current Development Plan, as varied, came into effect on 23<sup>rd</sup> October 2022. The Planning Authority decision of 5<sup>th</sup> December 2022 was made under this Development Plan. This appeal shall also be determined under the provisions of this Plan.

5.1.2. The main policy objectives relevant to the proposal are set out under chapters 4 (Settlement Strategy), 6 (Housing), 12 (Sustainable Transportation) and 13 (Water Services) of Volume 1 (Written Statement).

5.1.3. The following sections are relevant to the appeal:

- 4.2 – County Wicklow Settlement Strategy (Level 10)
- 6.3.8 – Rural Housing

5.1.4. Summary of the relevant policy objectives:

CPO 4.1 Seeks to implement the Core Strategy and Settlement Strategy, having regard to the availability of services and infrastructure and in particular, to direct growth into key towns, self-sustaining growth towns etc.

CPO 6.41 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.

The following extracts from Table 6.3 are relevant:

#### ***Housing Need / Necessary Dwelling***

*This is defined as those who can demonstrate a clear need for new housing, for example first time home owners.*

#### ***Economic Need***

*The Planning Authority recognises the rural housing need of persons whose livelihood is intrinsically linked to rural areas subject to it being demonstrated that a home in the open countryside is essential to the*

*making of that livelihood and that livelihood could not be maintained while living in a nearby settlement.*

### **Social Need**

*The Planning Authority recognises the need of persons intrinsically linked to rural areas that are not engaged in significant agricultural or rural based occupations to live in rural areas. In this regard, persons intrinsically linked to a rural area may include:*

- Permanent native residents of that rural area (including Level 8 and 9 settlements) i.e. a person who was born and reared in the same rural area as the proposed development site and permanently resides there;*
- The son or daughter of a landowner who has inherited a site for the purpose of building a one off rural house and where the land has been in family ownership for at least 10 years prior to the application for planning permission and can demonstrate a social need to live in that particular rural area;*
- Local applicants who are intrinsically linked to their local area and, while not exclusively involved in agricultural or rural employment, have access to an affordable local site;*
- Other such persons as may have a definable strong social need to live in that particular rural area, which can be demonstrated by way of evidence of strong social or familial connections, connection to the local community / local organisations etc.*

CPO 6.45 Seeks to facilitate high quality rural infill / backland development in accordance with the design guidance set out in the Wicklow Rural House Design Guide provided that it doesn't unduly detract from residential amenity or the visual amenities of the area, or the rural character and pattern of development in the area and does not result in a more urban format of development. This is subject to the rural housing policy.

5.1.5. Appendix 1 of Volume 3 sets out relevant design standards. The following is relevant:

- Section 2.2.3 (Wastewater disposal) sets out the criteria for considering on-site effluent disposals systems for single houses including the EPA Code of Practice.

5.1.6. Appendix 2 of Volume 3 sets out the design guidelines for new homes in rural Wicklow. Section 2 relates to position and siting. It specifies the following in relation to infill:

*Where the proposed development site currently forms part of the site of an existing dwelling (i.e. it is proposed to subdivide an existing plot), the following considerations must be taken on board:*

*A. The site must be large enough to comfortably accommodate the existing and additional house(s) and their associated facilities such as independent gardens, car parking, effluent disposal facilities etc.*

*B. (i) The new house(s) should be so positioned on site to have a 'relationship' with the existing structures.*

*(ii) In this regard, the end result should not be two (or more) distinct houses sitting at the opposite ends of the same site or a new house directly behind an existing one.*

*(iii) Consideration must be given to clustering or the creation of courtyard type development, reminiscent of a vernacular farmstead layout.*

*C. The new house should not result in adverse impacts on the amenities (e.g. privacy, light) of adjacent properties.*

## **5.2. Rural Housing Guidelines**

5.2.1. The Sustainable Rural Housing Guidelines for Planning Authorities (DEHLG, 2005) set out the key planning principles which should *inter alia* guide the assessment of planning applications for rural residential development. Section 3.2.3 details the general criteria for considering whether a person is an intrinsic part of a rural community. It notes that such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community e.g. farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas.



### **5.3. National Planning Framework**

- 5.3.1. Project Ireland 2040, the National Planning Framework (NPF), sets the national planning policy context. In rural areas under urban influence, National Policy Objective (NPO) 19 seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

### **5.4. Climate Action Plan 2023**

- 5.4.1. Changing Ireland for the Better, the Climate Action Plan 2023 (CAP23), sets a national target of halving greenhouse gas emissions by 2030 and being carbon neutral by 2050. Measures to achieve a 50% reduction in transport emissions include a 20% reduction in total vehicle kilometres and a 50% increase in daily active travel journeys.

### **5.5. Other Guidance**

#### **5.5.1. Domestic Waste Water Treatment Systems (EPA, March 2021)**

Guidance relating to domestic wastewater treatment systems (DWWTSs) for single houses or equivalent development with a population equivalent (PE) of less than or equal to 10 is set out in this Code of Practice (CoP). It details methodology for site assessment and selection, installation and maintenance of an appropriate DWWTS.

Circular Letter NRUP 01/2021 sets out the relevant transitional arrangements.

### **5.6. Natural Heritage Designations**

Wicklow Mountains SAC (Site Code 002122) – 1.4km northwest

Wicklow Mountains SPA (Site Code 004040) – 1.4km northwest

Carriggower Bog SAC (Site Code 000716) – 1.6km east

### **5.7. EIA Screening**

- 5.7.1. Having regard to the nature and scale of the proposed development, which is for a detached house with DWWTS, and its proximity to the nearest sensitive location, there

is no real likelihood of significant effects on the environment arising from the proposal. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and there is no requirement for a screening determination or EIA (see Appendix 1).

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. A 1<sup>st</sup> Party appeal has been lodged by Joseph Kavanagh, on behalf of the applicant, Grace Kavanagh.

6.1.2. The main grounds of appeal can be summarised as follows:

- It suggests that ‘backland’ development can now be granted under CPO 6.45.
- It notes that compliance with CPO 6.45 requires compliance with CPO 6.41 in the first instance and in this regard, it is stated that the applicant qualifies for a rural house as she is a permanent native resident of the local rural area. Referring to the documentation submitted to support this claim, it notes that the Planning Authority accepted the applicant’s rural generated housing need.
- It provides a background to the application including the time extension and unsolicited further information, and makes specific claims in respect of advice purportedly given by the Planning Authority in respect of same. It also notes the existence of two separate planning reports from November 2022, one recommending a grant and a subsequent report recommending a refusal.
- Regarding the refusal, it sets out how the proposal complies with the criteria under the ‘Rural Infill’ section of the rural house design guide.
- In terms of Criterion A and referring to a report on groundwater quality submitted with the application, it is stated that the site is sufficient to accommodate the associated facilities needed.
- In terms of Criterion B (i) and referring to the farmyard layouts illustrated in the Design Statement, it is noted that the proposed house is clustered with the applicant’s brother’s proposal, which is concurrently on appeal (ref. ABP-315471-

23), with shared space that represents a farmyard cluster. It is also submitted that the proposed house will have a relationship with two existing farm buildings, to the north and east respectively.

- In terms of Criterion B (ii) and regarding the siting adjacent to farm structures as opposed to the applicant's parents' house, it is submitted that the area around the family home is too small to accommodate the proposed house and siting there would result in a suburban estate layout. Referring to the submitted Visual Impact Assessment, it is stated that the proposed siting will allow sufficient amenity space whilst maintaining the rural nature of the area and reducing visual impact. It is also suggested that the siting will follow a 'built line' established under PA refs. 21/971, 05/2235, 19/1248, 20/785 (presumably 18/1215) and 08/448, meaning that the house is not being placed at random.
- In terms of Criterion B (iii), the applicant again refers to the farmyard layouts illustrated in the Design Statement, the clustering with the applicant's brother's proposal and the relationship with the buildings to the north and east.
- In terms of Criterion C, it notes the existing screening and further planting proposed along the northern boundary and refers to a letter of consent / support provided by the landowner to the north regarding sightlines, impact on privacy etc. It also notes that the permission granted under PA ref. 21/971 is within 60m from the house to the north but no 'backland' or impact on privacy issues were raised. Finally, it is stated that there will be additional planting along the western boundary, whilst noting that planting along this boundary was conditioned under PA ref. 05/2235.

## **6.2. Planning Authority Response**

6.2.1. The Planning Authority's response can be summarised as follows:

- The planning reports previously forwarded to the Board adequately cover the fundamental planning issues relating to the assessment of the proposed development.
- It is categorically stated that the advice or instruction purported by the applicant to be given by the Planning Authority in respect of the time extension sought during the application process is completely false.

- With respect to the Planning Authority decision, it is submitted that CPO 6.45 had some merit, but it was subsequently considered that the proposal still had to comply with the design guide in respect of 'rural infill', failing under Item B (ii).

### 6.3. Observations

6.3.1. An observation was received from Damhnait Ní Suaird, Ballinastoe, Roundwood, Co. Wicklow, the adjacent house to the west. It can be summarised as follows:

- It notes that the observation should be considered in conjunction with the observation made under ABP-315471-23.
- It expresses deep concern over the location of the development on lands wholly to the rear of existing houses/structures in an Area of High Amenity.
- It notes that the general built form is of ribbon development, with a number of subdivisions allowing a second house to the rear portion of large sites. It is submitted that this has led to an accumulation of houses.
- It is stated that the house is sited and laid out in such a way as to cause minimal impact to the house to the north without any regard to the observer's house to the west. Moreover, it is suggested that the siting and layout will maximise such impacts.
- It is submitted that granting permission would set a precedent for 'backland' development and result in an urban format similar to a housing estate, with the possibility of a third house in the future.
- It is suggested that two houses, with potentially a third, in such a small space can only result in the infringement of privacy.
- It is stated that a number of wells on the road have already run dry and permitting two more houses, and possibly a third, would only exacerbate the problem.
- It is submitted that lights from the property would shine into the observer's property and traffic noise and/or lights could be an issue as the lane into the site is near the observer's house.

## 7.0 Assessment

### 7.1. Preliminary Points

7.1.1. Having examined the application details and all other documentation on the appeal file, including the appeal submissions, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal.

7.1.2. The issues can be addressed under the following headings:

- Siting & Layout
- Rural Housing Policy – *New Issue*
- Public Health – *New Issue*
- Appropriate Assessment

### 7.2. Siting & Layout

7.2.1. The Planning Authority's sole refusal reason states that the proposal would represent substandard 'backland' development on a restricted site which would set a precedent for further undesirable patterns of development in this area, having regard to its location on lands wholly to the rear of existing houses and structures. This, they consider, would be contrary to the amenities of the existing dwelling.

7.2.2. The siting and layout of the proposed house is described in para. 2.2 above. Having regard to the prevailing building line, I consider that the proposal represents a clear example of 'backland' development. This is not disputed in any way by the applicant.

#### *'Backland'*

7.2.3. The applicant's core ground of appeal is that the proposal is now supported by CPO 6.45 of the Development Plan, as summarised above. As noted, this requires compliance with the rural housing policy in the first instance, which I will address further below for the reasons set out. The type of 'backland' development supported by this objective also has to meet a number of other policy tests including compliance with the rural house design guide and other more subjective tests including those relating to residential and visual amenity, rural character and pattern of development.

### *Rural House Design Guide*

- 7.2.4. As noted above, Section 2 of the design guide relates to the position and siting of rural houses in Wicklow. The key principles in respect of 'rural infill' are cited above and the applicant's response to the criteria has been summarised in section 6.1.2.
- 7.2.5. However, before going as far as considering the proposal against the criteria, A to C, I note that the preceding paragraph indicates that the criteria only relate to 'where the proposed development site currently forms part of the site of an existing dwelling' i.e. it is proposed to subdivide an existing plot. I am not convinced that this is the case.
- 7.2.6. The existing dwelling, plot or planning unit, is evidently the applicant's family home and curtilage. As observed during my site inspection, the curtilage included a grassed lawn to the west of the driveway and a grassed paddock to the east, delineated by a timber post and rail fence and hedgerow. To the rear of the dwelling lies a sand arena, enclosed by a post and rail fence, a modest stable block with hardstanding, a grassed paddock leading towards the appeal site and a private lawn area. This plot is rectangular shaped with an area of c. 0.6ha and forms the planning unit of the dwelling.
- 7.2.7. Whilst access to the appeal site is through this planning unit, the proposed house is sited in a distinctly separate field to the rear, albeit connected via a field gate. In such circumstances, it is clear to me that the appeal site does not form part of the site of the existing dwelling nor is this a proposal for the subdivision of an existing plot or planning unit. It is obviously a proposal for a new planning unit on a greenfield site. Therefore, the proposal cannot comply with any of the criteria regarding 'rural infill' and the applicant's arguments made in respect of same and CPO 6.45 must be set aside.

### *Residential Amenity*

- 7.2.8. The proposed house is sufficiently removed from adjacent houses, and I am fully satisfied that issues such as overlooking, overshadowing or overbearing will not arise.
- 7.2.9. The proposed access to the appeal site is restricted however, and comes within 2m of the gable end of the applicant's family home. It is also on an alignment that could impact on the observer's property and notwithstanding the proposed planting. Whilst such impacts may be acceptable to the applicant's parents, there are no guarantees that this property will stay within family ownership in the longer term. The objective test is therefore whether a nonfamily member would accept traffic within 2m of their

home. On balance, the answer must be no. The proposed development will negatively impact on amenity having regard to the limited area and access arrangements. In this regard, there is a distinction to be drawn between other 'backland' development in the immediate area, which is accessed by established laneways, and the appeal site.

#### *Pattern of Development*

7.2.10. The observer submits that the proposed development would result in an urban format similar to a housing estate. Considered in conjunction with ABP-315471-23, I am inclined to agree. Whilst I note that the proposed house would be on a building line consistent with the observer's house, their house is accessed via an established laneway. Similarly, other examples of 'backland' development cited by the applicant as precedent, and on a similar building line, are all accessing on to established laneways. Although I do note that the houses permitted under PA refs. 18/1215 and 19/1248 require a diversion off the laneway and a new access on to the public road.

7.2.11. Whilst the pattern of development is predominantly a ribbon of 14 no. house over a road frontage of 600m, it is trending towards 'backland' development through the use of existing laneways. Three additional houses have been permitted along the two laneways within this 600m of road frontage since February 2019, although only one has been built to date. The total number of houses accessing onto this 600m stretch of road is therefore 19 no., and potentially 21 no. upon the construction of the extant permissions. This, to my mind, is at the very cusp of suburbanisation in a rural area.

#### *Conclusion on Siting & Layout*

7.2.12. Having regard to the above, I conclude that the proposal does represent inappropriate 'backland' development which would seriously injure the amenities of adjoining residential property and taken in conjunction with existing and permitted development in the vicinity, the proposed development would give rise to an excessive density of development in a rural area lacking certain public services and community facilities.

### **7.3. Rural Housing Policy – *New Issue***

7.3.1. Whilst not explicitly raised as a reason for refusal, the applicant notes the comments provided by the Planning Authority in respect of their compliance with the rural housing policy. I note that these comments relate to the previous Plan and the Planning

Authority's subsequent consideration of the unsolicited further information did not provide any further assessment against the rural housing policy in the current Plan.

- 7.3.2. It is therefore important to consider the applicant's housing need *de novo* and notwithstanding my conclusions above in respect of the proposed siting and layout.

#### *Housing Need*

- 7.3.3. The appeal site is located in the rural area or 'open countryside' which includes all lands outside the designated settlement boundaries. Section 6.3.8 of the Development Plan notes that all Wicklow's rural areas are considered to be 'areas under urban influence'. In relation to housing in the open countryside, policy objective CPO 6.41 seeks to facilitate residential development for those with a housing need based on the core consideration of demonstrable functional social or economic need in accordance with the requirements of Table 6.3. Table 6.3 sets out various requirements under the headings of 'Housing Need / Necessary Dwelling', 'Economic Need' and 'Social Need'. Thus, an applicant for a house in the open countryside must firstly have a defined housing need and this need, if established, will thereafter be assessed on the basis of a social or functional economic need to live in the rural area.
- 7.3.4. The submitted documentary evidence includes a Statutory Declaration in relation to the application where the applicant claims not to own or have built or purchased any property. In the absence of contrary evidence, I accept the applicant's housing need.

#### *Social Need*

- 7.3.5. The submitted documentary evidence also includes financial statements, school letters and other documentation linking the applicant to the rural townland of Ballinastoe for a period in excess of 10 years. I particularly note the information on the appeal file in respect of the applicant's involvement with horses and the rearing of bloodstock, and her connection to the local governing body for the Irish Draught breed. The applicant's family involvement in same was evident during my site inspection, with various paddocks, a sand arena and stables within the curtilage of the family home.
- 7.3.6. Oddly however, the applicant has not indicated where they currently work. Whilst I note that P60 certificates were included within the submitted documentation, I cannot draw a definitive conclusion as to their place of work. Proximity from home to work, would appear to me, to be as fundamental to a first-time buyer as it would for someone



seeking to build their first home, particularly in the countryside. It is particularly important in the context of the applicant's daily commute and the vehicle emission targets set out in CAP23 and the viability of smaller towns such as Roundwood as set out in National Policy Objective 19 of the National Planning Framework. In this regard, there may be more suitable sites closer to Roundwood or indeed their place of work.

#### *Conclusion on Rural Housing Policy*

- 7.3.7. In the absence of information pertaining to the applicant's current place of employment, the Board cannot be satisfied that the proposal would be in accordance with National Policy Objective 19. This is a new issue, and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

#### **7.4. Public Health – New Issue**

- 7.4.1. Similarly, public health issues were not raised as a reason for refusal, but the applicant submits that the site is sufficient to accommodate the associated facilities needed. In this regard, I note that the submitted SCR is dated February 2020 and based on the 2009 CoP. The transitional arrangements under Circular Letter NRUP 01/2021 are explicit. They state that the 2009 CoP can only be used for site assessments and subsequent installations commenced before 7<sup>th</sup> June 2021 or where permission has been applied for before that date. The application date is 14<sup>th</sup> February 2022 and therefore it was incumbent on the applicant to carry out the site assessment in accordance with the 2021 CoP, including the requirement to pre-soak test holes twice.

#### *Conclusion on Public Health*

- 7.4.2. In the absence of sufficient information to demonstrate that the proposed development can be carried out in accordance with the requirements of the DWWTS CoP (EPA, 2021), the Board cannot be satisfied that the proposal would not be prejudicial to public health. This is a new issue, and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

#### **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development, which is for a detached house with DWWTS, and the distance from the nearest European site, and

notwithstanding my above comments in respect of the proposed DWWTS, no Appropriate Assessment issues arise. Therefore, 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 permission be **refused** for the reasons and considerations below.

## 9.0 Reasons and Considerations

1. Having regard to the limited area and access arrangements associated with the site and its relationship to adjoining property, it is considered that the proposed development represents inappropriate backland development, would result in a substandard residential unit and would seriously injure the amenities of adjoining residential property. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Taken in conjunction with existing and permitted development in the vicinity, the proposed development would give rise to an excessive density of development in a rural area lacking certain public services and community facilities and would contravene the policy of the planning authority, as expressed in the current Development Plan, to direct residential development to serviced centres which is considered to be reasonable. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

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Philip Maguire

Planning Inspector

22<sup>nd</sup> November 2023

## Appendix 1

### Form 1 – EIA Pre-Screening

<b>Case Reference</b>	ABP-315470-23		
<b>Proposed Development Summary</b>	Detached house with DWWTS, private well and shared vehicular access with adjacent dwelling		
<b>Development Address</b>	Ballinastoe Td., Roundwood, Co. Wicklow		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	<b>Yes</b>	X	
	<b>No</b>	No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>	X	Class 10 (b)(i)/Construction of more than 500 dwelling units.	Proceed to Q.4
<b>4. Has Schedule 7A information been submitted?</b>			
<b>No</b>		X	Preliminary Examination required
<b>Yes</b>			Screening Determination required

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## Form 2 – EIA Preliminary Examination

<b>Case Reference</b>	ABP-315470-23	
<b>Proposed Development Summary</b>	Detached house with DWWTS, private well and shared vehicular access with adjacent dwelling	
<b>Development Address</b>	Ballinastoe Td., Roundwood, Co. Wicklow	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The appeal site has a stated area of 0.22ha and forms part of a larger field of c. 0.70ha.</p> <p>The construction of 1 no. houses is proposed.</p> <p>Removal of topsoil etc. and other construction wastes will be relatively minimal. Localised construction impacts will be temporary.</p> <p>Connection to a DWWTS is proposed.</p>	No
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>The construction of 1 no. house on agricultural lands and adjacent to existing rural housing is not considered to be exceptional in the context of the existing environment.</p> <p>Whilst there are other existing and proposed rural houses in the surrounding area, they will not have a significant cumulative effect.</p>	No
<p><b>Location of the Development</b></p>	<p>There are no ecologically sensitive locations in the immediate vicinity of the appeal site. The nearest European sites are located c. 1.4km to the</p>	No

<p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>northwest – Wicklow Mountain SAC and SPA (002122 and 004040). The appeal site is not hydrologically connected to these sites nor any other European site.</p> <p>There is no potential to significantly impact on the ecological sensitivities of these European sites or other significant environmental sensitivities in the area.</p>	
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**Conclusion**

**There is no real likelihood of significant effects on the environment.**

EIA not required.

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_