



An  
Bord  
Pleanála

## Inspector's Report ABP315665-23

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<b>Development</b>	New dwelling, and associated site services
<b>Location</b>	Killough Lower, Kilmacanogue Co. Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	22599
<b>Applicant(s)</b>	Jennifer Lawless
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Felix & Rose Whelan & Others, Robert Whelan
<b>Observer(s)</b>	Robert Whelan
<b>Date of Site Inspection</b>	10 <sup>th</sup> July 2023
<b>Inspector</b>	Andrew Hersey

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## 1.0 Site Location and Description

1.1. The proposed development is located in the townland of Killough Lower, Kilmacanogue, Co. Wicklow. The site is located in a rural area and to the west side of a short stretch of a narrow local road which connects the R755 with the R760. The proposed development site comprises of an existing dwelling which is served by an existing vehicular access from the local road. The site comprises of an undulating field which is located to the northwest of the existing house and which slopes down to the west.. There are mature strands of trees and hedgerow on the western and northern boundary of the site. There are houses located directly to the north and south and across the road to the east.

## 2.0 Proposed Development

2.1. The proposed development comprises of the following: Permission for

- Dwellinghouse - 4 bedroom single storey house with a floorspace of 189sq.m. Ridge height 5.4 metres
- Wastewater Treatment Plant and percolation area to serve this house
- Effluent Treatment System and new soil polishing filter to serve existing house on site
- New vehicular entrance to serve existing and proposed house
- Ancillary site works

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant Permission

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

An initial planning report was prepared on 13<sup>th</sup> July 2022 recommended that permission be refused on the grounds of visual amenity and the loss of substantial amount of existing hedgerow to serve the proposed vehicular entrance. I note that this decision was overturned by the senior engineer and further information was sought

A further planning report was prepared on the 21<sup>st</sup> December 2023 which recommends permission be granted

### **3.2.2. Other Technical Reports**

#### **3.2.2.1. Bray Engineers Planning Report (24<sup>th</sup> June 2022)**

- No objection subject to conditions.
- A condition shall be imposed to set back the roadside boundary for a length of 25 metres in a northerly direction

#### **3.2.2.2. Environmental Health Officer (24<sup>th</sup> June 2022)**

- No objection subject to conditions

### **3.3. Submissions/Observations**

#### **3.3.1. There are six submissions on file which raise in summary the following issues**

- Traffic Safety – the road is wide enough for one vehicle only. Restricted sight visibility along the road from the proposed entrance.
- Loss of Biodiversity – the applicant cleared trees and hedgerows from the lands including the roadside boundary so as to accommodate sight visibility along the roadside
- Excessive number of wastewater treatment plants in a limited area
- That the lands flood regularly and drains to adjacent properties
- There is a high water table in the said lands
- Issues regarding multiplicity of entrances onto the public road

- Issues relating to overlooking and privacy of adjacent properties

## 4.0 Planning History

4.1. The site has been subject to several planning applications as follows:

- 19/303 by the same applicant (Jennifer Lawless) for the same development - Application was withdrawn by the applicant after a recommendation to refuse permission (as per planners report) Reasons for refusal relate to traffic safety, visual amenity, and rural housing policy.
- 21/716 by the same applicant (Jennifer Lawless) for the same development refused permission on grounds of traffic safety, visual amenity and issues regarding sporadic development. With respect of this application I note that the Bray Engineers Report on file recommended that the said development be refused on the grounds of traffic safety and issues regarding concentration of septic tanks in a limited area.
- 21/1477 by the same applicant (Jennifer Lawless) for the same development - withdrawn after a recommendation to refuse permission on grounds of traffic safety and visual amenity issues (as per planners report)

4.2. Adjacent applications

- 19/1302 in the name of a Janet Doyle for dwelling, garage, connect to mains water, effluent disposal system to EPA guidelines 2009, entrance onto public road to service both this dwelling and existing dwelling, closing up existing dwelling entrance and associated site works - withdrawn. This development was located in the field to the northeast of the proposed development site.

## 5.0 Policy and Context

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

5.1.1. Rural Housing Policy is set out in Section 6.3.8 This section states that:

- Wicklow's rural areas are considered to be 'areas under urban influence' due to their location within the catchment of Dublin, Bray, Greystones, Wicklow-Rathnew and Arklow
- Policy CPO 6.41 - Facilitate residential development in the open countryside for those with a housing need based 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.
- Policy CPO 6.42 Occupancy Clause for 7 years in the event a rural house is granted permission
- Policy 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
- The site is located in an area designated Landscape Category 3 Area of High Amenity
- CPO 17.20 - Development that requires the felling of mature trees of environmental and/or amenity value, even though they may not have a TPO in place, will be discouraged.
- CPO 17.21 - To strongly discourage the felling of mature trees to facilitate development and encourage tree surgery rather than felling if such is essential to enable development to proceed.
- CPO 17.23 - To require the retention, wherever possible, of hedgerows and other distinctive boundary treatment in the County. Where removal of a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, provision of the same type of boundary will be required of similar length and set back within the site in advance of the commencement of construction works on the site (unless otherwise agreed by the Planning Authority).
- Views of Special Amenity Value or Special Interest View 3 - L5507 Ballyman Road, Enniskerry. View of Scalp and Scalp Valley from Ballyman.

- CPO17.38 - To protect listed views and prospects from development that would either obstruct the view / prospect from the identified vantage point or form an obtrusive or incongruous feature in that view / prospect. Due regard will be paid in assessing development applications to the span and scope of the view / prospect and the location of the development within that view / prospect.

## **5.2. National Planning Framework 2040**

- 5.2.1. National Policy Objective 19 states that ‘In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements

## **5.3. Section 28 Guidelines – Sustainable Rural Housing Guidelines 2005**

- 5.3.1. The guidelines require a distinction to be made between ‘Urban Generated’ and ‘Rural Generated’ housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which ‘Rural Generated Housing Need’ might apply. These include ‘persons who are an intrinsic part of the rural community’ and ‘persons working full time or part time in rural areas’.

## **5.4. Natural Heritage Designations**

- 5.4.1. There are no designated areas in the immediate vicinity of the site. The Wicklow Mountains SPA/SAC are located to the approximately 5km to the west of the site. Knocksink Wood SAC and Ballyman Glen SAC are located c. 3.5 km and 4km respectively to the north. Bray SAC is c. 5km to the east and Glen of the Downs SAC is c. 3.5km to the south east.



## 5.5. EIA Screening

Having regard to the nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

There are two Third Party Appeals lodged as follows:

- Robert Whelan (27<sup>th</sup> January 2023)
- Kieran O'Malley Town Planning Consultants on behalf of a number of residents of Kilmacanogue, Co. Wicklow (31<sup>th</sup> January 2023)

### 6.1. Grounds of Appeal

- That the application should be invalidated
- The applicant does not have sufficient legal interest in the site as the site includes lands outside of her control
- The applicant does not have a demonstratable social or economic need to live in the area
- The proposed vehicular entrance would create traffic hazard at a location where the vertical and horizontal alignment of the road is substandard
- Traffic Safety along the public road including the reduced sight distances proposed being inadequate and not backed up by any data
- That the applicant or agents of the applicant removed hedgerow and mature trees along the roadside boundary prior to the application being lodged. Hedgerow within the site has also been removed. Photographic evidence has been submitted with respect of the same.
- Visual Impact – the site is clearly visible from the Old Long Hill
- The proposal would result in the suburbanisation of this high amenity area and would be injurious to the rural character of the area

- Issues regarding insufficient legal interest in the site and in particular the area of land required to set back the boundary so as to accommodate sightlines along the public road
- That the concentration of treatment plants in a limited area and having regard to the marsh like conditions in the area the proposal would be prejudicial to public health. There are concerns that due to the high water table at this location and the outfall to adjacent properties that there are concerns that this will result in effluent seeping into adjacent properties.
- That the proposed new entrance would also serve existing commercial sheds in the adjoining field.

## 6.2. **Planning Authority Response**

- None

## 6.3. **Observations**

6.3.1. There is one observation on file from Robert Whelan (dated 10th February 2023) with respect of the Third Party Appeal lodged (Kieran O'Malley Town Planning Consultants). In summary the key issues of this response are:

- That the lands where the proposed development is located is subject to a planning condition regarding a Section 38 sterilisation agreement that would only allow for the development of 3 houses within this folio i.e. the permitted house to Bernard & Mary Meldon Ref 91/6616 plus two more houses.
- With respect of the above, the proposed development would contravene a planning condition of Planning Reg. Ref. 91/6616

## 6.4. **Further Responses**

6.4.1. The first party has submitted a response to the appeal on the 28th February 2023. In this respect that Board has advised the first party that any comments relating to the appeal lodged by Robert Whelan cannot be taken into consideration as the response

was lodged after 4 weeks had elapsed since Robert Whelan's appeal was lodged. Issues regarding the second appeal lodged i.e. the appeal lodged by Kieran O'Malley Town Planning Consultants can be taken into consideration. In this respect the following is a summary of the response to the appeal lodged:

- That the application is valid and in accordance with the planning regulations
- That all the land on which permission is sought has legal consent
- That it is not the planning authorities or the Boards function to adjudicate on the ownership of lands
- With respect of visual amenity issues, it is stated that the said house is modest and located within a cluster of buildings
- That the proposed entrance was designed by a chartered consulting engineer whom has decades of experience and that the entrance was approved by the district engineer of Wicklow County Council
- There is a letter from a solicitor on file regarding the S38 sterilisation agreement. The letter states that this agreement does not affect the applicants Planning Application in any way.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to the relevant local development plan policies, history files and other relevant guidance documents.

7.1.2. I am satisfied the substantive issues arising from the grounds of this first party appeal relate to the following matters-

- Principle of Development/Rural Housing Policy
- Land Ownership
- S38 Agreements
- Backland Development

- Traffic Safety
- Visual Amenity
- Wastewater

## 7.2. Principle of Development

7.2.1. The proposed development is located in an area which the development plan states is an 'Area under Urban Influence'

7.2.2. Policy CPO 6.41 of the Wicklow County Development Plan 2022-2028 seeks to facilitate for residential development in the open countryside for those with a housing need based 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.

7.2.3. Table 6.3 sets out three criteria which must be met by potential applicants for a rural house in rural Wicklow. These three criteria are as follows:

- Housing Need / Necessary Dwelling - applicant must demonstrate a clear need for housing
- 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.

7.2.4. I refer to the details submitted with the planning application which states that the applicant has lived in the family home all of her life which is located adjacent to the proposed development site and still lives there. It is also stated that she went to the local national school in Kilmacanogue and secondary school in Bray. The applicant has never owned a house. The following documentation is also submitted with the application

- Birth Certificate
- Correspondence from revenue verifying her address in her parental home
- Letter from Kilkacanogue National School
- Letter of sworn letter that she has never owned a house

7.2.5. I note the planners report on file which states that from the information submitted that the applicant would qualify for a rural dwelling in the area

7.2.6. In terms of housing need, I am satisfied that the applicant does not currently own a house and therefore has a housing need

7.2.7. In terms of economic need, the plan supports applications from those whose business / full time employment is intrinsically linked to the rural area that can demonstrate a need to live in the vicinity of their employment in order to carry out their full time occupation. I note that the applicants profession is that of a teacher and she is currently working in Greystones. In this respect, the applicant has no economic need to live in the area

7.2.8. In terms of social need, the plan recognises the need of persons intrinsically linked to rural area. The applicant currently resides in the family home which is located adjacent to the site. She grew up here and went to school locally. With respect of the same I consider that the applicant has a social need to reside in the area.

7.2.9. On the basis of the above, it is considered that the applicant has a social need to live in this rural area and therefore the proposed development would comply with NPO19 of the National Planning Framework 2040 and CPO 6.41 of the Wicklow County Development Plan 2022-2028.

### 7.3. **Backland Development**

7.3.1. The proposed development is located backland to the existing house on site and as such there is potential for impact on residential amenity of that property

notwithstanding the fact that the house may or may not be resided therein by a family member.

#### 7.4. Land Ownership

- 7.4.1. I note that significant details have been submitted by the applicant and by the appellant and from observers on the file. It is clear that the site for the most part is owned by the applicants family and in particular the area where the proposed house and treatment plant and percolation area are to be located. It is not clear however as to whom owns the portion of land by the roadside which is required for the purposes of the setting back of the boundary for the purposes of facilitating sight visibility splays. On the one hand the applicant states that she has consent and on the other the appellant states that the applicants do not own this portion of the site.
- 7.4.2. Section 5.13 of the S28 Development Management Guidelines for Planning Authorities (June 2007) states that *The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not be entitled solely by reason of a permission to carry out any development.*
- 7.4.3. With respect of the above, I do not consider it is necessary for the Board to comment further on the matter regarding land ownership. As stated under Section 34 (13) of the Planning and Development Act 2000 (as amended), whilst permission may be granted for the development of land consent is still required by the owner to carry out that development. If there is a dispute then that is a matter for the courts not the Board.
- 7.4.4. The appellant states that there is a restrictive covenant on the land by reason of a Section 38 Agreement under Planning Reg. Ref. 91/6616 whereby a condition was imposed that only two further houses were allowed on the landholding. I note that the applicant in a response to this has submitted a letter from a solicitor which states that this covenant does not affect the applicants planning application in any way. There is no evidence from the appellant nor the applicant as to whether there has been further development on the landholding associated with Planning Reg. Ref. 91/6616. It is not

clear if the applicants family still owns the landholding associated with the then application With respect of the same and without clear details with respect of the planning application associated with of the S38 agreement then I am of the opinion that the applicant needs to submit further details to satisfy the board on this matter.

## **7.5. Traffic Safety**

- 7.5.1. The proposed development site is located on a local road which connects the R755 with the R760. The road is a narrow rural road of poor vertical and horizontal alignment. The speed limit on the said road is 80kph.
- 7.5.2. There is an existing vehicular entrance to the existing house on site and sight visibility splays at this entrance are currently restricted.
- 7.5.3. I note that it is proposed to relocate the said entrance in a northerly direction to serve the proposed and existing entrance
- 7.5.4. It is understood from submissions on file received from third parties that mature trees and hedges along the roadside boundaries have been removed. The submission alludes to the fact that this was done so in order to obtain planning permission. There are photographs in the submissions which clearly show the same.
- 7.5.5. I further note the report from the applicants engineer (Cormac O'Brien) on file which states that it was agreed with the Bray Municipal Engineer, Liam Bourke at a meeting of the 24<sup>th</sup> February 2022 that at 50 metre sight distance would be acceptable. The 50 metres sight distance requirement is on the basis of a design speed of 42kph. I note in this respect that details of traffic surveys have not been submitted with the file to substantiate this design speed. Additionally there is no record of such a meeting on file. The speed limit is 80kph along this road and while I would expect that the operating speed would be lower than that, until this is proven by way of a traffic survey then sight distances must be based on the 80kph speed limit. I note that with respect of the same that a 90 metres of sight distances were required in previous planning applications. 90 metres is not available at the said proposed entrance.

7.5.6. I note the report from Bray Municipal Engineer, on a previous planning application on the site (Planning Reg. Ref. 21/716 which states:

*The development would endanger public safety by reason of a serious traffic hazard, because of the restricted visibility at the entrance to the house due to the substandard vertical and horizontal alignments of the road and high boundaries within the vicinity of the site, and because of the narrow road width and no space to provide safe pedestrian routes to serve the already excessive density of residential property in an area where the maximum speed limit applies.*

7.5.7. This report therefore raises issues with respect of;

- Sight visibility at the entrance
- Substandard vertical and horizontal alignment of the road
- High boundaries within the vicinity of the site
- Narrow road width with no space to provide safe pedestrian routes
- To serve an already excessive density of residential property in the area

7.5.8. I further note the report from the Bray Municipal Engineer on this file dated 24<sup>th</sup> June 2023 which states that the proposed roadside boundary be set back for a length of 25 metres in the northern direction from the centre line of the proposed entrance. There is no mention of any discussions with the applicants consultant engineer. While the setting back of boundaries may resolve one of the issues as set out under paragraph 7.1.6.2 above, the other issues have not been addressed. I note that in terms of the drawings submitted regarding the road, section drawings of the road have not been submitted to prove otherwise that the issue of substandard vertical alignment can be resolved.

7.5.9. In conjunction with the above it is not clear as to whether the applicant has proven sufficient legal consent to set back the boundary as shown

7.5.10. With respect of the same, it is considered that the proposal has not resolved traffic safety issues clearly evident on this road. I therefore consider that the proposed development will result in traffic hazard on the basis of:



- The lack of information regarding traffic speeds on the adjacent public road
- The poor vertical alignment and horizontal alignment of the road and the restricted sight distances at either side of the proposed entrance in conjunction with the additional turning movements that would be generated by the proposed development.
- The narrow width of the carriageway
- The already excessive number of houses in the area with access onto this busy local road
- The lack of clarity regarding part of the ownership of the proposed development site and in particular the area where it is proposed to set back the boundaries

## 7.6. Visual Amenity

- 7.6.1. The proposed development is located in an area designated as Landscape Category 3- High Amenity. In terms of importance, this landscape category is rated the third of six categories of landscape in the Wicklow County Development Plan 2022-2028, the first and most important being Mountains and Lakeshore and the sixth being the urban areas., The proposed development site is therefore located in an area which is deemed to be moderate in terms of landscape importance.
- 7.6.2. I also note that the proposed development site is located within a *View of Special Amenity Value or Special Interest* this being from View 3 Ballyman Road, Enniskerry. View of Scalp and Scalp Valley from Ballyman (as designated in the Wicklow County Development Plan 2022-2028).
- 7.6.3. CPO 17.38 of the Wicklow County Development Plan 2022-2028 seeks to protect listed views and prospects from development that would either obstruct the view / prospect from the identified vantage point or form an obtrusive or incongruous feature in that view / prospect. I consider that the proposal will have a negative impact on this view with respect of the further suburbanisation of this rural area.
- 7.6.4. I also refer to CPO 17.20 which states that development that requires the felling of mature trees of environmental and/or amenity value, even though they may not have

a TPO in place, is discouraged. CPO 17.22 and CPO 17.33 also seek to discourage the loss of mature trees and hedgerow where development is proposed

- 7.6.5. I note from the submissions on file that large tracts of hedgerow and mature trees on the site were removed prior to the application being submitted. There is photographic evidence of the same submitted with the application.
- 7.6.6. Policy CPO 6.44 of the Wicklow County Development Plan 2022-2028 requires 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
- 7.6.7. The proposed house is a simple pitched roof building of vernacular proportions and in terms of design is considered acceptable at this location. However, I am of the opinion that the said house in conjunction with other houses and buildings in the vicinity of the site will result in the further suburbanisation of this rural area which is visible from the wider area including a *View of Special Amenity Value or Special Interest View 3 - View of Scalp and Scalp Valley from Ballyman*. The loss of mature trees and hedgerow from the site has made the site more exposed.
- 7.6.8. Having regard to the above, and having regard to the landscape category applicable to the area, it is considered that the proposed development by reason of the open and exposed nature of the site would:
- Further suburbanise a rural area designated with a High Amenity Landscape Category
  - Negatively impact on a *View of Special Amenity Value or Special Interest View 3 - View of Scalp and Scalp Valley from Ballyman* which would be contrary to CPO 17.38 of the Wicklow County Development Plan 2022-2028.

## 7.7. **Wastewater**

- 7.7.1. The proposed development includes a new treatment plant and percolation area to serve the proposed house and a new treatment plant and polishing filter to serve the existing house

- 7.7.2. I note that there is no planning history associated with the existing house on site which appears to be of modern concrete construction. There are no details of the same in the file nor in the planners report. I would consider it important to establish whether this house has permission or not or whether it is in fact a pre 63 development. I would have concerns therefore with regard to granting a polishing to serve a dwelling which is potentially unauthorised.
- 7.7.3. There are therefore two treatment plants and two polishing filter/percolation areas being proposed on a site area of 0.28ha. Generally 0.2ha i.e. ½ acre is required per house in order to provide sufficient space for wastewater treatment plants and percolation areas/polishing filters.
- 7.7.4. However, I note the Environmental Health Officers Report on file dated 24<sup>th</sup> June 2022 which states that relevant separation distances have been met and as such the proposal is acceptable.
- 7.7.5. Issues with respect of the number of wastewater treatment plants in a limited area have not been raised in the same report. I note that this issue was raised in the Bray Area Engineers Report on Planning Reg. Ref. 21/716. The applicants consultant engineer states that the area is served by public water and therefore issues regarding concentration of treatment plants in a limited area should not be of concern. I would disagree with this statement as a concentration of treatment plants can potentially impact upon ground and surface water and consequently the natural environment. No study with respect of the same has been submitted by the applicant to contradict this issue.
- 7.7.6. I note that the area is designated with an Extreme Groundwater Vulnerability and I further note that percolation rates for the site is relatively slow which may result in ponding during heavy rainfall.
- 7.7.7. Submissions received on the file state that the site is prone to flooding and that flood waters can outflow to adjacent properties.
- 7.7.8. The Environmental Health Officers report on files states that she is satisfied with the wastewater solution proposed. I would consider therefore that the proposal is acceptable from a wastewater perspective. The only issue of concern which has not been addressed adequately is the issue regarding the concentration of treatment

plants in a limited area and the appropriateness of granting permission for a treatment plant to a house which is potentially unauthorised.

## **7.8. Appropriate Assessment Screening**

- 7.8.1. Having regard to the nature and scale of the proposed development, the distance from any European site and the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS.

## **8.0 Recommendation**

I recommend that permission be refused for the following reasons:

## **9.0 Reasons and Considerations**

1. Having regard to:

- (a) The site being located on a minor road which is seriously substandard in terms of width, horizontal and vertical alignment.
- (b) The extra traffic and turning movements generated by the proposed development in conjunction with the already excessive number of houses in the area with access onto this busy local road
- (c) The restricted sight lines at the proposed vehicular entrance and the insufficient information regarding traffic speeds on the adjacent public road.

It is considered that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users

2. Having regard to:

- (a) The location of the site within a landscape designated as High Amenity
- (b) The open and exposed nature of the site and the visibility of the proposed development from the wider landscape and from views designated with a Special Amenity Value or Special Interest

It is considered that the proposed development taken in conjunction with existing development in the area would constitute an excessive density of

development in a rural area designated as a High Amenity Landscape and would have a detrimental impact on a view of the Scalp and Scalp Valley from Ballyman to the west of the site which is designated with a Special Amenity Value in the Wicklow County Development Plan 2022-2028.

The proposed development would therefore contravene CPO 17.38 of the Wicklow County Development Plan 2022-2028 which seeks to protect listed views and prospects from development, would be detrimental to the visual amenities of the area and is therefore contrary to the proper planning and sustainable development of the area.

3. The proposed development represents inappropriate backland development which would impact on the residential amenities of the existing house on site, would further suburbanise this rural area and would therefore be contrary to the proper planning and sustainable development of the area.
4. It is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by wastewater treatment facilities in a limited area. The proposed development, would, therefore, be prejudicial to public health.
5. It is not clear, on the basis of the information submitted with the application that the existing house on site has the benefit of planning permission. The proposal therefore to connect the house to a new wastewater treatment plant and polishing filter would facilitate the consolidation and intensification of this potential unauthorised use. Accordingly, it is considered that it would be inappropriate for the Board to consider the grant of a permission for the proposed development in such circumstances.
6. On the basis of the information submitted with the application and on appeal it is not clear as to whether the proposed development contravenes a condition of Planning Reg. Ref. 91/6616 which relates to a Section 38 agreement which imposed a restriction of only two further houses on the landholding. It is not clear as to how many houses have been permitted on the landholding since this application was granted and as to whether or not the landholding is still in control of the applicant or the applicants family. Accordingly, it is considered that it would

be inappropriate for the Board to consider the grant of a permission for the proposed development in such circumstances

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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Andrew Hersey  
Planning Inspector

1<sup>st</sup> August 2023