



An  
Bord  
Pleanála

## Inspector's Report ABP 317134-23

---

<b>Development</b>	Two storey dwelling house, new site entrance, installation of a wastewater treatment system & associated site works.
<b>Location</b>	Newcastle Middle, Co. Wicklow, A63 K792
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	221380
<b>Applicant(s)</b>	Shane & Karen Barnes
<b>Type of Application</b>	Outline
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Shane & Karen Barnes
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	18/9/2023
<b>Inspector</b>	Rosemarie Mclaughlin

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	5
4.0 Planning History .....	5
5.0 Policy and Context .....	6
5.1. National Planning Framework .....	6
5.4. Natural Heritage Designations .....	10
5.5. EIA Screening .....	10
6.0 The Appeal .....	10
6.1. Grounds of Appeal .....	10
6.2. Planning Authority Response .....	11
6.3. Observations .....	11
6.4. Further Responses .....	11
7.0 Assessment .....	11
8.0 Recommendation .....	15
9.0 Reasons and Considerations .....	15

## 1.0 Site Location and Description

- 1.1. The subject site is located in an area to the west of the R761 regional road (Newcastle Road), c 800 m to the north of centre of the settlement of Newcastle, Co Wicklow, and c 1.5 km east of the N11. The irregular shaped site is located within the site of the existing c 17 year old home of the first party, Kingston House, which is a two storey, T shape dwelling, set back and elevated from the regional road to the east. Mature high planting surrounds Kingston House and a solid high wide gate fronts the access road located off the R761.
- 1.2. An access road west from the regional road provides access to four houses and the proposed site. One house to the east, is located between Kingston House and the regional road. Two houses are located to the rear (west) of Kingston house on large plots. The rural area is characterised by agricultural use and a large number of one-off houses served by individual wastewater treatment systems.
- 1.3. The access to Kingston House and other properties is a winding road which slopes upwards steeply to the west. A bend is located along the Kingston House access frontage. To the south of the subject site is a long straight access to other residential development.
- 1.4. The irregular shape site has a stated area of 0.222 ha and incorporates a broadly square area to the south of Kingston House, a linear section parallel to the access road to the south and a new access area along the boundary of the house to the east.

## 2.0 Proposed Development

- 2.1. The proposed development is for outline permission for a two storey dwelling house (158sqm), new site entrance, installation of a wastewater treatment system & associated site works. The proposed house is south of the existing Kingston House and west of another dwelling fronting the public road with a secondary treatment system and polishing filter on the southern boundary linear section of the site.
- 2.2. Further information (FI) was submitted to the planning authority (PA) in relation to the need for a dwelling, further details around the access, and details about the percolation area.

- 2.3. In relation to the FI request, the applicants submitted that they have lived in Kingston House for 17 years, previously lived in Greystones and regularly attended community events including functions in the Golf Club. Verification that the applicants lived in the house in excess of 10 years was submitted.
- 2.4. The FI sought inter alia in section (v), a sworn declaration that the applicants had never individually or jointly previously purchased or built a house or apartment plus any other relevant information. The response to the FI section (v), stated that the applicants lived in this house for almost 17 years and therefore the above FI was not applicable to this application. The applicants consider the existing five bedroom house to be too large.
- 2.5. The applicants are willing to enter a section 47 agreement. A sight line of 43 metres has been demonstrated in a northwest direction and 73 metres in an easterly direction. The applicants are open to altering the tree line on their boundary to accommodate a greater distance. Two parking spaces are provided.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. Permission was refused for the following reason:

3.1.2. *1. The proposed development would not represent a necessary dwelling in this landscape designated corridor area contrary to the provisions of section 6.4 of the County Development Plan 2022-2028. These provisions are required to maintain scenic communities, recreational utility, existing character, and to preserve use of special immunity value and special interest and to conserve the attractiveness of the county for the development of tourism and tourist related employment.*

*The Council's settlement strategy is to encourage further growth of existing settlements and to restrict rural housing development to cases where there is a bona fide necessity to live in the rural area instead of in existing settlements. It is considered that the applicants do not come within the scope the housing need criteria are set out under objective CPO 6.41 of the County Development Plan for this rural area. The proliferation of non-essential housing in rural landscape areas*

*erodes the landscape value of these areas and seriously detracts from the views of special amenity value.*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

3.2.2. Planning report dated 16/2/23 as annotated by a SEP on 17/2/23 considered that Objective CPO 6.41 requires applicants to demonstrate rural housing need and housing occupancy controls apply. The assessment considered the planning policies relating to infill/backland development are relevant. The SEP annotation considered that an infill development could be accommodated having regard to the surrounding pattern of development.

3.2.3. Further information (FI) relating to the following was sought on the following:

- housing occupancy requirements that apply in objective CPO 6.41
- access details
- provision of 2 off street parking spaces
- details on distance between percolation area proposed and existing house.

3.2.4. A planning report dated 17/4/23 on foot of submitted FI summarises the submitted documents. The PA do not consider the applicants qualify for housing need as they own and live in a house on the site and recommended permission be refused for the one reason stated above. The PA consider the other submitted FI as satisfactory.

### **3.2.5. Other Technical Reports**

3.2.6. EHO report dated (17/2/23) sought FI on the separation distance between the proposed and existing percolation area serving the adjacent property. A report (4/4/23) on foot of the FI submitted, considered the wastewater treatment proposal as satisfactory. It may be noted the EHO reports states the site was 0.55 ha rather than 0.22 ha.

## **4.0 Planning History**

### **4.1. Subject site**

- 4.1.1. PA Ref. 05/2291: Permission granted for dwelling house.
- 4.1.2. PA Ref 06/6034: Permission granted for amendments to PA. Ref. 05/2291.
- 4.2. Wider area
- 4.2.1. PA Ref: 211011: Permission granted for porches at existing house and existing family flat, extensions & ancillary works to a house on northern side of access road to the appeal site on 8/3/2022.

## **5.0 Policy and Context**

### **5.1. National Planning Framework**

- 5.1.1. Project Ireland 2040, the National Planning Framework (NPF) provides compact growth is expected where effective densities and consolidation of urban areas is required to minimise urban sprawl and is a priority. National Policy Objective (NPO) 3a provides 40% of future housing delivery is to be within the existing footprint of built up areas. NPO 35 seeks to increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.
- 5.1.2. NPO19 aims to ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere: In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements; In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

## 5.2. Sustainable Rural Housing Guidelines 2005

5.2.1. The guidelines require that planning authorities on drawing up County Development Plans make a distinction between urban generated and rural generated housing needs.

## 5.3. Development Plan

5.3.1. The Wicklow County Development Plan 2022-2028 applies (CDP).

5.3.2. Table 17.09A (as altered) Wicklow Landscape categories, identifies the subject site as follows.

- Hierarchy: Level 4
- Landscape category: Corridor Area
- Landscape Area: N11 Corridor 4. The N11 Corridor covers the main access corridor area along the east of the County. The boundary of the eastern access corridor generally follows what is considered to be the areas upon which the greatest influence is exerted by this primary access route. This route, for the most part, runs through the more low lying and accessible tracts of land, dissects the Glen of the Downs wood in the north of the County and provides expansive coastal views north of Wicklow Town. This landscape area acts as the main connection between the major towns along the east coast of the County.

5.3.3. The subject site is located in Level 10: The rural area (open countryside).

Development within the rural area should be strictly limited to proposals where it is proven that there is a social or economic need to locate in the area.

5.3.4. The subject site is located c 300 m northwest of the Newcastle Level 6 Settlement Plan boundary. Level 6 small town plans are small towns with moderate local service and employment functions and are generally targeted for growth rates of 10%-15%. Section 5.4 of the CDP on compact town and village centres provides that it is increasingly important to maximise the potential of town and village centres and County Wicklow is required to deliver a minimum of 30% of all new homes within the built-up footprint of existing towns and villages.

5.3.5. Section 6.4 relate to 'Housing Objectives'. The relevant strategy, housing and other objectives include the following:

- CPO 4.1 To implement the County Wicklow Core Strategy and Settlement Strategy, ..... and in particular, to direct growth into key towns, self-sustaining growth towns, self-sustaining towns and small towns.
- CPO 4.2 To secure compact growth through the delivery of at least 30% of all new homes within the built-up footprint of existing settlements by prioritising development on infill, brownfield and regeneration sites and redeveloping underutilised land in preference to greenfield sites.
- CPO 4.3 Increase the density in existing settlements through a range of measures including....., infill development schemes, .....
- CPO 4.10 To support the sustainable development of rural areas by encouraging growth while managing the growth of areas that are under strong urban influence to avoid over-development. Chapter 6, Section 6.3.8 provides 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 in addition to Gorey (Co. Wexford) and Naas (Co. Kildare). In rural areas under urban influence, it is necessary to demonstrate a functional economic or social requirement for housing need.
- CPO 6.41 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.
- Chapter 6, Table 6.3, Rural Housing Policy, sets out a number of criteria that may fulfil rural housing policy standards and these include in summary.
  - **Housing Need / Necessary Dwelling** - demonstrate a clear need for new housing, for example: - first time home owners; - someone is no longer in possession of previously home, transfer of a home attached to a farm, someone who requires a new purpose built specially adapted house due to a verified medical condition, other such circumstances that clearly demonstrate a bona fide need for a new dwelling.
  - **Economic Need** - persons whose livelihood is intrinsically linked to rural areas a. Those involved in agriculture



- b. Those involved in non-agricultural rural enterprise / employment
- c. Other such persons as may have definable economic need to reside in the open countryside, as may arise on a case by case basis
- **Social Need** - 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.
  - 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;
  - A former permanent native of the area (including Level 8 and 9 settlements).
  - A close relative who has inherited an agricultural holding or site and can demonstrate a social need to live in that particular rural area,
  - The son or daughter of a landowner who has inherited a site for the purpose of building a one-off rural house in family ownership for at least 10 years and can demonstrate a social need to live in that particular rural area,
  - Persons who were permanent native residents of a rural area but due to the expansion of an adjacent town/village, the family home place is now located within the development boundary of the town/village.
  - Local applicants who are intrinsically linked to their local area and, while not exclusively involved in agricultural or rural employment, have access to an affordable local site.
  - Local applicants who provide care services to family members and those working in healthcare provision locally; and
  - Other such persons as may have a definable strong social need to live in that particular rural area, which can be demonstrated by way of evidence of strong social or familial connections, connection to the local community / local organisations etc as may arise on a case-by-case basis.
- CPO 13.16 Permission will be considered for private wastewater treatment plants for single rural houses subject to listed criteria.

- The Appendices of the CDP relate to development plan standards and single rural house designs.

#### **5.4. Natural Heritage Designations**

- 5.4.1. The subject site is not located in or adjacent to any European sites. The Murrough Wetlands SAC Site Code:002249 ,The Murrough SPA Site Code:004186, and The Murrough pNHA Site Code: 000730 is c 1.7m to the east of the subject site. The European sites are separated from the subject site by lands in a mix of uses.

#### **5.5. EIA Screening**

- 5.5.1. Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

### **6.0 The Appeal**

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

- The subject site is part of the applicants existing site (Kingston House). The proposed dwelling is at the southern end of their site in an enclosed area, screened from view in all directions by dense mature trees and hedging. The construction of a small to medium sized dwelling could not possibly impact in any way on the existing character or amenity value of the area as confirmed in the planners further information report. The planner indicated an acceptance of infill backland development.
- The applicants and family have lived in the existing house for 17 years and are established members of the community. The applicants agree with the housing strategy, however, they believe their situation demonstrates a bona fide necessity to live in this particular rural area. They wish to downsize to a more suitable size dwelling as their children have moved on. In order for the applicant to qualify for consideration, they must demonstrate a functional

social or economic need to live in this area. A functional social need has been demonstrated as all their friends and children's friends live in the area, as confirmed in the response to Wicklow County Council request for further information. The applicant and his family regularly attended community events including clean up initiatives and functions at the local Golf Club.

- The applicants spent time trying to purchase a suitably sized dwelling in the area but due to limited housing stock they could not find suitable property to purchase. As soon as permission is granted, and the new dwelling is constructed, the applicant plans to sell the existing family home and move into the more suitably sized residence immediately.

## 6.2. **Planning Authority Response**

None on file.

## 6.3. **Observations**

None.

## 6.4. **Further Responses**

None.

## 7.0 **Assessment**

7.1. The main issues in this appeal may be addressed under the following headings.

- Principle of development and rural housing strategy
- Visual impact
- Traffic
- Other
- Appropriate assessment

## 7.2. Principle of development and rural housing strategy

- 7.2.1. The first party have lived in Kingston House for over 16 years and wish to downsize into a smaller home, c 158 sqm with a new sperate access on a new site 0.222 ha created from the overall landholding of 0.55ha. The applicants indicate they have not been able to find something suitable and will sell their ;arger house on completion of the proposed development. The subject site is in a level 10 area (countryside), outside the boundary of the level 6 Newcastle settlement area.
- 7.2.2. The applicable polices have been outlined above and the site is considered as under strong urban influence. In assessing the merits of the proposal and whether the first party could be held to satisfy the relevant eligibility criteria, I consider that the key issue is the matter of 'housing need'. While the applicants clearly have lived in the area for over 16 years and have established and long term social connections, they are in possession of an existing home, albeit larger than their needs and therefore do not fall into the category of economic need per the CDP criteria. The criteria to which they appear to rely on, is the last point in the list for social housing need "*Other such persons as may have a **definable strong social need to live in that particular rural area, which can be demonstrated by way of evidence of strong social or familial connections, connection to the local community / local organisations etc as may arise on a case-by-case basis***". (My emphasis).
- 7.2.3. The stated social need provided in the application and appeal are that the first party reared their family in Kinston House, and they regularly attended community events including Golf club functions. I consider that the social needs basis to require another house and another wastewater treatment system on this specific site as designated in the recently adopted CDP as tenuous and insufficient. While the applicants wish to live in the area, there is no demonstrated specific need for them to live on the subject site. I query the submission that there is no other property available having regard to the observed properties for sale in the immediate, general and wider areas and that dwellings are under construction in the wider area. I am unconvinced that the wish to downsize could not be satisfactorily accommodated elsewhere, such as within a designated settlements in the surrounding area having regard to the need to support the viability of smaller towns and settlements as per the Objectives of the CDP and NPF. Furthermore, no submission has been made in

relation to any consideration of other options such as potential subdivision of the existing house, subject to permission.

7.2.4. The PA do not consider that the proposal is a necessary dwelling in this landscape designated corridor area, contrary to the provisions of section 6.4 of the CDP and I concur with that position. I do not consider that the first party has demonstrated that it is necessary that they live on this specific site rather than general area. While the proposed development will be screened by planting and owing to the gated type of development in the vicinity including Kingston House, I consider that additional houses outside the designated settlement introduces an intensification of a dispersed form of housing in an area designated as Level 10 countryside and corridor area. I consider that further ad hoc development outside of the settlement boundary sets an undesirable precedent with potential cumulative impacts arising. The proposed development is therefore considered to be contrary to Objective CPO 4.10 of the CDP in failing to manage the growth of areas that are under strong urban influence to avoid over-development, and for these reasons, I consider that outline permission should be refused.

7.2.5. It may be noted the applicants were requested to submit details by way of FI request that they have not previously purchased a house or apartment and while detailing their ownership of Kingston House, the response considered that the question was not relevant to their situation. I do not consider that this question was answered to a satisfactory level as it is unclear if the applicants own any other property from the answer submitted.

### 7.3. Visual impact

7.3.1. The PA reason for refusal considers that the proposal does not represent necessary dwelling in a corridor landscape area, contrary to section 6.4 of the CDP and those provisions are required to maintain scenic communities, recreational utility, existing character, and to preserve use of special amenity value and special interest and to conserve the attractiveness of the county for the development of tourism and tourist related employment. The appellant considers that this is an infill development and raises the point that the PA assessments considered this an infill development.

7.3.2. The CDP provides that in relation to compact growth, it relies on NPO3c of the NPF, where County Wicklow is required to deliver a minimum of 30% of all new homes

within the built-up footprint of existing towns and villages which includes infill sites (section 5.4). The CDP and NPF in my opinion relate to infill development within settlements rather than infilling dispersed development on unserviced sites outside of settlements. The subject site is c 300 outside of the Newcastle designated settlement boundary. To permit infill development, outside of the level 6 settlement undermines the CDP and NPF policy of increasing housing within designated settlements and sets a precedent for further development located in a Level 10 countryside and corridor area.

7.3.3. The subject site is well screened from views from the public road and Kingston House is also well screened by planting and a high and wide solid gate. The first party consider that the proposal is a screened infill development and the PA had taken a view it could be an infill development. While I acknowledge in a local context, the visual impact of the proposed dwelling is limited because of the screening, I am cognisant of its elevated position above the house fronting the regional road and that planting may appear different in winter. I have reservations as regards the wider visual impact and the continued erosion of the rural character of the area attributable to the development of additional piecemeal housing, in the absence of a clear need for same.

7.3.4. Accordingly, whilst the visual impact of the proposed development may be limited, given the site context and the absence of a demonstrable justification for the proposed development at this location, it is my opinion that the proposal would further diminish the rural character and scenic quality of the area and would seriously injure the visual amenities of the area. I also consider that the principle of development as contrary to the rural housing policy of the CDP and the compact growth principle in the NPF and for the reasons in the proceeding section, I consider that permission should be refused.

#### 7.4. Traffic - NEW ISSUE

7.4.1. No roads report is available on the file. The proposed access is on a bend on the access road which is lightly trafficked. The first party can achieve vision lines of 43m and 73m and state that they could provide additional vision by cutting back the boundary at Kingstone House if required. No consideration was given to using the existing access to Kingston House. Having regard to the alignment of the road, I

consider an additional access at the proposed location could potentially endanger public safety by reason of traffic hazard. This is not raised in the appeal and the Board may wish to circulate the issue or given the substantive reason recommended for refusal, it may wish advise the first party by way of a note.

#### 7.5. Other

- 7.5.1. The EHO after receiving further information considered the proposal as satisfactory. The applicant submitted FI illustrating a 51.8m distance between the percolation serving Kingston House and the proposed percolation area. The house to the east is c 14.7 from to the proposed percolation area. It may be noted that there are a significant number of houses outside of the settlement boundary served by individual wastewater systems rather than the Newcastle Wastewater Treatment Plant located on Sea Road. The CDP states that the capacity of the treatment plant is 1,000 population equivalent (pe) with a 2022 loading of c. 900 pe; therefore, capacity for new development is limited. No issue has arisen around the proposed wastewater treatment and having regard to the submitted documentation, I do not consider this needs to be raised as an issue.

#### 7.6. **Appropriate Assessment Screening**

- 7.7. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of receiving environment 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 and carrying out of an EIA at an initial stage.

### 8.0 **Recommendation**

- 8.1. I recommend that outline permission be refused.

### 9.0 **Reasons and Considerations**

1. Having regard to National Policy Objective 19 of the National Planning Framework (February 2018) and the provisions of section 6.4 in the Wicklow County Development Plan 2022-2028 which 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, the documentation on the file, including the applicants' links to the area and their current housing circumstances, it is considered that the applicants do not come within the scope of the economic or social housing need criteria. The proposed development, is located outside the Newcastle Level 6 settlement boundary and in the absence of any demonstrable need for a house at this location, it is considered that the proposed additional house and wastewater treatment plant on the site would result in a haphazard and unsustainable form of development in an unserved rural area, would mitigate against the preservation of the rural environment, and would undermine the settlement strategy as set out in the Wicklow County Development Plan 2022- 2028. Furthermore, as the subject site is located in an area defined in the County Development Plan as an area under urban influence, it is considered that the proposed development would be contrary to Objective CPO 4.10 of the County Development Plan in failing to manage the growth of areas that are under strong urban influence to avoid over-development.

**Note:**

It is considered that the proposed additional access location represents a traffic hazard by reason of the vertical alignment and access location on a bend in the road.

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.

---

Rosemarie McLaughlin

Planning Inspector  
7<sup>th</sup> October 2023