



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317597-23

#### Development

Change of use from golf course to an adventure park consisting of a zip line and adventure course facility; construction of a watersport pond; change of use of part of the former golf course clubhouse to a reception room, changing rooms at ground floor with storage at first floor level, wastewater treatment plant and all ancillary and site development works.

#### Location

Ballinastoe Cross, Roundwood, Bray, County Wicklow.

#### Planning Authority

Wicklow County Council

#### Planning Authority Reg. Ref.

2360020

#### Applicant(s)

Djouce Outdoors Limited

#### Type of Application

Permission

#### Planning Authority Decision

Grant

#### Type of Appeal

3 (no) Third Parties v Decision

#### Appellant(s)

Lloyd Malynn

	Fiona Molloy & Others
	Robert & Julia Miller
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	21 September 2023
<b>Inspector</b>	Paula Hanlon

## 1.0 Site Location and Description

- 1.1. The site subject to this appeal (hereafter referred to as 'the site') is located at the southeastern corner of Ballinastoe crossroads in the townland of Ballinastoe, circa 4.5 kilometres north of Roundwood and circa 5 kilometres west of Newtownmountkennedy. The site is accessed via an established access off the R755 and has site frontage along both the R755 (western boundary) and the L-1236 local road (northern boundary). The speed limit along the serving road is subject to the general 80kmph speed limit.
- 1.2. The site (stated area 21.73ha) is an abandoned golf course and is predominantly rectangular in form, save for its inclusion of a small portion of land within the northeastern corner of the site. The site also contains a two-storey building that was previously used as a clubhouse, and associated car park. A café and commercial store occupy a portion of the ground floor level of this building at present.
- 1.3. The topography of this site gently falls in an easterly direction, from its northwestern boundary towards its southeastern corner. An established drainage lake is sited within the south-east corner of the site. Landscaping and the site's overall configuration reflect its former use as a golf course. At time of site inspection, the site was dry underfoot and the drainage lake to rear of site was fully immersed in water. The Vartry Reservoir (upper reservoir) a proposed Natural Heritage Area is sited approximately 240 metres south and the Vartry River traverses' lands located approximately 400 metres east of this site. The existing boundary treatment comprises a low rendered wall along the R755 which turns the corner onto the L-1236 and low stone wall with mature evergreen trees planted along its inner face along the L-1236.
- 1.4. The surrounding area is rural and is largely typified by agricultural lands and a generally dispersed rural settlement pattern and is bisected by a road corridor (R755) that serves as a major tourist route connecting the national primary route M11/N11 to the scenic inland areas of County Wicklow. Within the immediate area, 3 dwelling houses are sited on single plots on the opposite

side of the L-1236 local road and 1 dwelling house is sited on the opposite side of the R755 to the subject site. There are no public footpaths or cyclepaths serving these lands. These lands are within the designated North East Mountain Lowlands Area of High Amenity as per the Wicklow County Development Plan.

## 2.0 Proposed Development

2.1. The proposed development comprises the change of use of the lands from a golf course to an adventure park to include the following:

- A new zip line, adventure course facility [Comprising 20 challenges over various lengths and complexities (10m high poles with landing platforms ranging from 1.25 metres to 8 metres off the ground) and the construction of a watersport pond (134 metres x 35 metres as per dwgs) (1.3acres)]
- Change of use of part of the former golf course clubhouse (293sqm) to form a reception room, changing rooms at ground floor with storage at first floor level
- Installation of a new wastewater treatment plant and all ancillary and site development works
- Operational Hours May-September 9am-9pm seven days a week and October-April During daylight hours, which will vary, seven days a week.

2.2. The application was accompanied by the following documentation of note –

- Hydrological Assessment
- Site Characterisation Form (Wastewater)
- Draft Legal Agreement (Single Ownership).

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority granted permission on 21 June 2023, subject to 9(no) conditions. The conditions attached were mainly standard and also included:

- Section 47 legal agreement requiring single ownership of all development within the subject landholding (Condition 2)
- Financial Security Bond (Condition 3)
- Certificate on compliance with EPA Code of Practice for Wastewater Treatment Systems (Condition 4)
- Protection of Water Quality of Sports Pond (Condition 7).

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Report

A Planning Report dated 15 June 2023 formed the basis for the decision by Wicklow County Council to grant permission. In making the recommendation, the Planner's Report referred to the subject lands previous use, being recreation and supporting objectives of the Wicklow County Development Plan with respect to recreational development in rural areas.

#### 3.2.2. Other Technical Reports

Planning Development & Environment Section (12/05/23) No objection subject to conditions.

Water & Environmental Services (22/05/23) No objection subject to condition.

Chief Fire Officer (22/05/2023) No objection subject to conditions.

### 3.3. **Prescribed Bodies**

None received.

### 3.4. **Third Party Observations**

The Planning Authority received 14(no) submissions during the course of their determination. 8(no) submissions were supportive, 4(no) submissions were opposed, and 2(no) submissions sought that stated concerns be addressed prior to any grant of permission.

The submissions made which were supportive of the proposal referred to the benefits of this development in terms of supporting tourism, employment, recreation, providing a meeting place for the nearby community and a safe space for children with school bus drop-offs at this location. The matters of concern raised within the submissions received which were opposed to the proposed development were premised on water supply (potential impacts on existing private wells and on water table level), road and traffic safety (high speeds & traffic volume, restricted sightlines, traffic calming required), noise pollution, litter pollution, and impacts on farm animals & safety due to trespassing and inadequate fencing with adjacent lands.

## 4.0 Planning History

22/163: Change of use from a golf course to an adventure park. 2022 Withdrawn.

19/947: Change of use at first floor level from commercial into 3 holiday home units with extensions, alterations, wastewater upgrade and associated works. 2019 Grant.

11/4341: Retain revised car park layout, upgrade percolation, elevation changes, omit condition 7 of. Planning permission 03/8329. 2012 Grant.

03/8239: Extension to golf clubhouse, upgrade wastewater, new entrance and retain extension and alterations. 2004 Grant.

90/6548: Alterations, extension and conversion of building to clubhouse. 1991 Grant.

## 5.0 Policy Context

### 5.1. Wicklow County Development Plan 2022-2028 (WCDP)

5.1.1. The WCDP which came into effect 23 October 2022 is the operative Development Plan for the county.

5.1.2. These lands are within the designated North East Mountain Lowlands Area of High Amenity as per the WCDP. No other designations with respect to ecology and landscape character are attached to the appeal site.

Council's Policy objectives CPO 11.3 & CPO 11.4 (details local policy requirements in permitting a tourism and recreational facility within a rural area), CPO 11.6 (landscape areas 'open for consideration'), CPO 13.18 (wastewater), CPO 17.24 (EU Directives on water) and CPO 17.35 (landscape classification) are relevant to the consideration of this appeal.

## 5.2. Natural Heritage Designations

The site is not located within or in close proximity to any designated Natura 2000 site, with the Wicklow Mountains Special Protection Area (Site Code 004040) and Special Areas of Conservation (Site Code 002122) being the nearest, located circa 2.2 kilometres west of the site.

However, the site is located within proximity to the Vartry Reservoir proposed Natural Heritage Area (pNHA) (Site Code 001771), sited approximately 240 metres south of site and Carriggower Bog pNHA (Site Code 001771) sited approximately 350 metres east of site. Powerscourt Waterfall pNHA (Site Code 001767) is located c.4.5 kilometres north of site, Great Sugar Loaf pNHA (Site Code 001769) is c.5.3 kilometres approx. NE of site and Glen of the Downs pNHA (Site Code 000719) is c.5.8 kilometres approx. NE of site.

## 5.3. EIA Screening

See completed Form 1 on file. Given that the proposed development is not of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) no preliminary screening or EIA determination is required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- Third Party 1 (Robert & Julia Miller)

Water Supply: Concerns are expressed on the capacity of the proposed wells and surrounding aquifers to fill the proposed watersport pond (estimate put forward as 10,600m<sup>3</sup> with an average depth of 2.25 metres) and the accuracy of estimated figure provided on water volume top up requirements, noting also water loss during dry periods due to evaporation. It is put forward that the proposed borewell and water requirements will have consequences and potentially detrimental effects on water supplies of surrounding residential properties and farms.



Traffic Hazard: The appellant considers that the proposed development will create a traffic hazard, given existing high speeds and high traffic volume along the R755 being the main distributor road from the N11 to Roundwood, Glendalough and other areas. Further concerns are expressed in relation to sightlines, no right-hand turning lane into the development, no traffic study or junction analysis provided and no report from the Council's Roads Engineer on the proposal.

Noise: Noise impact arising from the proposal on surrounding residential properties is raised as a matter of concern.

- Third Party 2 (Lloyd Malynn)

Water Supply: The appellant refers to their proximity to the proposed development, details their existing water capacity issues (private well runs dry during June to September months) and outlines their concerns regarding the impact in which the proposal will have to the water supply and level of the water table in the immediate area.

Traffic Hazard: It is asserted that the proposal will increase the potential for road accidents and traffic hazards due to increase traffic flow and movements entering/existing this site, along a road with an already high volume of traffic (including tourists and cyclists). Further traffic safety concerns are expressed given the road gradient along the R755 when approaching from Kilmacanogue to the Ballinastoe Crossroads junction.

- Third Party 3 (Fiona Molloy and Others)

Water Supply: The appellant details their land ownership, being lands that were farmed by family members for generations adjoining this site and outlines recent water supply issues (notably 2(no) wells bored, 155ft ran dry and 480ft currently with constraints) and that 1 of 3 natural water springs remain on their lands which is insufficient to meet their needs. It is noted that rainwater storage is used for hydrating animals. A query is raised on the figures provided within the submitted Hydrology Report.

Traffic Hazard: In reference to existing high traffic volumes along the R755, concerns are raised on traffic safety, sightlines associated with crossroads junction and previous accidents at this location. The establishment and unsuitability of new vehicular accesses from the site onto the Mill Road is also highlighted.

Environment: It is stated that the proposal will have a huge impact on the rural life and ecosystem of the area and concerns are expressed on the existing fencing of site with adjacent farms, air pollution, noise pollution, drought, negative impacts on local habitats (construction stage) & on established beehives that are located on an adjacent site. Public behaviour and trespassing onto adjoining lands (entrance sited 20 metres from subject lands) at the weekends due to attendance at Sunday Markets has also been raised as an issue.

## **6.2. Applicant Response**

The applicant's response to the grounds of appeal contains a planning report with an appended report on hydrological matters. The Planning Report sets out the context and manner in which the applicant considers the proposal to be consistent with the provisions of the WCDP in terms of the principle of the development, siting & design and the environment, and responds to the grounds of appeal.

The content of the applicant's response to matters raised within the appeals to the proposed development is summarised below.

### **6.2.1. Water Supply (Watersport Pond)**

An appended report referred to as 'Appendix a – Envirologic Report on Third Party Appeals', prepared by a suitably qualified person on hydrology, informs the applicant's response to matters raised by the respective appellants on water supply. The applicant outlines the separation distance of proposed pond to the nearest appellant, being 300 metres and states that all appellants are sited on higher ground to the appeal site and pond. Reference is made to the content of a Hydrology Report (referred to as 'Envirologic Report') which accompanied this application, received by the Planning Authority 28 April 2023, and the rationale for design of pond and geology of site outlined.

The applicant responds to matters raised in terms of detailing characteristics of the site and its relationship with adjoining lands. A conceptual model is provided on rationalising the tendency for poor performance of wells in the area. Further to this and in addressing third party appeals, the applicant puts forward additional suggestions with respect to drainage so as to increase the amount of rainfall runoff flowing through the pond, increasing the proposed pond depth at its lower end from 1.2m to 1.7m such that it will allow for a water storage buffer of 0.5 metre and reduce top up requirements during prolonged dry spells. It identifies that the volume of water required to raise water level from minimum target water depth of 1.0m is equal to 4,690m<sup>3</sup> and that additional volume of water required to raise water from minimum target water depth of 1.0m to a maximum depth of 1.5m is equal to 2,345m<sup>3</sup>. The sole use of one on-site private well (PW1) which is centrally located within the site, as a source for topping up pond water, if required (and reason for same) is also put forward to further address concerns expressed by third parties.

Details concerning the movement of waters leaving the proposed pond are outlined. In terms of water quality relative to the pond and proposed activities, the applicant refers to the conclusions of the initial assessment report on hydrology which concludes that there will be no impact to either groundwater or downstream surface waters in terms of flow or quality.

#### 6.2.2. Traffic Safety

The applicant contends that sightlines in excess of 100 metres are available in each direction at the proposed access (which is an existing and permitted 20-metre-wide splayed entrance, setback circa 3 metres from the edge of the road) and refers to its established use and operation associated with a golf course without any traffic hazards arising. It is commented that the crossroads is 50 metres to the north of the northern part of the already permitted entrance. It is put forward that there are no grounds to suggest that the proposed development will result in either increased traffic flow or the potential for traffic accidents. It is stated that the proposal is solely a daytime use that will generate lower traffic movements than the golf course and will be more evenly spread across the day on an hourly/two hourly basis. The applicant anticipates that the site *'would accommodate on average 74 visitors arriving and leaving the site each day, the vast majority of whom will utilise the R755 to access the site'*.

Reference is also made to 75(no) on-site car parking spaces, their phased use throughout the day/night, anticipated bus and mini-bus parking and confirmation by the applicants that they are willing to organise a courtesy mini-bus from the Bray or Greystones DART stations, where required and provide bike parking facilities.

The applicant contends that a right turning lane is not required given the relatively low anticipated traffic levels and the forward sightlines in both directions. It is stated that there will be no queuing beyond cars waiting for intermittent traffic to pass. The existing hump is 160 metres north of the existing entrance and 100 metres north of the crossroads and there are no traffic hazard implications relating to it and the proposed development. The applicant commented that no evidence of accidents on the R755 was provided by appellant and that each of the appellants will not be affected in anyway by the majority of the traffic accessing the proposed development given that they are not sited along the regional road.

#### 6.2.3. Environment

It is put forward that the proposal will not negatively impact neighbouring uses through traffic, light and pollution impacts and will not generate any odours or pollutants. It is further iterated that noise impacts will be imperceptible given its nature and source (i.e., generated by the visitors and a 4kW motor that motorises the cable across the watersport pond). The applicant suggests that the proposal will provide a net environmental and hydrological gain from the existing permitted use on the site (in terms of level of chemicals, fertilizers and artificial watering of golf course).

#### 6.3. **Planning Authority Response**

None.

#### 6.4. **Observations**

None.

## 6.5. Further Responses

None sought.

## 7.0 Assessment

In accordance with the provisions of the WCDP, the site is located in the 'open countryside' and has an established recreation use (golf course) over the past three decades. Tourism and Recreation is recognised within the WCDP as a key sector for future growth in Co. Wicklow and local policy provides for tourism and recreation related developments outside of towns and villages where the nature of the activity proposed renders their location within a town or village unfeasible or undesirable (CPO 11.3). In this context and given its siting along a tourist corridor, the proposed development is acceptable in principle, subject to compliance with relevant local policy and standards.

Accordingly, having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, site inspection and having regard to the relevant policy and guidance, I am satisfied that the main issues to be considered are those raised in the Third-Parties grounds of appeal, and I am satisfied that no other substantive issues arise.

The main issues in determining this appeal are as follows:

- Water Supply
- Road and Traffic Safety
- Environment
- Procedural.

## 7.1. Water Supply

I note that all third-party appeals submitted have expressed concerns on the water supply to serve the proposed watersport pond and that the proposal will significantly impact on existing private wells and impact on the level of the water table in the immediate area, with existing water capacity issues in the vicinity highlighted. There are a number of private wells serving one-off single houses and agriculture in the vicinity and there are no public water abstraction schemes within a 4-kilometres radius of the appeal lands. I consider that the factors of relevance in considering the matter of hydrology in this instance include soil type, ground conditions & topography; source & volume of water required and the movement of water relative to both the subject lands and adjoining lands.

### 7.1.1. Soil Type, Ground Conditions & Topography

The underlying rock in this area is Pre-Cambrian bedrock with a poor aquifer. The northwestern portion of the case lands are underlain by the Devils Glen Formation and the southeastern half of the site underlain by the Bray Head formation. Soil type is largely till derived from Lower Palaeozoic sandstones and shale. The site lies within the Wicklow Groundwater Body and groundwater vulnerability is classified as 'high'. I note that the Council's Planning, Development and Environment Section in their consideration of the application submitted to the Planning Authority referenced that trial holes and soak tests indicated that no bedrock was encountered, with clay conditions below 0.7m and poorly drained soils above recorded. The applicant in their application stated that the pond is to be constructed from materials solely derived from the site and as per guidance for constructed wetlands for the soil types on the site. I generally acknowledge and agree that poor bedrock aquifers supply small levels of water abstraction and that the primary source supply is via upgradient rainfall runoff to the pond. The site's topography gently falls from its northwestern boundary to the southeastern corner of the site and having reviewed the details submitted on the site layout plan, I note that the proposed watersport pond is sited in the lowest (southeastern) end of the site. In this context, I concur with the first party that the gentle fall in topography coupled with soil type and ground conditions will allow for maximising the area (estimated at 25 hectares) from which upgradient rainfall runoff can be

captured for the initial water filling of pond and also contribute to its ongoing maintenance and storage of water volume. I am therefore satisfied that given the topography, soil type and ground conditions associated with the proposed watersport pond, that its initial water filling from upgradient rainfall runoff will not exacerbate existing capacity issues raised by appellants in respect of wells in the vicinity.

#### 7.1.2. Water Source and Required Water Volume (Watersport Pond)

##### Initial Water Fill:

The source supply proposed for the initial water fill of the watersport pond is rainfall runoff (overland flow), coupled with shallow groundwater flow emerging in on-site springs and groundwater seepage entering bedrock aquifer, hardstanding, and direct rainfall to pond. The applicant estimates that the time for the initial fill to a depth of 1.5 metres is 12 days. I am satisfied that water filling which avails of the above water source is passive and therefore will not impact on local groundwater wells or springs in the vicinity.

##### Maintenance of Water Volume:

I note concerns expressed that the 5m<sup>3</sup>/day (0.00047% of the total pond volume) water top-up required to the watersport pond estimation is substantially incorrect and that appellant considers that water loss of circa 5mm-10mm/day equates to approximately 24-48m<sup>3</sup>/d during dry periods of evaporation. In responding to the concerns expressed within the planning appeals submitted, the applicant put forward an updated proposal that provides for a water storage buffer of 0.5 metres within the pond. It is stated that this can be achieved by increasing the depth of the proposed pond at its lower end from 1.2m to 1.7m such that it will enable a maximum pond depth of 1.5m, with water volume maintained predominantly through rainfall runoff. It is outlined that the revised proposal will reduce the need for topping-up of water, unless a scenario presents where there is an uninterrupted dry period and evaporation exceeds rainfall by 500mm occurs. Rainfall data provided on behalf of the applicant indicates that during the summer months over the period 2020-2022, water level reduction did not exceed 500mm [Net evaporation 369mm (May-August 2022);

305mm (May- September 2021) and 303mm (May-September 2020)]. Whilst acknowledging the relevance of the data provided relative to the proposed development, I am satisfied that the revised proposal which will increase water storage within the pond will facilitate the maintenance of its water levels during prolonged dry periods and that the concerns of the appellant regarding water loss levels due to evaporation have been satisfactorily addressed.

I further note that the first party put forward a suggestion in utilising one on-site private well (PW1) only as a source for topping up pond water, if required (i.e., prolonged dry periods) in response to concerns raised. The submitted documentation indicates that the applicant intends to pump water for long duration at low rates, to mitigate against excessive drawdown in the immediate vicinity. Based on the information available and given the location of PW1 with a separation distance in excess of 300 metres from nearest dwelling and approximately 75 metres north of the proposed pond inlet and 1.3 metres above the maximum target pond elevation coupled with the anticipated low abstraction levels proposed, I am satisfied that the proposed use of PW1 will not impact on groundwater levels or impact negatively on the yields of existing private wells in the vicinity.

In light of the above and in the event that the Board is of a view to grant planning permission for the proposed development, I concur with the proposal put forward and consider that a condition should be attached that increases the pond depth and rainfall water storage at its lower end from 1.2m to 1.7m such that it will enable a maximum pond depth of 1.5m. I further consider that in the interest of clarity, a condition should be attached which provides that water abstraction, when required should be solely abstracted from PW1 on the subject lands, unless otherwise agreed in writing with the Planning Authority.

#### 7.1.3. Movement of water relative to both the subject lands and adjoining lands.

As discussed in Section 7.1.1. above, the topography, soil type and ground conditions of the subject lands are conducive to the movement of water in discharging and filling the proposed watersport pond sited in the southeastern corner of the site. Furthermore, I have considered the content of a hydrology report submitted on behalf



of the First Party and note that it provides an explanatory on the likely source groundwater feeding existing wells in the vicinity and the foreseen impact arising from the proposed development on these existing wells and the water table given existing capacity issues experienced in the vicinity. The report outlines that *'as groundwater flow paths in the locality tend not to be well connected, additional wells or a modest increase in abstraction rate is unlikely to have a perceptible impact on groundwater levels or well yields in other third-party wells'*. I am therefore satisfied that given the source water supply and the level of water abstraction proposed to serve this development coupled with the site's topography, groundwater flow paths (which tend not to be well connected) and the poorly productive nature of the underlying bedrock, that the construction and maintenance of the proposed pond will not negatively impact on the yields of private wells in the vicinity, if permitted.

## **7.2. Road and Traffic Safety**

- 7.2.1. Access to the proposed development will be obtained via an established vehicular entrance onto the R755 regional road, along the western boundary of the appeal site, approximately 70 metres south of Ballinastoe Cross. I note that achievable sightlines are not delineated on site layout map submitted. I further note having reviewed the submitted documentation that anticipated traffic movements entering/exiting this development are associated with an anticipated number of 74 visitors per day, 6 fulltime staff (including 2 Directors) and up to 15 seasonal staff.
- 7.2.2. Section 2.1.9., Appendix 1 of the WCDP which pertains to standards on entrances and sightlines is relevant in such instances where an increase in traffic movements is proposed at an existing entrance. The application documentation outlines that the change of use proposed from its previous permitted use as a golf course to an adventure park will not give rise to an increase in traffic movements.
- 7.2.3. Following a site inspection and based on the information available, I am satisfied that the proposed development will utilise an established splayed and setback vehicular access off the R755, permitted by Wicklow County Council under planning reference 03/8239 and that sightlines are satisfactory, subject to ongoing maintenance of

established roadside trees and hedging such that sight visibility lines are kept free from obstruction. I also accept that the anticipated traffic volume generated from the proposed development will be broadly consistent with previous established recreational use on these lands and that the R755 by virtue of its overall condition, width and alignment has the carrying capacity to accommodate the projected traffic volumes and traffic movements of approximately 74 visitors (daily) with staggered entry/exit times and associated staff with the proposed development. I therefore do not consider that the proposal would endanger public safety by reason of traffic hazard. In the event that the Board considers that the proposed development should be granted, the applicant should be conditioned to ensure that required sight visibility lines on either side of the vehicular entrance are kept free from obstruction and maintained so as not to impede lines of sight.

### **7.3. Environmental Impacts**

I note that concerns within appellants submissions were broadly expressed on the impacts of the proposed development on rural life and the ecosystem of the area, local habitats (construction stage) and air & noise pollution. Having considered the nature and scale of this proposed change of use development on a former golf course, which has a relatively low ecological value and where existing trees and planting can be retained as part of its future use, I consider that the proposal will not have a negative impact on biodiversity and the environment. However, in the interest of clarity and the protection of the environment and visual amenity, should the Board be minded to grant permission for this development, I consider that a condition requiring that a landscaping plan be provided which clearly details proposals on existing trees and planting to be retained and any supplementary planting (if proposed) for the entirety of the site, for the consideration and approval of the Planning Authority.

#### **7.3.1. Noise**

I note concerns expressed by appellants who consider that noise generated from the proposed development will have a negative impact on residents and biodiversity, with a specific concern expressed in respect of established beehives on an adjacent site

to the appeal site. The First Party in response to third party concerns outlined that noise will be generated solely by the visitors to the adventure park, and a small 4kW motor associated with the cable across the proposed water sports pond will have an imperceptible impact at the boundary of the site.

There are no national mandatory noise limits relating to development projects and whilst a number of guidance documents have issued with respect to certain sectors, none relate to recreational use, the subject this application. Most environmental noise guidance documents issued across Europe derive limits from guidance issued by the World Health Organisation (WHO). The time, place, nature of the sound and people affected by noise generated, requires consideration in determining likely impacts as a result of environmental noise.

In this context and in assessing the development proposed, it is relevant to note that the local noise environment is rural in character, with predominant noise source being vehicular traffic on the R755. Given that there will be no increase in traffic movements generated from the proposed change of use, I consider that its impact on residential receptors and biodiversity is negligible. Furthermore, given that there are no thrill rides or mechanical equipment proposed (with the exception of 4kv motor, which is setback within the site and a distance in excess of 300 metres from the nearest residential property), separation distances to residential properties (siting of the proposed ziplines are setback in excess of 80 metres from the northern roadside boundary, 135 metres from western roadside boundary and the watersport pond with overhead motorised cable is sited in excess of 300 metres from the nearest residential receptor) and that hours of operation are within daylight hours only, I consider that the likely noise impacts from the proposed development on the residential amenities in the vicinity of the site will be imperceptible and will not negatively impact on biodiversity in the area.

### 7.3.2. Operational Issues

#### (1) Waste

I have considered the concern raised on littering and note that no details have been provided within the documentation supplied in relation to on-site waste storage areas.

In accordance with Section 2.3.3, Appendix 1 of the WCDP and in the event that the Board considers that the proposed development should be granted, the applicant should be conditioned to submit details of on-site waste storage and other waste facilities necessary for the development proposed in accordance with legislative requirements, for the approval of Wicklow County Council.

#### (2) Boundary Treatment

I note that concerns are expressed in respect of existing fencing associated with the site, given that this site adjoins farmlands. I am satisfied that the matter of boundary treatment can be sufficiently addressed by way of condition, should the board decide to grant permission.

### 7.4. Procedural/Legal Matters

#### 7.4.1. Unauthorised Works

In response to matters raised concerning development uses and works on this site without the benefit of planning permission, I consider that such works and activity fall outside of the Board's remit in deciding this application. Furthermore, in noting concerns regarding the trespassing of visitors onto adjoining lands in private ownership, I consider it satisfactory that a condition in respect of boundary treatment be attached in the event of a grant of permission. This assessment represents my de novo consideration of all planning issues material to the proposed development.

#### 7.4.2. Section 47 Agreement

Having considered all documentation submitted, I consider that the rationale is unclear for the requirement of a Section 47 agreement, attached by the planning authority by way of condition. I have reviewed the content of the Council's planning report which informed the decision on a Section 47 agreement, and I note that it refers to matters considered under a similar proposal on this site (planning reference 22/163). However, given that this application was withdrawn prior to the making of a decision by Wicklow County Council, it is not pertinent to the assessment of this case.

The Planning Authority considered it necessary that a Section 47 legal agreement be put in place in respect of the subject lands and accordingly, a condition was attached to the decision to grant permission. It required that a Section 47 agreement be entered into which specified that the entire development, consisting of the proposed development, all existing authorised and permitted development within the subject site (and the landholding delineated in blue on the site location map submitted 21st December 1990 under PRR 90/6548) that this permission refers to, shall be held in single ownership and shall not be subdivided. The Planning Authority further sought that the agreement be registered as a burden against this site in the Land Registry within three months of commencement of development.

I confirm that the applicant, being Djouce Outdoors Ltd. in this case is not the registered landowner (Donal McGillycuddy). The respective folio in its entirety and to which the proposed development relates, is delineated within the red line boundary on plans and particulars which accompany this application. Also, a letter of consent from the landowner in respect of the making of this application, provides consent to a planning application for the development of all lands contained within the said folio. I further note that the landowner has demonstrated a willingness to enter into a legal agreement under Section 47 of the Planning & Development Act 2000 (as amended) (PDA) and that a draft indenture in this respect accompanied the submitted planning application.

Section 47 of the PDA provides that; -

*'A planning authority may enter into an agreement with any person interested in land in their area, for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may be specified by the agreement, and any such agreement may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the planning authority to be necessary or expedient for the purposes of the agreement...'*

Having reviewed the application submitted and the planning history of this site (including existing development and permitted development), I note that the plans and particulars submitted with this application clearly prescribe that the proposed development and all ancillary on-site services (including vehicular access, car parking,

drainage and wastewater/water provisions) are integral to the overall development of the subject lands. The development and use proposed is consistent with the previous permitted use (i.e., recreational) associated with these lands. I consider that the overall development use(s) and the regulation of the subject land in its entirety is a matter that falls under Section 34 of the PDA and compliance on an on-going basis with such permission(s) as granted, relevant codes of practice, standards and regulations. I therefore consider that the requirement for a Section 47 agreement, the purpose of which is to restrict ownership of the lands to single ownership and that the lands shall not be subdivided, is not warranted for the purposes of ensuring the regulating of this overall landholding.

#### 7.4.3. Security Bond

The Planning Authority attached a condition requiring that the applicant lodge a security bond for the sum of €5,000 with the Council, the intended purpose of which appears to be in ensuring the satisfactory compliance with the conditions of the permission. However, in broad terms, the purpose of a security bond is to obtain a cash lodgement or a surety bond which can be sequestered by the Local Authority in the event that the developer fails to complete a permitted development to the required standard (normally referred to as Taken in Charge Standard), in accordance with the conditions of planning permission.

In this instance, given the nature and extent of the proposed development (vehicular entrance and car parking already in-situ) within lands that are in private ownership and such that the permitted development will not be taken in charge by the local authority, I consider that there are no grounds for the attachment of a security bond. The attachment of planning conditions to a permission granted are legally binding, with the onus on the applicant/developer to ensure full compliance and the Planning Authority has statutory powers in the enforcement of same. I am therefore satisfied that the matter of compliance with the conditions of the permission can be appropriately addressed through the planning process, without the requirement of a security bond.

## 8.0 Recommendation

It is recommended that permission be granted for the development proposed subject to conditions set out below.

## 9.0 Reasons and Considerations

Having regard to the provisions of the Wicklow County Development Plan 2022-2028, to the established use of the site and to the nature, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, would not pose a traffic hazard, would not pose a risk to public health and would therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 28<sup>th</sup> day of April 2023 and by the further plans and particulars received by An Bord Pleanála on the 11<sup>th</sup> day of August 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>REASON: In the interest of clarity.</p>
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<p>2.</p>	<p>Wastewater Treatment and Disposal Systems</p> <p>(a) The wastewater treatment system hereby permitted shall be located, constructed and maintained in accordance with the recommendations included within the site characterisation report submitted with this application on the 28<sup>th</sup> day of April 2023 and shall be in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021).</p> <p>(b) Prior to the occupation and operation of the development hereby permitted, a certificate from a suitably qualified person with professional indemnity insurance shall be submitted to the Planning Authority, stating that the effluent treatment and disposal system has been designed and installed as proposed and is in accordance with the EPA Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021).</p> <p>(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from first occupancy of the development hereby permitted and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to the planning authority within four weeks of the installation.</p> <p>REASON: In the interest of public health and the proper planning and development of the area.</p>
<p>3.</p>	<p>Drinking Water Supply</p> <p>The developer shall ensure the continuous supply of potable drinking water to serve this development, which shall be protected against contamination</p>



	<p>and the well water tested and treated as necessary in accordance with the European Union (Drinking Water) Regulations 2023.</p> <p>REASON: In the interest of public health.</p>
4.	<p>Watersport Pond</p> <p>Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit the following:</p> <p>(a) Revised plans and particulars that provide a 0.5 metre increase in the depth of pond at its lower end from 1.2 metres to 1.7 metres, in accordance with details submitted to An Bord Pleanála on 11 August 2023</p> <p>(b) A detailed Construction Environmental Management Plan (CEMP) which is informed by and separate to the Hydrology Report received by the Planning Authority 28 April 2023, incorporating details on the construction of the watersport pond and environmental management measures to be carried out during construction stage, for the written agreement of the Planning Authority. No chemicals or other polluting matter shall be allowed enter the sports pond and its connecting drainage system. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.</p> <p>(c) A Management Plan which sets out the mechanisms to prevent any invasive species entering the watersport pond.</p> <p>(d) A sample of the water flowing from the watersport pond once constructed on the site shall be analysed annually for E.Coli, BOD, orthophosphate, Total</p>

	<p>Ammonia &amp; Dissolved Oxygen and shall be submitted to Wicklow County Council for review.</p> <p>(e) On-site water abstraction, when required in the maintenance of water volume of the watersport pond shall be solely sourced from PW1 private well located within the subject lands, in accordance with details submitted to An Bord Pleanála on 11 August 2023, unless otherwise agreed in writing with the Planning Authority.</p> <p>REASON: To ensure the protection of groundwaters and surface waters and the proper planning and sustainable development of the area.</p>
5.	<p>Surface water run-off shall not be allowed to flow onto the public roadway, adjoining properties or discharge to the on-site wastewater disposal system.</p> <p>REASON: In the interest of the protection of the environment and the proper planning and sustainable development of the area.</p>
6.	<p>Required sight visibility lines on either side of the vehicular entrance shall be kept free from obstruction and shall be maintained by the developer so as not to impede lines of sight.</p> <p>REASON: In the interest of road and traffic safety.</p>
7.	<p>The site shall be landscaped in accordance with a landscaping scheme, details of which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include the following:</p> <p>(a) A plan to scale of not less than 1:500 showing –</p>

	<ul style="list-style-type: none"> <li>(i) Existing trees and hedgerows (including existing roadside planting) and specify which are proposed for retention as features of the site landscaping,</li> <li>(ii) The species, variety, number, size and locations of any supplementary planting (if proposed) which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder, if proposed</li> <li>(iii) Secure boundary treatment along the full extent of the outer perimeter of this site</li> <li>(iv) A timescale for implementation.</li> </ul> <p>(b) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>REASON: In the interest of visual amenity.</p>
8.	<p>All details of proposed waste and bin storage, including location and design shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development and the development thereafter carried out in accordance with the approved details.</p> <p>REASON: In the interest of orderly development.</p>

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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Paula Hanlon  
Planning Inspector  
11/12/2023

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	317597-23		
<b>Proposed Development Summary</b>	Change of use from golf course to an adventure park consisting of a zip line and adventure course facility; construction of a watersport pond; change of use of part of the former golf course clubhouse to a reception room, changing rooms at ground floor with storage at first floor level, wastewater treatment plant and all ancillary and site development works.		
<b>Development Address</b>	Ballinastoe Cross, Roundwood, Bray, County Wicklow.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<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>			
<b>No</b>	X		
<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>	X		No EIAR or Preliminary Examination required
<b>Yes</b>			

**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		

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

**Date:** 11/12/2023