



An
Bord
Pleanála

Inspector's Report

ABP-318712-23

Development	House, garage, wastewater treatment unit, well, new entrance and associated works.
Location	Sraghmore, Roundwood, Wicklow, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	2360300
Applicant(s)	Jennifer O' Gorman
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party v Decision
Appellant(s)	1. George, Eveline & Judith Fleeton 2. Anne Saunders & Kevin O' Connor
Observer(s)	None.
Date of Site Inspection	12 June 2024
Inspector	Paula Hanlon

1.0 Site Location and Description

- 1.1. The site subject to this appeal (hereafter referred to as 'the site') is located in the townland of Sraghmore, circa 3 kilometres north of Roundwood and circa 6.2km west of Newtownmountkennedy.

The site is located on a family landholding and would be accessed off an established accessway that currently serves 2(no) dwellings and connects with an adjoining narrow private cul-de-sac lane (Shramore Lane). Shramore Lane connects with the R755 regional road, c.300m to the east of the site and currently serves 7 houses on single plots in a predominantly dispersed housing pattern and agricultural lands. The operating speed along this cul-de-sac is approximately 10kmph while the speed limit along the adjoining R755 is subject to the general 80kmph speed limit. The Vartry Reservoir (lower reservoir) a proposed Natural Heritage Area is sited approximately 200 metres at its nearest point SE of the site.

The topography of the site is generally flat (stated area 1ha) and forms part of a larger holding which is laid in grass. The existing boundary treatment along the north, west and southern side includes native hedging, trees and brambles. At time of site inspection, the site was dry and neither site features nor vegetation suggested any drainage issues. There are no public footpaths or cyclepaths serving the site and its immediate rural area. 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 constitutes the provision of a new 4-bedroom 1 ½ storey dwelling (235m²)(overall height 7.02m) on site along with a detached garage (42.1m²), wastewater treatment system, private well, vehicular access and all associated works, In terms of palette of materials and finishes, the proposed dwelling and associated garage/store will have nap plaster/render walls complimented with undefined stone shown on submitted drawings and natural black/blue slate. The proposed vehicular access is located at the end of an internal accessway located within the family landholding and a new wooden fence and planting are proposed around the perimeter of the site.

- 2.2. The application was accompanied by the following documentation of note – Cover Letter; associated documentation in demonstrating applicant's compliance with the PA's policy on rural housing and Site Characterisation Report.

3.0 Planning Authority Decision

3.1. Further Information

The PA requested further information on 8 November 2023 with regard to the repositioning of the proposed wastewater treatment system so as to ensure compliance with policy in the protection of water quality associated with the Vartry Reservoir and addressing an anomaly on details shown in regard to the sizing of the on-site soil polishing filter.

3.2. Decision

By Order dated 22 November 2023, Wicklow County Council issued a Notification of decision to grant planning permission subject to 9(no) conditions. The conditions were mainly standard, and the following are of note:

- Development to be carried out in accordance with documents lodged and as revised by the documents lodged on 08/11/2023 (Condition 1).
- Seven-year occupancy condition (Condition 2).
- On-Site Wastewater Requirements (Condition 4).
- External material finishes (use of stone to be agreed) (Condition 7b)
- Financial Contribution (Condition 3).

3.3. Planning Authority Reports

3.3.1. Planning Report(s)

Two Planning Reports have been attached to the file. The first report completed on 26/10/2023 is generally satisfied with the development proposed in relation to rural housing policy, traffic safety and landscape. It sought further information in respect of one matter i.e. on-site wastewater provision.

A second planning report completed 20/11/2023 forms the basis for the decision by Wicklow County Council to grant permission. The content of this report outlines that the relocation of wastewater treatment system and associated details were acceptable, and a grant of planning permission was recommended subject to compliance with conditions.

3.3.2. Other Technical Reports

EHO: (08/11/23) Amended details on wastewater treatment system are satisfactory.

3.4. Prescribed Bodies

Uisce Eireann: (10/10/23) No objection, provides a standard condition to be imposed where a connection to Uisce Eireann's networks is required.

Dublin City Council: (24/10/23) Sought the relocation of wastewater treatment unit, highlights an anomaly on submitted details (soil polishing filter) and outlines requirements on the installation & maintenance of wastewater treatment plant.

3.5. Third Party Observations

The PA received two third-party submissions during the course of their determination. The submissions were received from George & Eveline Fleeton and Kevin O' Connor & Anne Saunders, both of which reside in the area. The matters raised are premised on road safety concerns in terms of both the R755 and the private lane which serves the appeal lands and are reflected in the appeal submissions received (summarised in Section 6.1 below).

4.0 Planning History

Subject Site

19/94: Permission granted for dwelling, garage and associated works (now withered). An application for leave to appeal was made by an adjoining landowner under reference number ABP-304144-19 and refused by the Board.

Surrounds

(Southern side of private lane and to east of site)

- 11/4417: Permission granted for dwelling house, with subsequent permission granted for change of house type (Planning Reference 15/378) on this site.
- 06/4807: Permission granted for dwelling house, with subsequent permission granted for change of house type (Pl. Ref. 10/2134) and Extension of Duration permitted 16/432.

(Northern side of private lane)

- 06/6046: Permission granted for the demolition of cottage and construction of a replacement dwelling NE of the proposed development.
- 11/4491: Permission granted for partial demolition works to dwelling and retain & convert remaining section to a garage and store NE of proposed development.
- I was unable to identify a record of planning permission attached to dwellings, sited north of this development i.e. immediately opposite the subject site and at the end of private cul-de-sac lane.

5.0 Policy Context

5.1. Development Plan

Rural Housing

The site is located within Level 10 - The rural area (Open Countryside) of the County's settlement strategy as detailed within Section 4.2 of the plan. Rural Housing policy as set out within Chapter 6 of the plan applies.

CPO6.41: (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).

Housing Need / Necessary Dwelling

This is defined as those who can demonstrate a clear need for new housing, for example:

- first time home owners;
- someone that previously owned a home and is no longer in possession of that home as it had to be disposed of following legal separation / divorce / repossession by a lending institution, the transfer of a home attached to a farm to a family member or the past sale of a home following emigration;
- someone that already owns / owned a home who requires a new purpose built specially adapted house due to a verified medical condition and who can show that their existing home cannot be adapted to meet their particular needs;

and other such circumstances that clearly demonstrate a bona fide need for a new dwelling in the open countryside notwithstanding previous / current ownership of a home as may be considered acceptable to the Planning Authority.

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.

In this regard, persons whose livelihood is intrinsically linked to rural areas may include:

a. Those involved in agriculture

The Planning Authority will positively consider applications from those who are engaged in a significant agricultural enterprise and require a dwelling on the agricultural holding that they work. In such cases, it will be necessary for the applicant to satisfy the Planning Authority with supporting documents that due to the nature of the agricultural employment, a dwelling on the holding is essential for the ongoing successful operation and maintenance of the farm. In this regard, the Planning Authority will consider whether there is already a dwelling/dwellings on the farm holding when determining if a new dwelling can be justified.

b. Those involved in non-agricultural rural enterprise / employment The Planning Authority will support 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. The Planning Authority will strictly require any applicant to show that there is a particular aspect or characteristic of their employment that requires them to live in that rural area, as opposed to a local settlement. Where an applicant's case for a new dwelling on the basis of economic need is based on establishing a new or alternative agricultural / non-agricultural rural enterprise and they have no previous experience in agriculture / rural enterprise, the Planning Authority shall not consider the above requirements met until the applicant can show that the new agricultural / non-agricultural rural enterprise has been legally and continuously ongoing for at least 5 years prior to the making of the application for a dwelling, and is the applicant's primary occupation and source of income. Applicants whose proposed business is not location-dependent will not be considered. 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 Planning Authority recognises the need of persons intrinsically linked to rural areas that are not engaged in significant agricultural or rural based occupations to live in rural areas.

In this regard, persons intrinsically linked to a rural area may include:

- Permanent native residents of that rural area (including Level 8 and 9 settlements) i.e. a person who was born and reared in the same rural area as the proposed development site and permanently resides there;
- A former permanent native of the area (including Level 8 and 9 settlements) who has not resided in that rural area for many years (for example having moved into a town or due to emigration), but was born and reared in the same rural area as the proposed development site, has strong social ties to that area, and now wishes to return to their local area;

- A close relative who has inherited, either as a gift or on death, an agricultural holding or site for his/her own purposes and can demonstrate a social need to live in that particular rural area, 156 Wicklow County Development Plan 2022-2028 Chapter 6 | Housing

- The son or daughter of a landowner who has inherited a site for the purpose of building a one off rural house and where the land has been in family ownership for at least 10 years prior to the application for planning permission and can demonstrate a social need to live in that particular rural area,

- 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.

CPO13.16: (Private wastewater treatment plants for single rural houses).

CPO17.35: (Landscape Classification)

Appendix 1: Development and Design Standards; Appendix 2: Single Rural Houses Design Guidelines.

Roads & Traffic

CPO 12.45: (Continue to improve regional roads to the appropriate standards consistent with predicted traffic flow, policy and the Councils Roads Programme).

CPO 12.55 Support the development of Local Improvement Schemes and Community Involvement Schemes.

Development Standard 2.1.9 (Entrances & sight lines)

- In all areas, new entrances shall be designed having regard to the design speed, function and traffic volumes on the adjoining public road as well as pedestrians, cyclists and vulnerable road users;
- Clear sightlines will be required to be available or provided at new junctions and entrances. The sight distance required shall be calculated using the applicable road design manual having regard to the following criteria:
 - The designation of the road, its function in the road hierarchy and existing / projected volumes of traffic;
 - The typical speed (not the speed limit) of the road;
 - The vertical and horizontal alignment of the road;
 - And any other such factors that may be pertinent to the specific location or as may be set out in road design manuals.
- When locating new entrances and proposing increases in traffic movements at existing entrances, it must be shown that vehicles turning right into the entrance do not obstruct or cause a hazard to other road users. Sufficient forward sight distance must be available to (a) cars approaching an entrance in case a car is waiting on the road carriageway to turn right, (b) for cars waiting to turn right at an entrance. Right turning lanes may be required and these shall be designed in accordance with the applicable road design manual.

Designations

Landscape - North East Mountain Lowlands Area of High Amenity (Section 5 Wicklow Landscape Assessment).

5.2. Sustainable Rural Housing – Guidelines for Planning Authorities

These guidelines state that development plans should facilitate the housing need of the rural community while directing urban generated housing to settlements. The

guidelines go on to state that the housing requirements of persons with a link to the rural area should be facilitated in the area it arises subject to normal siting and design requirements.

5.3. National Planning Framework

National Policy Objective 19 of the National Planning Framework (NPF) states the following in relation to one-off rural housing in the countryside:

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.

5.4. Natural Heritage Designations

The site is located approximately 200m NW (at its closest point) to the Vartry Reservoir (lower reservoir) a proposed Natural Heritage Area. It is not located on or within proximity to any designated Natura 2000 sites, with the Carriggower Bog SAC (000716) being the nearest European site located a distance of c.2.1km NE of the site

and the Wicklow Mountains SPA (Site Code 004040) and SAC (Site Code 002122) located approximately 2.7km west of the site.

5.5. EIA Screening

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

2(no) Third-Party appeals (the appellants) have been received in relation to the PA's decision to grant permission, both of which are made from residents in the area, namely George, Eveline & Judith Fleeton (residents on Shramore Lane) and Kevin O' Connor & Anne Saunders (residents at a site to the south of Shramore Lane which accesses directly onto the R755). The appellants reiterate their concerns expressed to the PA at application stage in regard to road safety and consider that they have not been satisfactorily assessed, interpreted or addressed, particularly with regard to the proposed new entrance and indications of right-of-way, along with other procedural matters. A summary of the grounds submitted within the two appeal submissions is provided below.

6.1. Grounds of Appeal

6.1.1. Road Safety

Concerns raised in regard to Shramore Lane in accommodating the proposed development due to its carrying capacity, access location at a point on the cul-de-sac where 6 other houses also converge, traffic volume/road users (farm vehicles & residents of varying age profile), restricted sightlines at its junction with the R755 and limited pull-in area provision (with associated implications for emergency vehicles). Concerns are also expressed in respect of the adjoining R755 on the grounds of visibility at junction with the Lane and the number of exits along a short stretch of road

with high traffic volumes. Reference is also made to accidents which occurred in the area and non-compliance with TII guidelines.

The appellant also raises an issue on the level of input given to road safety matters from senior technical staff, inconsistencies on sightlines issue in comparison to previous applications in the area, the vagueness associated with an indication in the planner's report that works are 'planned for this area' and that the PA's Schedule of Conditions incorporates no condition(s) on road safety. In seeking that the matters raised be addressed, the appellant requests that the Board gives consideration to the assessment of findings contained within a Transportation Study (2022) which accompanied planning application reference 22/733 (copy attached to appeal).

6.1.2. Procedural

The indication of a right-of-way across the private cul-de-sac from the R755 to the site is erroneous and misleading, with no request received by the owner of the lane and it is outlined that the previous owner of the site accessed the subject site and associated lands off the R759.

On a separate matter, the appellant highlights that the Planner's Report of the Planning Authority misquotes details contained within the applicant's cover letter in regard to the applicant's compliance with Policy CPO6.41 (rural housing policy).

6.2. Applicant Response

6.2.1. Planning History

The application is similar to a previously permitted development on this site (with the exception of wastewater treatment/disposal proposal)(1994) and therefore should be treated under S.138 PDA on the statutory basis that *'the appeal should not be further considered...having regard to...the nature of the appeal...or... any previous permission which in its opinion is relevant.*

6.2.2. Road Safety

The matters raised on road safety relate to the stretch of the R755 road and entrance to the lane, and the lane's substandard condition and its continued deterioration.

Junction (Onto R755)

The applicant considers that the concerns raised are predicated on motorists taking illegal turning movements out of Shramore Lane (southbound) onto the R755 with a continual white road line along the R755 at this junction. The applicant further considers that sightlines are acceptable and does not agree with the appellant regarding non-compliance with TII Guidelines, stating that technical guidelines of this type, aside from representing standards which might apply in an ideal environment cannot be considered in isolation from other factors (e.g. speed of traffic using the major road, frequency of trips from the minor road onto the junction) and in this case, given the road configuration promoting slower speeds and that these roads are not heavily trafficked. The application of development contributions to reinforce the existing traffic flow arrangements is open to the Council and it is outlined that the appellants contention regarding accident rates is not supported by documentary evidence and that annual statistics show that the majority of accidents are caused by human error.

Private Cul-de-Sac (Shramore Lane)

The applicant in noting the physical characteristics of the private lane, outlines that the proposal does not pose a risk to road safety as currently this private lane (with an associated passing bay) accommodates few cars and requires users to drive at slow speed. Also, forward visibility associated with the linear alignment of the road provides adequate advanced notice of oncoming motorists and the proposed development will not markedly change existing local conditions.

Relevant Case Law

Reference is made that the applicant is a permanent native resident of Shramore Lane and in this regard, to direction taken in relevant High Court decisions which envisage a certain degree of practicality when considering issues of road safety and which cautioned against the trend of PAs reaching unfounded opinions on safety. Further case law which prescribes that the general duty to give reasons does not involve a box ticking exercise that the reasoning cannot be so anodyne that it is impossible to determine why the decision went one way or the other is also referenced in regard to the appeal case.

6.2.3. Procedural

Right-of-Way

In regard to matters raised on right-of-way issue associated with the private cul-de-sac, the applicant confirms that all proposed works are contained on lands within the applicant's ownership and delineated site boundary, the application was deemed acceptable to the PA and that any dispute(s) in regard to right-of-way do not fall under the remit of the planning process as outlined within the Development Management Guidelines (Section 5.13) and is a civil matter. The applicant would accept a planning condition or rider which gives effect to the provisions of Section 34(13) of the PDA in the event that permission is granted.

Rural Housing Need

All parties to this case accept that the applicant satisfies the Rural Housing policy. The applicant outlines that the PA mistakenly erred in its reference to economic circumstances contained within the submitted cover letter and clarified that the applicant's rural housing need is premised on their social circumstances attached to the area.

6.3. Planning Authority Response

None.

7.0 Assessment

Having examined the application details and all other documentation on file, including the submissions received in relation to the two number third-party appeals, the report of the local authority, having inspected the site, and having regard to the relevant local/regional/national policy objectives and guidance, I am satisfied that the applicant has substantiated compliance with the PA's adopted policy objective on rural housing and note that this matter is not refuted by any party, notwithstanding a misquoted reference outlined in the Planner's Report. Further, the matter in regard to public health (water quality) in regard to on-site wastewater facilities as proposed, has also been satisfactorily addressed at application stage. I also note that permission was previously granted for a similar designed dwelling on this site in 2019 and that this permission has recently withered. Accordingly, I consider that the substantive issues in this appeal case to be considered are as follows:

- Road Safety
- Procedural/Legal Matters.

7.1. Road & Traffic Safety

7.1.1. Road Capacity (Shramore Lane)

I have examined the appellant's concerns in regard to the capacity of the private cul-de-sac in accommodating the proposed dwelling. Firstly, I wish to highlight that the proposal will not result in a new direct access onto the private cul-de-sac as access will be obtained via an existing and already permitted private accessway arrangement that currently serves 2(no) houses on the family landholding which runs immediately south of, and converges onto an established staggered crossroad on Shramore Lane. There are no stated parameters on sightline requirements for a private road (lane) within the CDP and within TII publications. In my view, this established junction can satisfactorily accommodate the proposed development, with sufficient visibility available due to its wide splayed access arrangement in place on its southern side at this low trafficked junction on the cul-de-sac lane.

In terms of the carrying capacity of the lane itself, which is approximately 250m in length, I am satisfied that its function is to serve adjoining landowners on the lane only (i.e., 7(no) households and agricultural lands). It is surfaced with good vertical & horizontal alignment, and an existing layby is already in place along its southern side. Furthermore, whilst the lane is narrow (c.3.5m width) accommodating single lane traffic only, it has a typical speed of approximately 10kph and in my view, this is quite typical in such a rural location and is not a matter which warrants refusal in itself. On balance, I concur with the PA and I am satisfied that given the nature and scale of the development proposed and envisaged traffic movements, that the private cul-de-sac lane has the carrying capacity to accommodate the proposed development and that the proposal will not endanger public safety by reason of traffic hazard, if permitted. I wish to also note that while on site inspection, I evidenced the extent of an open stream which flows immediately alongside a portion of the southern edge of the narrow lane at its easternmost end and note that the stream is not delineated on the submitted site layout map. However, I do not consider that the stream in itself poses a risk to

traffic safety and I am satisfied that the traffic movements arising from the proposed development will not be so significant so as to pose a risk to traffic safety. I therefore consider that a refusal of permission solely on road safety on this lane and traffic grounds would not be justified. Whilst future works in terms of signage and road markings would benefit the area, I do not consider that a grant of permission in this case is contingent on such works being undertaken and therefore, I concur with the PA that no condition(s) is required to be attached should the Board be minded to grant permission.

7.1.2. Sightlines and Proliferation of Exits onto R755

A central concern raised in the appeals pertain to achievable sightlines from the existing junction with the R755 and the number of exits along a short stretch of road with high traffic volumes.

Notably, no detailed sightline information has been provided with the application, however it is of relevance that the proposal will utilise an established junction that connects the private cul-de-sac lane with the regional road (R755) and therefore, it will not result in a new, additional entrance along this stretch of regional road.

In regard to the established junction onto the regional road and achievable sightlines, I note that the site layout map which accompanies this application makes reference to previous permissions for similar development on lands accessed via the established junction arrangement and I note also that the PA raised no issues in this case. The appeal submission however makes reference to and seeks that the Board gives consideration to the findings of a Transportation Statement (2022) which accompanied application Pl. Ref. 22/733. In examining the content of the referenced case (pl. ref. 22/733), I submit that this Transportation Statement accompanied a separate application made and which was subsequently withdrawn on lands located on the eastern side of the R755 and directly opposite Shramore Lane. I further note that its findings conflict with the PA's decision on the established junction onto the R755 (western side), as in its assessment of an alternative site, located off Shramore Lane, it details that it is not possible to meet TII's required visibility onto the regional road being 160m (both directions) as per TII guidelines and states that the established junction has a predicted achievable visibility of 70m in both directions. I note that the

planning officer in their report refers to a discussion with the municipal district engineer with regard to proposed access and traffic. On foot of this discussion, coupled with the site's planning history and that the applicant is a permanent native resident, the planning officer concluded that the proposed access to the site via the existing cul-de-sac to be appropriate.

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 applicant is already a permanent native resident of the lane and therefore the proposal will not give rise to an increase in traffic movements.

The applicant's contention regarding illegal right-hand turning movements onto the R755 due to a continuous white line is not material to my assessment in this instance. Following a site inspection and based on the information available, I am satisfied that the proposed development will utilise an established junction in the road network off the R755 and I accept that the anticipated traffic volume generated from the proposed development will be broadly consistent with the existing low levels of traffic movements on this lane and that a relaxation of the parameters set out in TII guidelines is relevant and appropriate. I therefore do not consider that the existing, long established junction with approximately 70 metres achievable sightlines in both directions warrants grounds for refusal in itself and I am satisfied that there is sufficient forward sight distance available for cars waiting to turn right onto the cul-de-sac and note that it is a policy objective of the Council to continue to improve regional roads to the appropriate standards consistent with predicted traffic flow, policy and the Councils Roads Programme (CPO 12.45). I also note that reference made by the appellant to accidents in this area (and on the lane itself) is not supported by recorded documentary evidence. In light of the above, it is my opinion that the established road network in the vicinity of the site is capable of accommodating the dwelling proposed and that the proposal accords with the provisions of the CDP.

7.2. Procedural/Legal Matters

A procedural matter was raised within one of the appeal submissions in this case with respect to the legal interest associated with private laneway and that no request or discussion was undertaken regarding a required right-of-way across the private lane for the proposed development. I note that the site layout map submitted details a right-of-way line (in yellow) across this lane and I further note that the PA were satisfied that the applicant demonstrated sufficient legal interest to make the planning application. In examining the information submitted in this case and the appellant's submission, I am of the view that there is no evidence attached to the documentation available in this case to support either party in regard to the right-of-way issue. I submit that matters relating to determining rights of ways are not ones for An Bord Pleanála. When disputes arise in these instances, it is considered they are matters for the Courts to determine. Furthermore, in the event that the Board is minded to grant permission, the applicant shall not be entitled solely by reason of a permission to carry out any development (Section 34(13) of the Planning and Development Act 2000 (as amended)).

Separately, I note that the Planner's Report carried out on behalf of the PA incorrectly refers to economic circumstances in respect of the applicant's rural housing need. I am satisfied that this reference included within the Planning Report is an error and that notwithstanding same, the applicant has sufficiently demonstrated compliance with the Local Authority's rural housing policy 6.41. I am further satisfied that the matters raised did not prevent concerned parties from making representations to this appeal. This assessment represents my de novo consideration of all planning issues material to the proposed development.

Finally, the provisions of S.138(1)(b) PDA is a matter of An Bord Pleanála who has absolute discretion in dismissing an appeal. In considering the applicant's statement and request that the appeal be considered under S.138(1)(b), which provides that an appeal should not be further considered where the Board is satisfied that (i) the nature of the appeal (including any question which in the Board's opinion is raised by the appeal), or (ii) any previous permission which in its opinion is relevant, I conclude that

the appellant has demonstrated sufficient grounds for appeal in regard to the matters raised. Furthermore, this case requires assessment under the provisions of a superseding development plan to the previous permission attached to this site and revised proposals (wastewater) were incorporated into this application.

8.0 AA Screening

I have considered the proposed development of a dwelling house, domestic garage and associated works in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The appeal site is not located within any designated Natura 2000 site(s). The subject site is located a distance of c.2.1km west of Carriggower Bog SAC (Site Code 000716) and c.2.7km east of the Wicklow Mountains SPA (Site Code 004040) and SAC (Site Code 002122) being the nearest European site(s). No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The nature of the works and development (incl. dwelling house, domestic garage and on-site wastewater treatment plant) are small scale
- The site is located a distance of c.2.7km from the nearest European site and there are no hydrological or other ecological connections to any European site
- I have taken into account the AA screening determination by the PA which determined that the proposed development is not likely to give rise to adverse impact on the qualifying interests and conservation objectives of any nearby Natura 2000 sites.

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and

therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend to the Board that permission be granted for the dwelling house, domestic garage and associated works, subject to conditions set out below.

10.0 Reasons and Considerations

Having regard to the objectives of the Wicklow County Development Plan 2022 - 2028 and in particular CPO 6.41 which allows for essential rural housing need and Section 2.1.9 which sets out standards on entrances and sightlines, it is considered that the applicant comes within the scope of the housing need policy with a demonstrable social need and that the proposed development would not give rise to traffic hazard. On this basis, the proposed development would be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and further information details of 08/11/2023, 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.

Reason: In the interest of clarity.

2. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant.

Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling. This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (p.e. ≤ 10)" – Environmental Protection Agency, 2021. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakaways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter. (e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory

manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

4. The site shall be landscaped with existing planting retained and supplemented using indigenous deciduous plants and hedging species only, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Any plants or trees which die, are diseased or damaged shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

5. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

6. The developer shall enter into water and wastewater connection agreements with Uisce Eireann.

Reason: In the interest of public health.

7. Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.

Reason: In the interest of public health.

8. Details of the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid

prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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.

Paula Hanlon
Planning
Inspector

20 June 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318712-23		
Proposed Development Summary	Dwelling House and domestic garage.		
Development Address	Sraghmore , Roundwood , Wicklow, Co. Wicklow		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
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]?			
		Threshold	Comment (if relevant)
No			
Yes	X	Class 10 (Infrastructure Projects)	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-318712-23	
Proposed Development Summary	A dwelling house, domestic garage and associated works.	
Development Address	Sraghmore, Roundwood , Wicklow, Co. Wicklow	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	The site is currently in grass and unzoned in the open countryside. The proposed development is not exceptional in the context of existing environment. The proposed development will not result in the production of any significant waste, emissions or pollutants.	No
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other existing	No. The site area is 1ha. There are no other developments under construction in proximity to the site. All other developments are established uses.	No

and/or permitted projects?		
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>No. The appeal site is not located within any designated Natura 2000 site(s). The subject site is located a distance of c.2.1km west of Carriggower Bog SAC (Site Code 000716) and c.2.7km east of the Wicklow Mountains SPA (Site Code 004040) and SAC (Site Code 002122) being the nearest European site(s).</p> <p>Due to the nature and scale of the proposal, the proposed development does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>	No
<p style="text-align: center;">• Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)