



An
Bord
Pleanála

Inspector's Report

ABP-319340-24

Development

Subdivision of house to provide two semi-detached houses, each with extensions, construction of shared vehicular entrance, demolish unauthorised shed, provision of two wastewater treatment units and percolation areas and ancillary works.

Location

Druid's Manor, Leabeg Upper, Newcastle Upper, Co. Wicklow.

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

23919

Applicants

Vera Ungureanu and Gheorghe Topchin

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Date of Site Inspection

7th March 2025

Inspector

John Duffy

1.0 Site Location and Description

- 1.1. The appeal site, measuring approximately 0.19 ha, is located at the western side of the R761 (the Kilcoole to Newcastle Road) in the townland of Leabeg Upper, approximately 1 km to the south of the development boundary of the town of Kilcoole in Co. Wicklow. The site is flat in topography and broadly rectangular in configuration..
- 1.2. The site forms one of a row of 4 detached rural dwellings on individual sites and is situated at the northern end of this row. The site contains a large detached single storey dwelling (c 176 sqm) with six bedrooms, associated front and rear gardens, and a large shed to the rear. Two accesses to the site are evident from the public road, with only the northern most entrance in use at the time of the site visit. The large, pitched roof shed (c 221 sqm) is located proximate to the south-western corner of the site, and it appears that the second access from the public road would have served this structure.
- 1.3. The site is bound to the front by a stone wall with evergreen hedging planted behind it. Rear garden boundaries comprise c 1.8 m high wooden fencing at the northern and western (rear) boundaries, and evergreen trees at the southern boundary. The majority of the rear private space comprises hardstanding.
- 1.4. The surrounding area generally comprises agricultural lands and one-off rural housing. Lands to the west accommodate Druids Glen Hotel and Resort, and associated golf courses. The Newtownmountkennedy river network is situated c 130 m to the north of the subject site.

2.0 Proposed Development

- 2.1. Permission is sought for the following proposals;
 - Subdivision of existing bungalow (c 176 sqm) and the overall site (c 0.19 ha) and construction of a party wall to facilitate two semi-detached single storey 3 bedroom houses on separate sites (indicated as Sites A and B on the site layout plan). Site sizes in respect of Site A and Site B are given as 0.088 ha and 0.0089 ha respectively.

- Construction of single storey extensions to the rear of the two units. Total gross floor space of proposed works are stated to equate to c 96 sqm. Total floor areas of each house would be approximately 136 sqm post development.
- Alterations to floor plans, external finishes and windows and doors to facilitate the subdivision. From the submitted drawings it is apparent that the height of the roof will increase by c 2 m to approximately 6.6 m.
- Removal of existing northern vehicular access and construction of a new, more centrally located, shared vehicular access.
- Demolition of existing unauthorised shed structure (c 221 sqm) to the rear, stated to be used for storage purposes.
- Removal of existing wastewater treatment system serving the existing house on the site and installation of two individual waste water treatment units and percolation areas to serve the proposed semi-detached houses.
- Provision of an additional water connection, so that both units have independent water supply.
- Construction of boundaries to divide the proposed units. A 1.8 m high boundary fence is proposed between the two proposed rear garden areas. A c 1.8 m high wall is proposed along the northern and western (rear) boundaries.
- Removal of existing stone wall along the front of the site and its replacement with a lower wall with beech hedging planted behind it.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a decision to refuse permission on the 22nd of February 2024 for three reasons, summarised as follows;

1. Having regard to the details submitted, it is considered that the proposed development would be contrary to the local authority's policy for Wastewater Treatment and Disposal Systems for Single Houses due to:

(a) The inadequate size of the individual plots, both of which fall below the minimum required size of 1500 sqm for a site with a wastewater treatment system where the dwelling is served by mains water supply.

(b) The failure to demonstrate that the specific ground conditions are suitable for the construction of a treatment plant and any associated percolation areas.

(c) The site characterisation report and wastewater treatment proposal contain details of only one set of site tests and one wastewater treatment proposal, although planning permission has been sought for two wastewater treatment proposals.

It is considered the proposed development would result in an excessive density of development served by septic tanks in the area, would be contrary to Objective CPO 13.16 of the County Development Plan, would be prejudicial to public health, and contrary to the proper planning and sustainable development of the area.

2. The proposed development on the application site would not represent a necessary dwelling in this rural area and would be contrary to the settlement strategy for the rural area as set out in the County Development Plan. This strategy seeks to control development to ensure the protection of the environmental and ecological quality of the rural area and ensuring that the scenic value, heritage value, and / or environmental / ecological / conservation quality of the area is protected.

The Council's settlement strategy is to require new housing to locate on designated housing land within the boundaries of settlements, and to restrict rural housing to those with a housing need based on the core consideration of demonstrable functional or social economic need to live in the open countryside with the requirements of Table 6.3. The applicants do not come within the scope of housing need criteria as set out in Objective CPO 6.41 as they are not native to the rural area of Co. Wicklow.

3. The proposed development would result in a traffic hazard having regard to the failure to demonstrate that adequate sightlines can be achieved at the proposed vehicular entrance which is located within a 60 kph speed limit zone.

3.2. Planning Authority Reports

3.2.1. Planning Report

The report of the area planner reflects the planning authority's decision to refuse permission for the proposal for the reasons set out in Section 3.1 above. It identifies the policy context and notes that the proposal results in the formation of an additional rural dwelling through the subdivision, renovation and extension of an existing rural dwelling and the installation of two wastewater treatment systems (one for each unit). As such, it is considered that the proposal would be assessed in accordance with policy and standards for the rural area as set out in the Wicklow County Development Plan 2022-2028 where housing occupancy controls apply.

In this context, the report notes that the applicants are not native to this rural area and that neither party has demonstrated they have a definable economic or social need to justify the creation of a new dwelling in this rural area. It is therefore concluded that the formation of a new dwelling on the subject site would not constitute a necessary dwelling in the rural area and would be contrary to the rural settlement strategy as set out in Chapter 6 of the Wicklow County Development Plan 2022-2028.

It is noted that the application is made by owners of the site who comprise two separate families co-sharing the house. While the existing internal layout indicates provision of two kitchens, two living areas, two bathrooms and six bedrooms, no planning permission exists for the subdivision of the dwelling into two units, and the house is interlinked internally to form a single unit with one water connection and one waste water treatment system.

The design of the proposed units is considered acceptable and a suitable level of amenity in terms of privacy, open space and internal layout is demonstrated. The principle of the new parking and vehicular access arrangement is deemed to be acceptable, however the applicants have not demonstrated that adequate sightlines can be achieved at the proposed vehicular entrance, which is located within a 60 km / hour speed limit zone, rather than a 50 km / hour zone as indicated in the application documentation.

A number of inconsistencies in the documentation submitted relating to the proposed waste water treatment systems are identified and the report concludes that the subject

site is too small to support two waste water treatment systems and, as such, it is concluded that the proposal would be prejudicial to public health if permitted.

3.2.2. Other Technical Reports

District Engineer: Proposed sightlines may need to be adjusted. The speed limit for the adjoining public road is 60 km / hour, rather than 50 km / hour as indicated on the site layout drawing. Further, it is unclear whether a gate is proposed at the new entrance. If a gate is to be provided, the gate and pillars would need to be sufficiently set back from the edge of the public road to allow a vehicle to move in off the road to a safe place in order to open the gate.

EHO: Clarification is required on the following matters.

- Site Characterisation Report (SCR) and waste water treatment proposal includes details of only one set of site tests and one waste water treatment proposal.
- The proposal variously states that the Population Equivalent (PE) is 5 or 10.
- The proposed sand filter is not referenced in the SCR.
- At site inspection water was found in the trial holes at 1400 mm which would leave insufficient unsaturated subsoil below the proposed invert level of 800 mm.
- Size of the site is smaller than the required size for two wastewater treatment systems according to Council planning policy; 0.3 ha are required to accommodate two wastewater treatment systems.

3.3. Prescribed Bodies

No reports received.

3.4. Third Party Observations

None received.

4.0 Planning History

No recent or relevant planning history.

5.0 Policy Context

5.1 Wicklow County Development Plan 2022-2028

5.1.1. The proposed development was considered by the planning authority under the Wicklow County Development Plan 2022-2028.

5.1.2. 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 County Development Plan. Rural Housing policy as set out within Chapter 6 applies.

5.1.3. The Role and Function of the rural area is set out in Chapter 4. Under this heading it is stated that, inter alia, 'Development within the rural area should be strictly limited to proposals where it is proven that there is a social or economic need to locate in the area. Protection of the environmental and ecological quality of the rural area is of paramount importance and as such particular attention should be focused on ensuring that the scenic value, heritage value and/or environmental / ecological / conservation quality of the area is protected.'

5.1.4. Relevant objectives in Chapter 4 are as follows:

CPO 4.6 To require new housing development to locate on designated housing land within the boundaries of settlements, in accordance with the development policies for the settlement.

CPO 4.14 To ensure that key assets in rural areas such as water quality and natural and cultural heritage are protected to support quality of life and economic vitality.

CPO 4.15 To protect and promote the quality, character and distinctiveness of the rural landscape.

5.1.5. Chapter 6 of the County Development Plan relates to Housing. Section 6.3.8 relates to Rural Housing. Relevant objectives in Chapter 6 are as follows:

CPO 6.41 Facilitate residential development in the open countryside for those with a housing need based on the core consideration of demonstrable functional social or

economic need to live in the open countryside in accordance with the requirements set out in Table 6.3.

Table 6.3 Rural Housing Policy

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,

- 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.

5.1.6. Other relevant objectives / appendices are set out below:

CPO 13.16 Permission will be considered for private wastewater treatment plants for single rural houses where:

- the specific ground conditions have been shown to be suitable for the construction of a treatment plant and any associated percolation area;
- the system will not give rise to unacceptable adverse impacts on ground waters / aquifers and the type of treatment proposed has been drawn up in accordance with the appropriate groundwater protection response set out in the Wicklow Groundwater Protection Scheme (2003);

- the proposed method of treatment and disposal complies with *Wicklow County Council's 'Policy for Wastewater Treatment & Disposal Systems for Single Houses (PE ≤ 10)'* and the Environmental Protection Agency "*Waste Water Treatment Manuals*"; and
- in all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitively demonstrate that the proposed development will not have an adverse impact on water quality standards and requirements set out in EU and national legislation and guidance documents.

Appendix 1 – Development and Design Standards

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.

Appendix 2 – Single Rural Houses Design Standards

5.1.7 Wicklow County Council's Policy for Domestic Waste Water Treatment Systems for Population Equivalent ≤ 10 (Wicklow County Council June 2021)

Planning applications for single houses with on-site wastewater treatment and disposal systems are assessed in accordance with the 'Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) EPA 2021' and a number of additional requirements including the following:

1. The minimum site size shall generally be 1500 m² where the dwelling is connected to a mains water supply.

5.2. National Planning Framework (NPF) – Project Ireland 2040 (2018)

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

5.2.1. Code of Practice Domestic Wastewater Treatment Systems (p.e. ≤ 10) 2021

The Code of Practice (CoP) sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses. Table 6.2 sets out required separation distances from the wastewater treatment system.

5.2.2. Ministerial Guidance

Sustainable Rural Housing, Guidelines for Planning Authorities (2005)

The appeal site is located within a rural area under strong urban pressure. The Guidelines state that these areas exhibit characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas, or to major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network.

Section 3.2.3 sets out general criteria for considering whether a person is an intrinsic part of the rural community:

‘Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes. Examples in this regard might include sons and daughters of families living in rural areas who have grown up in rural areas and are perhaps seeking to build their first home near their family place of residence. Returning emigrants who lived for substantial parts of their lives in rural areas, then moved abroad and who now wish to return to reside near other family members, to work locally, to care for elderly family members, or to retire should also be accommodated.’

Circular Letter SP 5/08 was issued after the publication of the guidelines. It emphasises that ‘all planning applications for houses in rural areas, regardless of where the applicant comes from or whether they qualify under specific criteria, must continue to be determined on the basis of the proper planning and sustainable development of the area, in accordance with development plan policies regarding over-arching environmental concerns, including the protection of natural assets, landscape, siting and design, traffic safety etc.’

5.3 Natural Heritage Designations

- The Murrough Wetlands SAC (Site Code: 002249), located approximately 1.6 km to the south-east, east and north-east of the site.
- The Murrough SPA (Site Code: 004186), located approximately 1.4 km to the east of the site.
- Glen of the Downs SAC (Site Code: 000719), located approximately 4.9 km to the north-west of the site.

5.4 EIA Screening

See Forms 1 and 2 below. Having regard to the limited nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

This is a first-party appeal against the planning authority's decision to refuse permission made by Molloy Architecture and Design on behalf of the applicants.

6.1 Grounds of Appeal

The grounds of appeal may be summarised as follows under the headings below:

First refusal reason (Wastewater treatment)

- Two site suitability assessments are now included with the appeal in respect of Sites A and B. The details of the proposed soil polishing filters / percolation areas now match the revised site layout plan. A minimum of 900 mm of unsaturated soil is proposed below the invert level of the percolation pipework.
- The requirement for the minimum site area to accommodate a treatment plant is considered to be a guideline only, and is rigidly applied in this instance. Minimum site size criteria are not specifically intended in the circumstances of this case. The proposed development complies with EPA regulations.

Second refusal reason (Policy)

- The documentation relating to the applicants, which was provided as part of the planning application, did not seek to prove compliance with rural settlement strategy criteria.
- This application relates to a rare and unique set of circumstances and presents an opportunity for the Board to set a precedent which has the potential to significantly increase housing supply through a new source and to provide a solution to the significant deficit in housing supply at little or no cost to the environment due to minimal construction works.

Third refusal reason (Traffic hazard)

- A revised site plan and drawing of the entrance detail illustrates sightlines of 90 metres which are recommended in the Design Manual for Urban Roads and Streets (DMURS) for entrances on roads with a 60 km speed limit. This is achieved by adjusting the position of the entrance bay. It is sufficient in

depth to accommodate a vehicle when turning into the site. No entrance gates are proposed.

The appeal includes a submission from Brock McClure Planning and Development Consultants, which seeks to address the second refusal reason, relating to the rural settlement strategy as set out in the County Development Plan. This submission is summarised under relevant headings, as follows:

General issues / Site Context

- It is considered that this planning application presents a wholly unique scenario and granting permission would not set an undesirable precedent.
- Acknowledgement that the applicants do not strictly comply with the rural housing need policy.
- Board has discretion to permit the proposed development having regard to national planning policy, Sustainable Rural Housing Guidelines (2005) and associated circular, and the pattern of development in the area.
- Site is not located in an area subject to a sensitive landscape designation, nor in an area of flood risk.
- Site is not proximate to Natura 2000 sites.
- Proposed design and internal layout are acceptable to the planning authority.
- Inherent planning and biodiversity gains are achieved in this rural area by removal of large rear shed and reinstatement of the garden.
- The proposal should be positively considered as it has no impact on the public realm or the rural character of the area. It is considered that no discernible material alterations would arise to the existing building envelope of the house.
- Works were permitted under Reg. Ref. 01/5373 to the adjoining property to facilitate its subdivision. As such the principle of this development type is established in the area. It is noted that the division did not provide for a separate dwelling.

Sustainable Rural Housing Guidelines (2005)

- Section 4.3 of the Guidelines are relevant to this application and they advise that that balanced assessments are undertaken regarding the circumstances and merits of an application. It is contended that the planning authority has failed to make a fair and balanced assessment of the circumstances pertaining to the site. The proposal relates to the conversion of the existing building envelope with modest rear extension; it does not relate to the construction of an additional rural dwelling.
- Authorised residential use of the building would remain and no material intensification of use would arise.
- The full rigour of the rural housing policy has been applied to this case which is unwarranted and inappropriate in this particular site context.
- Circular SP 5/08 states inter alia that all planning applications for rural houses must continue to be determined in accordance with the proper planning and sustainable development of the area, regardless of where the applicant comes from. It is considered that rigid application of specific criteria should not solely determine a planning application.

Housing need

- Ireland is in the midst of a housing crisis. A pragmatic approach is required to allow residential units in areas that may not be primarily intended for housing. Such an approach should be taken in the context of this application.
- The strategic importance of meeting national housing targets should take priority in this case.
- The planning authority has not stated the proposed development would be a material contravention of the County Development Plan. As such, the Board is not required to provide any additional reasoning to any decision to grant permission.

The appeal also includes a number of other attachments as follows:

- Drawings and plans provided with the planning application including the following new / revised drawings:

- Drawing No. VU-01-23-101 which is a revised Site Layout Plan indicating 90 m sightlines in both directions from the site entrance. Entrance bay located further south.
- Drawing No. P01B indicating, inter alia, the layout of the proposed wastewater treatment system and percolation area on Site B.
- Drawing No. P02B indicating a layout and sectional view of the proposed wastewater treatment system and percolation area.
- Site Suitability Assessments for Sites A and B.
- Design details for the wastewater treatment plants and soil polishing filters.
- A note from the Site Assessors, WJG Consultants, which may be summarised as follows:
 - All minimum separation distances are achieved as per the EHO report.
 - Each site will only require a system capacity of 5 PE.
 - Proposed invert level is adjusted to 500 mm below ground level.

6.2 Planning Authority Response

None.

6.3 Observations

None.

7.0 Assessment

7.1 Having examined the application details and all other documentation on file, including the appeal and all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that the substantive issues in this appeal to be considered are those raised in the grounds of appeal and the area planner's report, and are as follows:

- Rural Housing Policy

- Wastewater Treatment
- Traffic and Sightlines
- Appropriate Assessment

7.2 Rural Housing Policy

- 7.2.1 The planning authority's second refusal reason states, inter alia, that an additional individual rural dwelling and wastewater treatment system on the site would not constitute a necessary dwelling in the rural area, that the applicants have not established demonstrable functional social or economic need to live in the open countryside and that they do not come within the scope of housing need set out under Objective CPO 6.41.
- 7.2.2 The applicants make the case that their situation is unique and rare, in that two separate families have resided in the subject property for several years (having rented it prior to purchasing it in 2022) and that the proposal relates to the conversion of the existing building envelope along with modest rear extensions, and that it does not relate to the construction of an additional rural dwelling. It is in this context that the applicants contend the rural housing policy as set out in Chapter 6 of the County Development Plan should not apply to the proposal. As such, the applicants consider that the planning authority failed to assess the site circumstances in a fair and balanced manner, with reference made to the Sustainable Rural Guidelines 2005 and Circular SP 5/08.
- 7.2.3 The subject site is located within Level 10 – the open countryside of the County's settlement strategy as set out in Section 4.2 of the Wicklow County Development Plan 2022-2028. Section 6.3.8 of the Development Plan notes that all Wicklow's rural areas are considered to be 'areas under urban influence. Objective CPO 6.41 of the County Development Plan is to 'Facilitate residential development in the open countryside for those with a housing need based on the core consideration of demonstrable functional social or economic need to live in the open countryside in accordance with the requirements set out in Table 6.3.' Table 6.3 sets out various requirements under the headings of 'Housing Need / Necessary Dwelling', 'Economic Need' and 'Social Need'. Thus, an applicant for a house in the open countryside must firstly have a defined

housing need and this need, if established, will thereafter be assessed on the basis of a social or functional economic need to live there.

- 7.2.4 While I accept the applicant's contention that the prevailing circumstances are different to a proposal for a new build on a greenfield site, the fact remains that permission is being sought to develop an additional house on the subject site which is located in the open countryside. Further, it is proposed that both units would, inter alia, be extended and that two new wastewater treatment systems be provided. As such, in my view, it is entirely appropriate that the provisions of the Rural Housing Policy as set out in Table 6.3 of the County Development Plan would apply in this instance, given the nature of the proposal which seeks development of an additional house and waste water treatment system in this rural area.
- 7.2.5 Having examined the documentation provided by the applicants in support of the proposed development, no demonstrable functional social or economic need to live in the open countryside is evident. In this regard, I note the applicants agent states in the appeal that the applicants' submitted documentation is not intended to prove compliance with the rural settlement strategy criteria, but rather to serve as supporting documentation in relation to the circumstances surrounding the planning application.
- 7.2.6 Having regard to the foregoing, I do not consider that the proposed development accords with CPO 6.41 of the Wicklow County Development Plan 2022-2028 or comes within the scope of housing need as set out in the Rural Housing Guidelines. As such, I recommend that permission for this proposed development be refused.
- 7.2.7 I fundamentally disagree with the applicants assertion that the development type proposed (subdivision of existing rural house and installation of additional wastewater treatment plant) is an opportunity to provide a solution to the current deficit in housing supply, at little or no cost to the environment. As clearly articulated in Chapter 4 of the County Development Plan, the role and function of the rural area is the protection of the environmental and ecological quality of the rural area. In my view, the proposed development which is seeking to generate an additional house in the rural area without compliance with the rural housing policy, would militate against the preservation of the rural environment.

7.2.8 The planning report appended to the first party appeal notes that works were permitted to the adjoining house located to the south of the subject site to facilitate its subdivision (Reg. Ref. 01/5373 refers), and therefore the principle of this development type has been established in the area.

7.2.9 Upon review of this application I note it relates to provision of an extension (c 181 sqm) to an existing cottage at Leabeg Upper, Newcastle, Co. Wicklow. At further information stage, the applicant was requested to show the extension as an integral part of the cottage, which the applicant complied with, as demonstrated by revised floor plans showing the existing cottage and extension as being interlinked. Having considered the detail of this application, I am not satisfied that it is directly relevant or comparable to the assessment of the current proposal and in this context, I note that no separate additional house and no additional wastewater treatment plant was proposed or permitted.

7.3 Wastewater Treatment

7.3.1 The first refusal reason states that the proposal would be contrary to the local authority's policy due to inadequate size of both individual plots which fall below the required size of 1500 sqm, the failure to demonstrate that the specific ground conditions are suitable for treatment plants / percolation areas, and that only one set of site tests was provided. The refusal reason concludes that the proposed development would result in an excessive density of septic tanks in the area and would be prejudicial to public health.

7.3.2 The appeal submission seeks to address this refusal reason and includes two Site Suitability Assessments and associated Site Characterisation Forms in respect of Sites A and B. Both Site Characterisation Forms identify the appeal site as located in an area with a Poor Aquifer where the bedrock vulnerability is Moderate. A groundwater protection response of R1 for the sites is noted. I note the suitability of the sites for treatment systems subject to normal good practice (i.e., system selection, construction, operation and maintenance in accordance with the EPA Code of Practice (CoP): Domestic Waste Water Treatment Systems 2021).

- 7.3.3 The trial hole depths referenced in the Site Characterisation Forms were 1.7 metres. In terms of Site A, the depth from the ground surface to bedrock was 1.7 m; the depth of ground surface to the water table was 1.4 m. In terms of Site B, the depth from the ground surface to bedrock is given as >1.7 m; the depth of ground surface to water table was 1.4 m. The soil conditions found in the trial holes for Sites A and B are described as comprising hardcore yard fill with gravelly silt and cobbles below. Percolation test holes were dug and pre-soaked. A T value/sub-surface value of 16 and 16.94 (rounded up to 17) was recorded in respect of Sites A and B respectively. Based on the EPA CoP 2021 (Table 6.4) the sites are suitable for a number of treatment system types, namely a septic tank and percolation area, a secondary treatment system and soil polishing filter, or a tertiary treatment system and infiltration area. The trial holes were not open at the time of my site inspection.
- 7.3.4 The Site Characterisation Forms submitted with the appeal conclude that the sites are suitable for the treatment of wastewater. I am satisfied that the proposal complies with the required separation distances set out in Table 6.2 of the CoP 2021. The note from WJG Consultants submitted with the appeal states the system design has been amended to consider the water table level at 1.4 m on the day of the planning authority's site inspection, resulting in a slightly raised system. The invert level is adjusted to 500 mm below ground level to allow for 900 mm of unsaturated soils under the base of the gravel bed.
- 7.3.5 I note the first refusal reason states that the subject sites (A and B) are both below the minimum required plot size of 1500 sqm to accommodate each proposed wastewater treatment plant, with reference being made to the local authority's policy for such treatment systems. This required minimum site size appears to be an arbitrary figure and I am unable to ascertain any basis for its application. It is not referenced in the EPA CoP 2021, which provides refined, robust and comprehensive guidance on several matters including site characterisation, design, operation and maintenance of domestic waste water treatment systems and stipulates minimum separation distances between systems and other structures. In my view, there is no solid basis for the planning authority's insistence that a minimum site size of 1500 sqm is required to accommodate a wastewater treatment plant. I am satisfied that the proposal complies with the required separation distances as set out in Table 6.4 of the CoP.

- 7.3.6 Finally, I note that the first refusal reason states the proposal would result in an excessive density of development served by septic tanks and as such it would be prejudicial to public health. The applicant has provided a map which indicates a total of six septic tanks / treatment plants within a radius of 250 m of the site. This number would increase to seven if permission was granted for the proposed development. On balance, I do not consider that the density of development served by treatment systems / septic tanks in the area to be overly excessive.
- 7.3.7 Having regard to the foregoing, I consider that condition one of the planning authority's decision should be omitted. The applicant has provided additional information in the form of updated Site Characterisation Forms and associated layout drawings for both sites which in my opinion addresses the first refusal reason. Furthermore, I note there is no minimum site size stipulated in the CoP for sites accommodating a treatment plant. Given that the proposal accords with the required separation distances as set out in the CoP and that the Site Characterisation Forms indicate the sites are suitable for treatment of wastewater, I consider that installation of treatment systems as proposed would be acceptable in principle.

7.4 Traffic and Sightlines

- 7.4.1. The planning authority's third reason for refusal considers that the proposed development would result in a traffic hazard as it had not been demonstrated that adequate sightlines could be achieved at the proposed entrance which is located within a 60 km / hr speed limit zone. I note that sightlines of 70 m in both directions had been demonstrated in the application, however these were based on an incorrect speed limit of 50 km / hr pertaining to the adjoining public road.
- 7.4.2. A revised site layout drawing was provided with the appeal. It shows slight relocation of the proposed site entrance / entrance bay. A deeper entrance bay (c 8.9 m from the public road) is proposed. The appeal notes that the revised site layout drawing illustrates unobstructed sightlines of 90 metres which are recommended in DMURS for entrances on roads with a 60 km speed limit.
- 7.4.3. I note that Table 9.3 'Design Speed Related Parameters' of TII publication DN-GEO-03031 (May 2023) for Regional and Local Road Design Speed indicates a stopping sight distance of 90 m in a 60 km / hr speed zone. As detailed above, the revised site

layout plan demonstrates the availability of unobstructed 90 m sightlines in both directions from the proposed vehicular entrance.

7.4.4 Having regard to the foregoing, I conclude that appropriate sightlines are available from the proposed new entrance and that the proposed development would not constitute a traffic hazard. As such, I recommend that the planning authority's third refusal reason be omitted.

7.5 **Appropriate Assessment**

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act as amended.

The Murrough Wetlands SAC (Site Code: 002249) is located approximately 1.6 km to the south-east, east and north-east of the subject site. The Murrough SPA (Site Code: 004186) is located approximately 1.4 km to the east of the subject site. The Glen of the Downs SAC (Site Code: 000719) is located approximately 4.9 km to the north-west of the subject site.

The proposed development comprises, inter alia, subdivision of existing house to form two semi-detached houses, provision of single storey extensions, installation of two wastewater treatment systems and percolation areas, boundary treatment, new entrance and demolition of shed.

Having considered the nature, scale and location of the project, I am satisfied it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows:

- Relatively small scale and nature of the proposed development.
- Location-distance from nearest European Site and lack of connections.
- Taking into account the screening determination of the planning authority.

I conclude, 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 any other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000 as amended) is not required.

8.0 Recommendation

- 8.1. Having regard to the above it is recommended that planning permission be refused for the proposed development based on the following reason and considerations.

9.0 Reason and Considerations

1. The proposed development, which will generate an additional rural house, is located within an area that is designated as Level 10 (The Rural Area) settlement in the Wicklow County Development Plan 2022-2028 and within an 'Area Under Strong Urban Influence,' as set out in the 'Sustainable Rural Housing Guidelines for Planning Authorities,' issued by the Department of the Environment, Heritage and Local Government in April 2005. Furthermore, Objective CPO 6.41 in the Wicklow County Development Plan 2022-2028 facilitates residential development in the open countryside for those with a housing need, based on core consideration of demonstrable functional social or economic need, in line with National Policy Objective 19 of the National Planning Framework. Having regard to the documentation submitted with the planning application and the appeal, the Board is not satisfied that the applicants have a demonstrable economic or social need to live in this rural area, or that the housing need of the applicants could not be met in a smaller town or rural settlement. It is therefore considered that the applicants do not come within the scope of the housing need criteria, as set out in the current County Development Plan for the area, guidelines and national policy for a house at this location. The proposed development would be contrary to Objective CPO 6.41 of the Wicklow County Development Plan 2022-2028, would militate against the preservation of the rural environment, and would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

John Duffy
Planning Inspector

31st March 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319340-24		
Proposed Development Summary	Subdivision of existing house to form two semi-detached houses, provision of single storey extensions, installation of two wastewater treatment systems and percolation areas, boundary treatment, new entrance and demolition of shed.		
Development Address	Druid's Manor, Leabeg Upper, Newcastle Upper, 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	✓
		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)?			
Yes	✓	Class 10(b)(i) of Part 2, Schedule 5	Proceed to Q.3
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	✓		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	✓	Appropriate threshold in accordance with Class 10(b)(i): - Class 10(b)(i) – more than 500 dwelling units. 1 additional house is proposed.	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	✓	Screening determination remains as above (Q1 to Q4)	
Yes		Screening Determination required	

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-319340-24
Proposed Development Summary	Subdivision of existing house to form two semi-detached houses, provision of single storey extensions, installation of two wastewater treatment systems and percolation areas, boundary treatment, new entrance and demolition of shed.
Development Address	Druid's Manor, Leabeg Upper, Newcastle Upper, Co. Wicklow.
<p>The Board carried 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. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>Subdivision of an existing rural house is proposed, to facilitate one additional rural dwelling. A shed structure (c 221 sqm) is proposed for demolition. The site is located approximately 1 km south of the town of Kilcoole, Co. Wicklow. The surrounding area comprises agricultural lands and one-off rural housing. Lands to the west accommodate Druids Glen Hotel and Golf Resort, with golf courses adjoining the site to the west. The Newtownmountkennedy river network is situated c 130 m north of the subject site.</p> <p>The proposed development would not result in the production of significant waste, emissions of pollutants.</p> <p>Construction impacts would be local and temporary in nature</p>

	<p>and implementation of a Construction Management Plan would satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p> <p>The proposed development is not an integral part of any larger project and there are no cumulative considerations.</p>
<p>Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The closest European Sites are as follows:</p> <ul style="list-style-type: none"> - The Murrough Wetlands SAC (Site Code: 002249), approximately 1.6 km to the south-east, east and north-east. - The Murrough SPA (Site Code: 004186), approximately 1.4 km to the east. - The Glen of the Downs SAC (Site Code: 000719), approximately 4.9 km to the north-west
<p>Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>No likely significant effects on environmental parameters.</p> <p>No trans-boundary effects arise as a result of the proposed development.</p>

Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____ **Date:** _____

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

(only where Schedule 7A information or EIAR required)