



An
Bord
Pleanála

Inspector's Report

ABP-319608-24

Development	Construction of a dwelling with effluent treatment system and Revisions to planning permission which granted a separate dwelling house under planning reference 21/1371, together with all associated site works.
Location	Ballinahinch, Ashford, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	2360218
Applicant(s)	Daniel Kavanagh
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Daniel Kavanagh
Observer(s)	None
Date of Site Inspection	07/08/2024
Inspector	Paula Hanlon

1.0 Site Location and Description

- 1.1. The site (0.733ha), subject to this appeal (hereafter referred to as 'the site') is in a rural area, and fronts onto a regional road (R764) on the northern approach into Ashford town, Co. Wicklow in the townland of Ballinahinch, circa 350m north of The Wy residential scheme. There is an established linear pattern of development in the form of detached houses along the adjoining regional road to the south of the site. The site encompasses an existing low-profile dwelling (family home) and associated sheds (west), with surfaced vehicular access, setback over 82m (approx.) from the adjoining regional road and paddock to the front of this house that is currently grazed by sheep.
- 1.2. A separate dwelling is already permitted on the eastern part of the site, which itself forms part of this application. The footprint of the proposed new dwelling is nestled between the adjoining existing family home (west) and the permitted dwelling house (east), which has not yet commenced construction.
- 1.3. The site is bound by mature trees and watercourse along its northern boundary, mature hedging along its southern boundary, the R764 regional road & agricultural lands on the opposite side of regional road (east) and a wooded area (west). An existing post and rail fence forms a roadside boundary and encloses the existing paddock from the existing family home (west).
- 1.4. The site's topography is predominantly flat, with an approximate 1 metre fall in site levels in an eastern direction. At the time of site inspection, the site was dry and neither site features nor vegetation suggested any drainage issues. The subject lands lie just inside of the 50kph speed limit zone.

The surrounding area is predominantly typified by agricultural lands and one-off dwellings, in linear form along the regional road (south) and a more dispersed pattern (west). Ashford Film Studios is located approximately 140m NE of the site.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a new dwelling along with revisions to a permitted dwelling within the site which has not yet commenced construction along with all associated site works.

New Dwelling: The proposed new dwelling is single storey in form and is nestled within a central area of the site. The house with a pitched roof, rises to a ridge height of 5.4 metres and incorporates an overall gross floor area of 225m² with 3(no) bedrooms. Its design is premised on an L-shape, with an A-gabled projection incorporating a large gym/bike store (50m²) along its eastern elevation. Its eastern elevation is identified as the front elevation in the submitted plans. External finishes include nap plaster walls, brick plinth (black/dark grey in colour) and corrugated metal sheeting/standing seam zinc roof. The dwelling is to be served by an individual effluent treatment system and polishing filter.

Shared Access: A new shared vehicular access to serve the proposed new house and an adjoining house to the east (Pl. Ref. 21/1371) is sought. It is proposed to connect into the adjoining established vehicular access which extends along the southern extent of the site, and which currently serves the family home.

Courtyards & Communal Parking Area: The eastern elevation of the proposed new dwelling would face onto a shared courtyard. The courtyard is enclosed to the west by the proposed dwelling and opens out onto a shared open green space area to the east. The footprint of permitted house (Pl. Reg. 21/1371) is sited to the immediate NW of the shared courtyard. A separate linear communal parking area with grass paving is also sought. A smaller shared courtyard is proposed to the front (east) of the existing family home. This courtyard is at a remove from the proposed new house and adjoining permitted house to the east, save for the proposed inclusion of an internal access path.

Revisions to Previously Permitted Adjoining Dwelling (Pl. Ref. 21/1371)

The full extent of the revisions sought are not clearly detailed within this application. In examining the submitted Site Layout Plan relative to the approved Site Layout plan under Pl. Ref. 21/1371 on Wicklow's Planning Register, I note the revisions include the slight re-positioning/orientation of the permitted house on the eastern end of this site, omission of approved vehicular access to be replaced with a shared vehicular access (further west) and the relocation of effluent tank/polishing filter (further east) within the site.

2.2 Additional unsolicited further information lodged 01 February 2024 included a response to matters raised within the Planner's Report (dated 29 September 2023), notably; - justification on siting and layout proposed, proximity to stream, roadside drainage and sightlines.

2.3 The application was accompanied by the following documentation of note:

- Site Characterisation Form.
- Letter of undertaking from applicant and third-party consent on sightlines.
- Unsolicited Further Information which includes responses to matters raised in the Planner's Assessment (Dated 10/01/24).
- Technical Note (surface water/sightlines & traffic volumes) (Dated 25/01/24).

3.0 Planning Authority Decision

3.1. Decision

By Order dated 2 April 2024, Wicklow County Council issued a Notification of decision to refuse planning permission for 2(no) reasons as follows:

1. Having regard to

(a) The layout of the proposed development which seeks to provide a dwelling on an existing plot of lands such that it would be located between an existing house, and a permitted dwelling proposed to adjoin the public road,

(b) the existing pattern of development in the area,

(c) Objective CPO 6.41 which seeks to ensure that development does not unduly detract from the residential amenity of existing properties or the visual amenities of the area, or the rural character and pattern of development in the area and does not result in a more urban format of development.

(d) The Design Guidelines for New Homes in Rural Wicklow which seeks to avoid overdevelopment in any location or 'ribbon development' and the new house(s) should be so positioned on site to have a 'relationship' with the existing structures, with the end result should not be two (or more) distinct

houses sitting at the opposite ends of the same site or a new house directly behind an existing one.

It is considered that the introduction of a new dwelling in this backland location would be at variance with the existing character of the area, and would set a precedent for further subdivision of lands resulting in the alteration of this rural landscape. The development would give rise to an excessive density of development, would lead the suburbanisation of the area, would be contrary to the amenities of this area, and to the provisions for Infill development as set out in the Design Guidelines for New Homes in Rural Wicklow and would contravene the objectives of the County Development Plan 2022-2028. To allow this development would be inconsistent with the maintenance of the areas rural character, and would be contrary to the proper planning and sustainable development of the area.

2. Objective CPO 17.26 of the County Development Plan seeks to protect rivers, streams and other water courses by avoiding interference with river / stream beds, banks and channels and maintaining a core riparian buffer zone of generally 25m along watercourses, given the location of the proposed development to the existing stream on the northern boundary , and the adjustment of the permitted dwelling under PRR 21/1371 insufficient information has been submitted to show that the reduction in the 25m buffer for the proposed dwelling is acceptable, and to allow this development would contravene the objectives of the County Development Plan 2022- 2028, the protection of biodiversity, and would be contrary to proper planning and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

2(no) Planner Reports are attached to this case.

The Planner Report (dated 29 September 2023) raised concerns on siting, plot size, layout and insufficient details provided on an adjoining stream. It raises no issues regarding matters on local housing need, vehicular access & wastewater, and detailed

that surface water matters could be addressed by condition. A recommendation to refuse permission for 2 reasons was put forward, with these reasons for refusal mirrored in the PA's decision on this case (refer Section 3.1 above).

A subsequent report (dated 26 March 2024) was undertaken following an extension of time on the application and the receipt of unsolicited further information (dated 01/02/2024). The planning officer reiterated its initial concerns and similar recommendation as per its initial Planning Report.

These reports form the basis for the PA's decision to refuse permission.

3.2.2. Other Technical Reports

Municipal District Engineer (18/09/23): Matters raised - roadside drainage & sightlines.

3.3. Prescribed Bodies

EHO (28/08/23): No objection subject to the appropriate delineation of site layout & minimum site size for mains water & on-site wastewater treatment [0.15ha].

3.4. Third Party Observations

None received.

4.0 Planning History

The delineated site encompasses the existing family home & associated shed(s) (west) & the site of a permitted dwelling house (east). A number of withdrawn planning applications are attached to the delineated site, notably: PI. Refs. 18/1449, 19/1010 and 22/843. Relevant Planning History attached to this site include: -

Eastern end of site house (applicant's sister):

PI. Ref. 21/1371 - Permission was granted for a dwelling which has not yet commenced construction. Revisions to this permission are sought in this application.

Western end of site (family home):

PI. Ref. 19/1011 - Permission granted to upgrade on-site wastewater treatment.

Pl. Ref. 89/4709 - Retention granted for extension and porch to house

Pl. Ref. 89/4538 - Retention granted for existing steel fabrication workshop.

5.0 Policy Context

- 5.1.1. The Wicklow County Development Plan 2022-2028 (CDP) which came into effect 23 October 2022 is the operative Development Plan for the County. This plan provides the policy framework, objectives and development standards for the County in its entirety.
- 5.1.2. The site is located within Level 10 – The Rural Area (Open Countryside) within the County’s Settlement Strategy, set out within Chapter 4 of the plan. It is within the ‘Corridor Area East’ area of the County’s Landscape Categories [Map No. 17.09A].
- 5.1.3. The relevant chapters and policy objectives include:
- Volume 1: Chapter 4 (Settlement Strategy), Chapter 6 (Housing) and Chapter 17 (Natural Heritage & Biodiversity). Volume 3: Appendix 1 (Development and Design Standards) and Appendix 2 (Single Rural Houses Design Guidelines).

Rural Housing Need

CPO 6.41: (Facilitate residential development in the open countryside based on the core consideration of demonstrable functional social or economic need...).

CPO 6.42: (Section 47 agreement, restricting the use of rural dwelling).

Infill Development & Clustered Development

CPO 6.45: Subject to compliance with CPO 6.41 (rural housing policy), the Council will facilitate high quality rural infill / backland development in accordance with the design guidance set out in the Wicklow Rural House Design Guide provided that such development does not unduly detract from the residential amenity of existing properties or the visual amenities of the area, or the rural character and pattern of development in the area and does not result in a more urban format of development.

CPO 6.46: Subject to compliance with CPO 6.41 (rural housing policy), the Council will facilitate a new dwelling house that results in the creation of a rural

cluster layout provided that such development is of a high quality design, meets all requirements in terms of public health and safety and does not unduly impact on the residential amenity of neighbouring properties.

Roads & Traffic

Development Standard 2.1.9 (Entrances & sight lines)

Wastewater

CPO13.16: 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.

Riparian Zone

CPO 17.26: Protect rivers, streams and other water courses by avoiding interference with river / stream beds, banks and channels and maintaining a core riparian buffer zone of generally 25m along watercourses (or other width, as determined by the Planning Authority having particular regard to 'Planning for Watercourses in the Urban Environment' by Inland Fisheries Ireland for urban locations) free from inappropriate development, with

undeveloped riparian vegetation strips, wetlands and floodplains generally being retained in as natural a state as possible. Structures such as bridges should be clear span, and designed and built in accordance with Inland Fisheries Ireland guidance.

Landscape

CPO17.35: (Landscape Classification).

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 not located within any European Site or Natural Heritage Area, with The Murrough Wetlands SAC (Site Code 002249) [also pNHA] being the nearest European site located approximately 2.8km SE of the site, and The Murrough SPA (Site Code 004186), being the next nearest European Site located approximately 3.1km SE 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

6.1. Grounds of Appeal

- There would be no overdevelopment or undue impacts on residential amenities.
- The proposed development provides a relationship and connects the structures within the site, in accordance with the County's Design Guidelines.
- There would be no interference with adjoining stream, a 10m riparian buffer zone is sufficient in this case.

6.2. Planning Authority Response

None.

7.0 Assessment

I wish to highlight that the delineated site boundary for this application encompasses Pl. Ref. 21/1371, within which permission was granted to the applicant's sister for a dwelling house (Jan. 2022) (eastern area of site) and the applicant's family home

(western area of site). I note that the PA were satisfied that the applicant complies with the Rural Housing Policy for Co. Wicklow, and I concur with same.

Having examined the application details and all other documentation on file, including the first-party's appeal submission, the reports of the local authority, having inspected the site, and having regard to the relevant local/regional/national policy objectives and guidance, I consider that the substantive issues in this appeal case to be considered are as follows:

- Principle of Development
- Protection of Riparian Zone
- Wastewater
- Other Matters (Procedural).

7.1. Principle of the Development

In broad terms, there are two matters for consideration, notably (i) the siting & design of a proposed additional dwelling and (ii) revisions to permitted dwelling (PI. Ref. 21/1371) sited to the east of the proposed new dwelling.

7.1.1 Siting and Design

The proposed development seeks to intensify the development of the subject lands at this rural location, by way of its proposed inclusion of an additional dwelling which would be nestled between the existing family home (west) and to the rear of an already permitted house (PI. Ref. 21/1371) (east). I note that the applicant contends that the proposed development provides for a clustered arrangement of buildings in a vernacular farmstead layout and that the Planner's Reports which informed the PA's decision opposed this view and placed an emphasis on the proposed new house being at a backland location and at variance with the existing character of the area, and thereby being contrary to CPO 6.45 of the plan.

An examination of the site's context is important in interpreting the overall layout proposed and its compliance with policy and required standards. In the outset, I am

satisfied that the proposed slight re-orientation of the footprint of the already permitted dwelling on this site under 21/1371, which fronts onto the regional road, will not negatively impact on the character of the area or the amenities of adjoining properties, over and above that of the already permitted dwelling house on this site. Further to this, I note that the footprint of the proposed new single storey dwelling would be sited a distance of 16.17m (approx.) at its nearest point to the rear elevation of the permitted house (to its east). It would be sited c.10 from mature trees and stream (to the north), approx. 22.5m NE of the established family home and 26m to the adjoining southern boundary.

Whilst I acknowledge that the site layout plan submitted shows a clustered arrangement, incorporating shared courtyard space, shared open space and communal parking and that each of the respective individual houses within this site will achieve the minimum quantum of private open space (POS) provision, I am concerned that the proposed orientation of each dwelling provides a poor relationship between each of the respective houses. In this context, I am of the view that the PA's consideration of the new house being at a backland location is relevant and valid. The front (eastern) elevation of the proposed new house will front onto an internal shared space (courtyard and landscaped area) and face towards the rear, western elevation of adjoining dwelling (permitted), the siting of which is offset to the NE of the proposed new house. I do not consider that the proposed landscaping (including pergola and tree planting) within a shared green buffer space will sufficiently protect the residential amenities of the adjoining dwelling to the eastern most end of the site. I acknowledge that the siting of the proposed new house offset to the SW of the main element of adjoining permitted house (east) and its internal layout, with large gym/bike store located within the front eastern projection demonstrates a clear understanding of the need to protect the residential amenities of both houses. While a north-south boundary is sought to protect the POS of each dwelling along the northern extent of the site, the proposed shared courtyard arrangement constitutes more of an urban as opposed to rural layout and I note that a portion of the rear amenity space associated with the permitted house is directly accessible and open to the proposed shared courtyard space.

Overall, I consider that the inclusion and orientation of the proposed new house within such close proximity to the rear elevation of the adjoining permitted house (to the east)

and similarly, the rear elevation of the new house relative to the established family home (to the west), notwithstanding that its footprint is offset to the NW would result in a substandard, adhoc arrangement which would be out of character with the surrounding rural area. Also, whilst a single shared vehicular entrance is acceptable in principle, it is my opinion that the shared parking arrangement and communal areas between the proposed house and adjoining permitted dwelling to the east, typifies more of an urban layout and form as opposed to a rural form.

In light of the above, I see no reason to find that the layout and form proposed could be justified on the grounds that it constitutes a clustered arrangement as contended by the applicant. The development proposed owing to its siting and design within a rural area would in my opinion be contrary to policy objective CPO 6.45 of the CDP and should therefore be refused.

7.1.2 Visual Amenity & Rural Character

The proposed new single storey dwelling would not be overly visible or dominate the local landscape due to its design, extent of mature screening along the site's northern and southern boundaries, low lying topography and that an adjoining house to the east (already permitted) would predominantly screen the proposed new dwelling from the adjoining R724 regional road. Notwithstanding, it is my view that the proposed development would establish a new pattern of development which constitutes a more urban form at this rural location, on the approach into Ashford which would result in the suburbanisation of these lands and detract from the rural character of the area.

7.2. **Protection of Riparian Zone**

The site adjoins a stream which traverses along its northern boundary and flows in an easterly direction and then southwards, connecting into the Vartry River, c.800m south of the site. The PA in its refusal reason (No. 2) determined that there was insufficient information on file to allow for a reduced riparian buffer zone below as required within policy objective 17.26 of the CDP. The appeal submission contains a response made by the applicant's appointed Environmental Engineer & Geoscientist which states that

there will be no changes/impacts to the stream channel and riparian zone and associated aquatic environment, water quality and biodiversity within the stream.

The applicant contends that the proposed setback (approx. 10-metres) from the watercourse is sufficient given the proposed nature and scale of the development and the arrangement of the site facilities (i.e. effluent treatment system located to the southern side of site), no flood risk and refers to a previous favourable decision on this site. I note that the PA's requirements in regard to the extent of riparian buffer zone have increased within the current plan from those which were previously applied, in the case of permitted house on this site (Pl. Ref. 21/1371). In examining the proposed development, I wish to firstly highlight that policy objective (CPO 17.26) provides some flexibility in that it states that a 25m core riparian buffer zone to be generally maintained. I am of the view that the purpose of this policy objective is to protect watercourses by avoiding interference with stream beds, banks & channels and in terms of biodiversity, in allowing undeveloped riparian vegetation strips to be retained in as natural a state as possible.

The relevant CFRAMS mapdata for this area provides no information for this location and the subject lands are not included within the SFRA that informed the CDP. However, given the extent of mature trees along the northern boundary between the watercourse and the proposed development and the achievable separation distance [i.e. 10m (approx.) between the proposed new dwelling and 9.6m revised dwelling (east of site) to the stream] and the site's favourable ground conditions, I do not consider that this site is at flood risk. Furthermore, I am satisfied that the delineated locations of the proposed effluent treatment systems & polishing filters within this site will not impact on water quality within the adjoining watercourse, given that a separation distance in excess of 37m to the stream would be achieved which exceeds the required separation distance outlined in the EPA Code of Practice for Domestic Wastewater Treatment Systems (2021). I further consider that stormwater discharge will not impact on water quality given that all stormwaters will discharge to ground.

In regard to the requirement and need to protect the riparian buffer zone, I note that the submitted Site Layout Map proposes an undeveloped riparian vegetation strip over (36m x 10.86m) between the proposed new house and the adjoining watercourse

(north). Whilst the proposed undeveloped riparian buffer zone does not transcend along the entirety of the site's northern boundary, I acknowledge that permission has already been granted for the adjoining dwelling (& associated private open space) to the east and I do not consider that its proposed re-orientation is so significant as to warrant a refusal on the grounds of its siting and impact to the adjoining watercourse/riparian buffer zone. The applicant's proposed inclusion of 2(no) north-south traditional stone and sod ditches/berms with indigenous planting, would in my view contribute positively to the efficacy of the wider ecological network at this location. Therefore, it is my view that the PA's second reason for refusal is not warranted.

7.3. Wastewater

I note that the matter of on-site wastewater disposal was not raised as an issue by the PA in its assessment of this application and that the content of a submission made by the Environmental Health Officer outlines that the effluent treatment system is acceptable, subject to each site being 1500m². However, in examining the site layout map and Site Characterisation Form submitted, along with accompanying details, I note that the effluent treatment system and polishing tank permitted under PI. Ref. 21/1371 is delineated at a different location within the site in the submitted documentation. The applicant makes no specific reference to the revised location, aside from delineating it at a new location within the accompanying site layout map(s) in this application. I wish to highlight that the required 10m separation distance between the adjacent tank/plant and polishing filter would not be achieved, in the event that the permitted location of the effluent treatment system and polishing tank under PI. Ref. 21/1371 was to remain (relative to proposed new effluent treatment system, polishing filter for new additional dwelling in this case) and this is most likely the rationale for its relocation.

This site is overlain on a locally important aquifer of high vulnerability. While I accept that ground conditions appear favourable and that the relocated effluent treatment system and polishing filter associated with PI. Ref. 21/1371 as shown in this application can achieve the required minimum separation distances set out within the EPA Code of Practice for Domestic Wastewater Treatment Systems, I am of the view that the details submitted within the Site Characterisation Form which accompanies

this application are lacking in addressing all matters contained within the delineated site boundary and associated with the submitted application in regard to on-site wastewater disposal/treatment. In light of this and given the substantive reason for refusal of the proposed development as stated above (Section 7.1), I do not consider it appropriate to seek the views of the parties at this time. Should the Board differ in its view on this issue and be minded to grant permission, I suggest that a suitably worded condition be provided which requires that the development accords in full with the standards set out in the EPAs Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) ” – EPA, 2021 and that certification be given within 3 months of occupation that it is constructed and operating in accordance with EPA standards set out in the Code of Practice.

7.4. Other Matters

7.4.1 Procedural Issue (Gaps in submitted documentation)

The development description includes revisions to planning permission as granted under pl. ref. 21/1371. In my view, the extent of revisions sought as part of the overall development proposed in this case are not made clear within the submitted documentation as the plans are not so marked or coloured as to distinguish between the permitted development under pl. ref. 21/1371 and the revised works now sought. I note that the relocation of the effluent treatment system and polishing filter was not referenced within the public notice. Having regard to the substantive reason for refusal in this case, I do not consider it appropriate to seek re-advertisement. I acknowledge that the PA raised no issue at validation stage, and I am satisfied that the gaps in details provided did not prevent concerned parties from making representations.

7.4.2 Rural Housing Need

Should the board be minded to grant permission, I wish to highlight that CPO 6.42 would apply and therefore a condition attaching an occupancy clause should be attached to any permission granted.

8.0 AA Screening Determination

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- Nature of proposed works consisting of the construction of a dwelling with effluent treatment system and revisions to planning permission granted for a dwelling house and associated works under planning reference 21/1371, together with all associated site works.
- The site's location, over 2.8km from the nearest European site, with no direct hydrological or ecological connections.
- Taking into account the screening determination by the PA.

See completed 'Template 2 Screening the need for Appropriate Assessment' which is appended to this report.

9.0 Recommendation

I recommend that planning permission should be refused for the reasons and considerations as set out below.

10.0 Reasons and Considerations

1. It is a policy objective of the Wicklow County Development Plan 2022-2028 that high quality rural infill / backland development will be facilitated "provided that such development does not unduly detract from the residential amenity of existing properties or the visual amenities of the area, or the rural character and pattern of development in the area and does not result in a more urban format of development" (CPO 6.45). Given the site's configuration, it is considered that the

siting and design of the proposed new dwelling relative to adjoining dwelling at the eastern most end of the subject site, would give rise to backland development which would unduly impact on residential amenities. The proposed development would also give rise to an adhoc layout owing to its siting, design and orientation which, coupled with surrounding development, would detract from the rural character and pattern of development in the area. Therefore, to permit the development proposed would be contrary to policy objective CPO 6.45 of the Wicklow County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

2. In the absence of sufficient documentation with this application in regard to the relocation of a permitted on-site effluent treatment system and polishing filter under Planning Reference 21/1371 as part of the proposed development, it is considered that to permit the development proposed on a site which is overlain on a locally important aquifer of high vulnerability may be prejudicial to public health and may pose a significant risk to groundwaters and surface waters. The proposed development 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.

Paula Hanlon
Planning Inspector

18 October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319608-24		
Proposed Development Summary	Construction of a dwelling with effluent treatment system and Revisions to planning permission granted under planning reference 21/1371, together with all associated site works.		
Development Address	Ballinahinch, Ashford, County 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)
			Conclusion
No		N/A	No EIAR or Preliminary Examination required
Yes	X	Class 10 (Infrastructure Projects)	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	<input checked="" type="checkbox"/>	Preliminary Examination required
Yes	<input type="checkbox"/>	Screening Determination required

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	319608-24	
Proposed Development Summary	Construction of a dwelling with effluent treatment system and Revisions to planning permission granted under planning reference 21/1371, together with all associated site works	
Development Address	Ballinahinch, Ashford, County Wicklow	
<p>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.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site which is unzoned, is located in the open countryside and adjoins the R764 regional road on the northern approach into Ashford town. The proposed development is not exceptional in the context of existing environment.</p> <p>The proposed development will not result in the production of any significant waste, emissions or pollutants.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having</p>	<p>No. The site area is stated on application form submitted as 0.733ha.</p> <p>Permission was granted for a dwelling house and associated works (PI. Ref. 21/1371) which forms</p>	No

<p>regard to other existing and/or permitted projects?</p>	<p>part of delineated site. There are no other developments under construction in proximity to the site. All other developments are established uses.</p>	
<p>Location of the Development 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 European site(s). The subject site is located a distance of approximately 2.8km from the nearest European site, with no direct hydrological or ecological connections.</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>	<p>No</p>
<p>• Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment. EIA not required.</p>		

Inspector: _____

Date: _____

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

(only where Schedule 7A information or EIAR required)

Template 2: Screening the need for Appropriate Assessment Finding of no likely significant effects

Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed development which comprises the construction of a dwelling with effluent treatment system and revisions to planning permission granted under planning reference 21/1371 for the construction of a dwelling, together with all associated site works.

The proposed development comprises:

- Provision of a single storey dwelling (225m²), with a new effluent treatment system.
- Revisions to previously permitted adjoining dwelling including the re-positioning of the footprint of the house, repositioning of vehicular access (to be replaced with a shared vehicular access to the west of existing permitted access) and relocation of effluent treatment system and polishing filter.
- All associated site works.

The site is unzoned and located within a rural area. Its topography is generally flat, low-lying lands. There are no protected habitats on the site, with improved agricultural grasslands and buildings & artificial surfaces constituting the predominant habitat types on this site.

No issues were raised by prescribed bodies during the consultation process.

The PA determined that the proposed development is not likely to give rise to significant effect on a Natura 2000 site.

European Sites

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA).

- The Murrough Wetlands SAC (Site Code 002249)

The Murrough Wetlands SAC being the nearest European site is located approximately 2.8km SE of the site.

The qualifying interests for The Murrough Wetlands SAC include annual vegetation of drift lines, perennial vegetation of stony banks, atlantic salt meadows, mediterranean salt meadows and calcareous fens & alkaline fens. Its conservation objective is to restore the favourable conservation condition of each of the qualifying interests within this SAC, which are defined by a list of attributes and targets.

- The Murrough SPA (Site Code 004186)

The Murrough SPA, being the next nearest European Site is located approximately 3.1km SE of the site.

The qualifying interests for The Murrough SPA include red-throated diver, greylag goose, light-bellied brent goose, wigeon, teal, black-headed gull, herring gull, little tern and wetland & waterbirds. Its conservation objective is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA and to maintain or restore the favourable conservation condition of the wetland habitat at The Murrough SPA as a resource for the regularly occurring migratory waterbirds that utilise it.

There is no direct or indirect physical, hydrological or ecological linkage connecting the project site to any European site.

Likely impacts of the project (alone or in combination)

The proposed development works will be nestled within the established family lands, immediately adjacent to the family home (west) and permission is granted for a dwelling (east of site). Wastewater generated on site to discharge to individual on-site wastewater treatment system(s) and surface water to be attenuated within the site via soakpits. The nearest watercourse is located along the site's northern boundary. This stream connects to the Vartry River c.820m south of site which then connects into The Murrough Wetlands SAC and The Murrough SPA, a distance of over 2.8k from the subject site.

Given the nature, siting and scale of the development, at both construction and operation stage, coupled with the separation distance to the nearest European site(s), the intervening urban use between the proposed site and these European sites which would intercept any overland flow, dilution levels and that no direct hydrological or ecological link exists between the subject lands and these European sites, I am satisfied that any stormwater and wastewater discharges arising from this development will not have a significant effect on any European site, either individually or in-combination with other plans and projects.

No ex-situ effects are likely having regard to the characteristics of the site and that urban development on serviced lands is located between the site and these European Sites.