

An
Bord
Pleanála

Inspector's Report

ABP-321252-24

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| Development | Construction of house, waste water treatment system and associated site works |
| Location | Glendarragh, Newtownmountkennedy, Co. Wicklow |
| Planning Authority | Wicklow County Council |
| Planning Authority Reg. Ref. | 2467 |
| Applicant(s) | Niamh Kavanagh |
| Type of Application | Permission |
| Planning Authority Decision | Grant with conditions |
| Type of Appeal | Third Party |
| Appellant(s) | Sean and Ann Owens |
| Observer(s) | None |
| Date of Site Inspection | 13 th March 2025 |
| Inspector | Killian Harrington |

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The subject site is approximately 0.3ha in area located in the townland of Glendarragh, 2km from Newtownmountkennedy village centre. It is situated in a linear cluster of 9 single-storey residential dwellings on the northern side of Glendarragh Lane – a rural road, which runs in a southwest-northeast direction off local road L-1051-14. This lane provides direct access to the site. Currently the site benefits from two separate agricultural entrances from the road, one of which is outside the red line boundary to the east. The site slopes upwards from the roadside and is heavily screened with mature vegetation. It forms part of a larger landholding used as a coniferous tree farm with the farm office located c. 200m to the west of the site.

2.0 Proposed Development

- 2.1. The proposal consists of the construction of a single-storey house c. 159 sqm in area with plaster and slate roof finish, wastewater treatment system, two soakpits and drainage, a driveway, front and rear gardens, new boundary tree planting and associated site works with access onto Glendarragh Lane and the local road c. 2km outside the village of Newtownmountkennedy.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of Further Information and Clarification of Further Information, the planning authority granted permission subject to 13 conditions

3.1.1. Conditions

The planning authority placed the following conditions of note:

Condition 3 – Development contribution of €3,500 in accordance with Wicklow County Council Development Contribution Scheme

Condition 5 – The finished floor levels of the dwelling shall be as detailed on the site layout plan received on the 3rd October 2024 in the interest of visual amenity and integrating the development into the landscape.

Condition 7 – Existing shrub and tree vegetation on the site shall be retained in the interests of visual amenity and integrating the development into the landscape.

Condition 8 – The landscaping and tree planting indicated on the site layout plan received on 3rd October 2024 shall be carried out before or during the first planting season or part thereof occurring after the occupation of the dwelling in order to assimilate development on this site into the surrounding area, in the interests of visual amenity and proper planning and development.

Condition 9 – Before any other development commences, the roadside boundary shall be set back in accordance with TII publications, the area between the public road carriageway and the revised boundary shall be finished 200-300mm above carriageway level and finished in grass and the revised boundary shall match the existing roadside boundary in the interests of traffic safety and visual amenity

Condition 10 – The entrance gates shall be recessed 5m from the public road carriageway in the interests of traffic safety.

Condition 11 – The gradient of the access driveway shall not exceed 1 in 40 for a minimum distance of 6 metres from its junction with the public road in the interests of traffic safety

Condition 12 – Before the new entrance is brought into use, the existing agricultural entrance to the west shall be permanently and effectively closed off in the interests of traffic safety

In reaching this decision, the Planning Authority sought Further Information (RFI) and Clarification of Further Information (CFI) in respect of a range of matters including:

- Compliance with Table 6.3/Policy Objective 6.41 and needing to further demonstrate housing need including proof of residency since 2019 and a sworn legal declaration that the applicant had never bought or built a house
- a revising siting and design of the house (relocation of 17m to west and reduced floor level and removal of stand-alone garage to accord with the Development Plan Design Standards and the Wicklow House Design Guide
- revised layout showing spot levels on the driveway
- revised site section drawings
- clarification of retention of one agricultural entrance
- details of drainage and external materials
- revised sightlines in accordance with TII guidelines

3.2. Planning Authority Reports

3.2.1. The planner's report

- Following receipt of FI and CFI, the planner's report concluded that the proposed dwelling would be of appropriate, vernacular design and scale and would be in accordance with design guidance with no environmental impact. The application and further information received also satisfied the planner and roads department that the drainage and sightlines issues were resolved. The documentation submitted to support the applicant's housing need under Objective 6.41 was also deemed appropriate and the planner concluded that the proposal met Development Plan requirements and was acceptable.

3.2.2. Other Technical Reports

- Wicklow County Council Area Engineer requested further information on how the proposal can achieve 90 metre sightlines and information on drainage

from agricultural lands. The applicant subsequently submitted information on a redesigned entrance/setback and land drainage details including two proposed soakpits and aco drain at entrance.

- Wicklow County Council EHO – no objection

3.3. Prescribed Bodies

None received

3.4. Third Party Observations

Sean and Ann Owens lodged an objection to the application based on non-compliance with Policy Objective 6.41 and lack of housing need, the proposal being speculative development, inadequate sightlines, increased risk of runoff and visual impact. Follow up observations were submitted repeating this objection issues, noting the FI Requests and seeking to view the submitted information.

4.0 Planning History

None

5.0 Policy Context

5.1. National Planning Framework

National Policy Objective 15

Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

National Policy Objective 19

Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

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

5.2. Sustainable Rural Housing Guidelines (2005)

Under the Sustainable Rural Housing Guidelines (2005), planning authorities are required to frame the planning policies in their development plans in a balanced and measured way that ensures the housing needs of rural communities are met, while avoiding excessive urban-generated housing.

The Guidelines set out relevant planning criteria to be applied in local authority development plans for rural housing, making a distinction between urban and rural generated housing need. The Guidelines allow county development plans to provide for housing in the countryside based on the considerations of social (intrinsic part of the rural community) or economic (persons working full or part time in rural areas) need are to be applied by planning authorities in certain rural areas.

Circular PL 5/2008 - Rural Housing Policies and Local Need Criteria in Development Plans.

This Circular directed all local authorities to examine their current (or draft) development plan policies and practices to ensure compatibility with the provisions of Articles 43 and 56 of the EC Treaty (Freedom of Establishment and Free Movement of Capital). It states the following:

‘Development plan policies based on section 3.2.3 (“Rural generated housing”) of the Sustainable Rural Housing Guidelines should continue to apply, in that persons who are an intrinsic part of the rural community, or persons working full-time in rural areas, should be favourably considered in relation to rural housing. Notwithstanding the above, a bone fide applicant who may not already live in the area, nor have family connections there or be engaged in a particular employment or business classified within the local needs criteria, should be given due consideration within the proper planning and sustainable development objectives for the area subject to the following considerations:

- Such applicants may reasonably be required to satisfy the planning authority of their commitment to operate a full-time business from their proposed home in a rural area, as part of their planning application, in order, for example, to discourage commuting to towns or cities;*
- That they outline how their business will contribute to and enhance the rural community; and*
- That they satisfy the planning authority that the nature of their employment or business is compatible with those specified in the local needs criteria for rural areas so as to discourage applicants whose business is not location dependent’*

5.3. Wicklow County Development Plan 2022-2028

Chapter 4 Settlement Strategy

The subject site is located in Level 10: Rural (Open Countryside)

CPO 4.10 To support the sustainable development of rural areas by encouraging growth while managing the growth of areas that are under strong urban influence to avoid over-development.

CPO 4.14 To ensure 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

Chapter 6 Housing

CPO 6.1 New housing development shall be required to locate on suitably zoned or designated land in settlements and will only be considered in the open countryside when it is for the provision of a rural dwelling for those with a demonstrable housing social or economic need to live in the open countryside.

CPO 6.4 All new housing developments (including single and rural houses) shall achieve the highest quality of layout and design, in accordance with the standards set out in the Development and Design Standards (Appendix 1) and the Wicklow Single Rural House Design Guide (Appendix 2).

CPO 6.40 Where permission is sought for residential development in a settlement with occupancy controls the applicant will be required to show compliance with objectives for that settlement set out in this plan and to lodge with the Land Registry a burden on the property, in the form of a Section 47 agreement, restricting the use of the dwelling(s) for a period of 7 years in accordance with the relevant objective.

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.

In the event of conflict of any other settlement strategy objective / Landscape Zones and categories, a person who qualifies under policy CPO 6.41 their needs shall be supreme, except where the proposed development would be a likely traffic hazard or public health hazard.

With regard to the preservation of views and prospects, due consideration shall be given to those listed within the area of the National Park; and with respect to all other areas, to generally regard the amenity matters, but not to the exclusion of social and economic matters. The protection and conservation of views and prospects should not give rise to the prohibition of development, but development should be designed and located to minimise impact.

Table 6.3

Table 6.3 sets out a number of criteria that may fulfil rural housing policy standards and these include.

- **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.

Other Policy Objectives

CPO 6.42 Where permission is granted for a single rural house in the open countryside, the applicant will be required to lodge with the Land Registry a burden on the property, in the form of a Section 47 agreement, restricting the use of the dwelling for a period of 7 years to the applicant, or to those persons who fulfil the criteria set out in Objective CPO 6.41 or to other such persons as the Planning Authority may agree to in writing.

CPO 6.44 To require that rural housing is well-designed, simple, unobtrusive, responds to the site's characteristics and is informed by the principles set out in the Wicklow Single Rural House Design Guide. All new rural dwelling houses should demonstrate good integration within the wider landscape.

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.

Appendix 2 of the Development Plan contains the Single Rural Housing Design Guidelines for County Wicklow

5.4. Natural Heritage Designations

Carriggower Bog SAC is 1.9km to the northwest of the site

5.5. EIA Screening

The proposed development comes within the definition of a 'project' and a 'class' for the purposes of EIA, that is, it comprises construction works or intervention in the natural surroundings. 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. Refer to Appendices 1 and 2 of this report.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the third party appeal can be summarised as follows:

- Non-compliance with Policy Objective CPO 6.41 and housing need
- Housing should first be directed to existing urban settlements as in the case of An Bord Pleanala previously refusing permission for a single rural dwelling nearby in similar circumstances (ABP ref. Reg. Ref. 19/164 and ABP-304432-19).
- Ground and surface water issues on site
- Inadequate sightlines
- Applicant is not the owner of the site
- Proposed development could be speculative

6.2. Applicant Response

- None

6.3. Planning Authority Response

- None

6.4. Observations

- None

6.5. Response to the Third Party Appeal

On behalf of the applicant, Alphaplan Design submitted a response to the appeal that contains the following relevant information:

- The appellant was refused permission (Reg. Ref. 19/164 and ABP-304432) for dwelling on land nearby as it did not meet rural settlement criteria in policy CPO 6.41 whereas the applicant had complied with this policy to the satisfaction of the local authority
- Further breakdown of employment details at Kavanagh Christmas Trees including a reference letter from a UK wholesaler outlining the applicant's key role in the business
- Groundwater and rainwater will be treated in soakpits to BRE 365 Digest Soakaway Design and the driveway will be drained by gully traps connected to soakaways.
- EHO had no objections to the proposal and wastewater will be treated with a bio-system

6.6. Further Responses

- None

7.0 Assessment

7.1. This appeal raised the following issues:

1. The applicant has not complied with Objective CPO 6.41
2. The proposal would impact on surface water and cause run-off

3. The proposed sightlines would case a traffic hazard

4. Oher matters

- 7.2. I will first deal with the issue of compliance with Policy Objective CPO 6.41 of the Development Plan. Compliance with the policy requires meeting the housing need criteria of either social or economic linkages in Table 6.3 and this criteria is contained in Section 5.2 of this report.
- 7.3. For social linkages, Section 3.2.3 of the Sustainable Rural Housing Guidelines states the rural generated housing need relates to people who are 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.
- 7.4. For economic-related housing need, Section 3.2.3 of the guidelines states that such circumstances will normally encompass persons involved in full-time farming, forestry, inland waterway or marine related occupations, as well as part time occupations where the predominant occupation is farming/natural resource related. Such circumstances could also encompass persons whose work is intrinsically linked to rural areas such as teachers in rural schools or other persons whose work predominantly takes place within rural areas.
- 7.5. Responding to a F.I. Request (Item 1a relating to Objective CPO 6.41), the applicant submitted a large amount of documentation in addition to what was originally submitted with the planning application to demonstrate proof of residency. This included a sworn legal declaration that the applicant had never bought or built a house and further proof of long term occupancy of family home address in the form of payslips, bills, drivers license, retail orders, medical letters and bank letters from 2019 onwards. This is in addition to payslips and confirmation of her employment in the on-site family farm business Kavanagh Christmas Trees, a birth certificate

proving family ties and school records from Newtownmountkennefy NS and Kilcoole secondary school to show early life in the area. The applicant entered full time employment as an operations manager on the family farm after finishing third level education.

- 7.6. The documentation verifies that the applicant has an intrinsic social link to the Glendarragh area meeting the criteria in Table 6.3 having been reared on the family landholding in the Glendarragh townland and having been an intrinsic part of the local community and is still permanently residing in the family home less than 300 metres away. There is also clear documentation showing an economic need to work in the family business Kavanagh Christmas Trees as an office and administration manager in the farm office beside the family home, thus meeting the full time or part time agricultural work criteria. I also note the appeal observation submitted on behalf of the applicant that confirms and expands on these employment details and local linkages to the family farm and community. It is clear that sufficient evidence has been produced to demonstrate functional social and economic need to live in the open countryside in accordance with the requirements set out in Objective CPO 6.41 and the corresponding Table 6.3 in the Development Plan.
- 7.7. The appellant is correct to state that in line with the Development Plan new housing should first be directed to serviced settlements in the interests of proper planning and sustainable development. However, the overarching aim of the Rural Housing Guidelines is to ensure that people who are part of rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures. An applicant can demonstrate compliance with rural settlement policy objective CPO 6.41.
- 7.8. The appellant refers to the case where a single dwelling was refused in the adjacent townland. In the relevant case Reg. Ref. 19/164 and ABP-304432-19 permission was refused by Wicklow County Council for a single rural dwelling in Easthill, Newtownmountkennefy and subsequently refused by An Bord Pleanála following a first party appeal. Wicklow County Council refused the application for two reasons. Firstly, the site was in an area of strong urban influence and the applicant could not demonstrate housing need through economic or social links. Secondly, the farm plot size was deemed too small to be a working farm that required housing and would set a bad precedent for the balanced orderly development of rural areas. In the

subsequent appeal, the Board found in their single reason for refusal that the applicant had failed to satisfactorily meet the criteria in Table 6.3 and could not provide a demonstrable functional social or economic need to reside in the open countryside.

- 7.9. In the subject case at Glendarragh, the submitted documentary evidence in both the application and the follow-up response to the FI request is satisfactory confirmation of housing need. Both the applicant and the subject site are inherently connected to an established working farm. The size of the tree farm (45 ha) and the labour intensive operations are of scale that merits staff on site and so there is an economic need to reside at this location. The applicant can also demonstrate intrinsic social linkages to the community from early life to current permanent residency in the family home on the farm. As the planner's report stated, the issue of qualification was resolved in the initial F.I response with the receipt of further documentation demonstrating both economic need and intrinsic social links. I am satisfied with that conclusion.
- 7.10. It should be noted that the planning authority seeks to attach a Section 47 occupancy restriction (Condition 2), which ensures that the proposed dwelling is used to meet the applicant's stated housing need and that development in this rural area is appropriately restricted in accordance with the rural settlement strategy for County Wicklow.
- 7.11. In relation to potential surface water build up on the road, the subject site is elevated and not located in a flood zone A or B and a site inspection did not reveal any drainage issues in the area. In order to capture any agricultural run-off, the applicant has provided adequate drainage mechanisms for the proposal including improved gradient, a separate entrance for agricultural lands (to the east), two soak pits and aco drainage at the entrance to capture run-off. A separate gated entrance to the agricultural land has been retained adjacent the residential entrance. All of the other dwellings in this cluster are built on elevated land with driveways sloped towards the road with elevated farmland to the rear and the proposed siting of the dwelling and driveway would not be causing any additional hazard in this regard. I note the planning authority has attached a planning condition seeking detail on wastewater treatment and this would be retained in the event of a grant of permission.

- 7.12. The appeal raises concerns about inadequate sightlines causing a road safety hazard. The stated speed limit of Glendarragh Lane is 50 kilometres per hour. It is noted that at the most westerly point along this cluster of dwellings there is road signage warning eastbound motorists to slow due to the presence of concealed entrance. That particular entrance is located on a downward slope and there is a bend in the road with limited visibility at the entrance. The subject site entrance is located further east and does not pose the same risk. A site inspection confirmed that it can be viewed by oncoming traffic from a moderate distance in both directions. There are no sharp bends or marked elevation changes at this location and there would be visibility in either direction for 90-100 metres.
- 7.13. Inadequate sightlines were initially raised by the area engineer. Following the request for further information on the safety of the sightlines, a re-design showed a recessed entrance was set at 5 metres from the roadside edge. A clear sightline of at least 90 metres was achieved at a 2.4m setback point from the edge of the road in line with the rural house design guide in the Development Plan and sightline guidance issued by TII and in the Design Manual for Roads and Bridges. There were no further concerns from the planning authority on the matter. I note the inclusion of conditions pertaining to road safety including sightlines, set back of entrance, closing off the other agricultural entrance to the west and maintaining a safe driveway gradient and these conditions will be attached in the event of a grant of permission.
- 7.14. Some other matters raised in the appeal include the applicant's name not recorded on the land registry. However, the circumstances of the ownership are made clear in the application and the applicant's observation on this appeal. An occupancy restriction would be attached as a condition to any planning permission. The applicant has recently inherited this site and it has been owned by the same family for at least 10 years prior to the application, thus complying with the criteria in Table 6.3. The appeal makes reference to speculative development and relatives of the applicant building and selling homes. Each application is assessed on its merits and bound by individual qualification criteria and occupancy restrictions and there is no record of non-compliance for these dwellings. The applicant has included a sworn statement and there is no record of the applicant applying for planning permission for any other dwelling.

8.0 AA Screening

- 8.1. I have considered the proposed dwelling in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located in the open countryside c.1.9 km south from Carrigower Bog SAC. The proposed development comprises the construction of a house, waste water treatment system and associated site works as per Section 2.0 of this report. No nature conservation concerns were raised in the planning appeal.
- 8.2. Having considered the nature, scale and location of the project, I am satisfied that 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:
- Nature of works
 - Lack of connections to nearest European sites
- 8.3. 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 other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

- 9.1. I recommend that permission be granted

10.0 Reasons and Considerations

Having regard to the objectives of the Sustainable Rural Housing Guidelines (2005) and Wicklow County Development Plan 2022-2028 to allow single dwellings in the open countryside in accordance with the criteria set out in Objective CPO6.41, it is considered that, subject to conditions, the proposal would be compatible with rural settlement policy, the visual and residential amenities of the area and would be acceptable in terms of traffic safety and drainage. The proposal would thus accord with the proper planning and sustainable development of the area.

11.0 Conditions

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| 1. | <p>Insofar as the Planning & Development Act 2000 (as amended) and the Regulations made thereunder are concerned, the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the conditions attached hereto. For the avoidance of doubt, this permission shall not be construed as approving any development shown on the plans, particulars and specifications, the nature and extent of which has not been adequately stated in the statutory public notices.</p> <p>Reason: To comply with permission regulations.</p> |
| 2. | <p>(a) The site and building works required to implement the development shall only be carried out between the hours of:</p> <p>Mondays to Fridays - 7.00am to 6.00pm</p> <p>Saturday - 8.00 a.m. to 2.00pm</p> <p>Sundays and Public Holidays - No activity on site.</p> <p>(b) Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority. Such approval may be given subject to conditions pertaining to the particular circumstances being set by the planning authority.</p> <p>Reason: In order to safeguard the amenities of adjoining residential occupiers.</p> |
| 3. | <p>(a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter [unless consent is granted by the planning</p> |

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| | <p>authority for its occupation by other persons who belong to the same category of housing need as the applicant]. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>.</p> <p>(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p> <p>.</p> <p>This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p>.</p> <p>Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.</p> |
| 4. | <p>(a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on [date] and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) " – Environmental Protection Agency, 2021.</p> <p>.</p> <p>(b) Treated effluent from the septic tank/ wastewater treatment system shall be discharged to a percolation area/ polishing filter which shall be provided in accordance with the standards set out in the document entitled "Code of</p> |

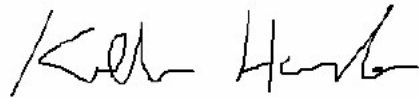
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| | <p>Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021.</p> <p>.</p> <p>.(c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.</p> <p>.</p> <p>.Reason: In the interest of public health and to prevent water pollution</p> |
| 5. | <p>.(a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.</p> <p>.</p> <p>. (b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.</p> <p>.</p> <p>.Reason: In the interest of traffic safety and to prevent flooding or pollution.</p> |
| 6. | <p>The finished floor levels of the dwelling shall be as detailed on the site layout plan received on the 3rd October 2024 unless otherwise agreed in writing with the planning authority prior to the commencement of development</p> <p>.</p> <p>.Reason: In the interest of visual amenity and integrating the development into the landscape</p> |

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| 7. | <p>Existing shrub and tree vegetation on the site shall be retained, particularly along the entire eastern boundary, except those strictly required to be removed to carry out the development. Where any tree fails it may be removed and be replaced with a tree of similar species.</p> <p>.</p> <p>. Reason: In the interests of visual amenity and integrating the development into the landscape.</p> |
| 8. | <p>The landscaping and tree planting indicated on the site layout plan received on 3rd October 2024 shall be carried out before or during the first planting season or part thereof occurring after the occupation of the dwelling. Any plants, which become seriously damaged shall be replaced by others of similar size and species.</p> <p>.</p> <p>. Reason: In order to assimilate development on this site into the surrounding area, in the interests of visual amenity and proper planning and development.</p> |
| 9. | <p>Before any other development commences, the roadside boundary shall be set back along a line formed by joining a point measured 2.4 metres back from the public road carriageway at the centre of the access driveway to (a point, points) 90 metres to the east and west on the existing roadside boundary in accordance with TII publications</p> <p>.</p> <p>The area between the public road carriageway and the revised boundary shall be finished 200-300mm above carriageway level and finished in grass.</p> <p>.</p> <p>. The revised boundary shall match the existing roadside boundary</p> <p>.</p> <p>. Reason: In the interests of traffic safety and visual amenity</p> |

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| 10. | <p>The entrance gates shall be recessed 5m from the public road carriageway. The recessed space shall be splayed with wing walls, timber fences or stone banks splayed to provide an overall width of 6-8m along the roadside boundary. The wing walls, timber fences or stone banks shall not exceed 0.8m in height (including any pillars) within 2.4m of the public road carriageway.</p> <p>.</p> <p>.Reason: in the interests of traffic safety.</p> |
| 11. | <p>The gradient of the access driveway shall not exceed 1 in 40 for a minimum distance of 6 metres from its junction with the public road</p> <p>.</p> <p>.Reason: In the interests of traffic safety</p> |
| 12. | <p>Before the new entrance is brought into use, the existing agricultural entrance to the west shall be permanently and effectively closed off by the erection of a boundary matching the existing boundary in height, design, construction and finish.</p> <p>.Reason: In the interests of traffic safety</p> |
| 13. | <p>Before development commences, the developer shall pay the sum of €3,500 (three thousand and five hundred euro) as a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority. The contribution sought is in accordance with the planning authority's Development Contribution Scheme for the area in which the site is located and Section 48(1) of the Planning and Development Act 2000. Where the contribution remains unpaid the monies payable shall be updated in accordance with the Wholesale Price Index as published by the Central Statistics Office on the 1st January each year following the date of the Final Grant.</p> |

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| | <p>. Reason: The public infrastructure and facilities included in the Development Contribution Scheme will facilitate the development and it is considered reasonable that the developer should contribute towards the cost thereof.</p> |
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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.



. Killian Harrington
Planning Inspector

19 March 2025

Appendix 1 - Form 1

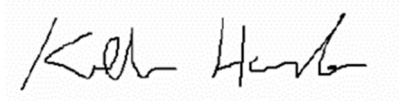
EIA Pre-Screening

[EIAR not submitted]

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| An Bord Pleanála Case Reference | ABP-321252-24 | | |
| Proposed Development Summary | Construction of house, waste water treatment system and associated site works | | |
| Development Address | | | |
| 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 | Tick if relevant. No further action required |
| 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 | X | Class 10(b) of Part 2 (dwelling units) | |
| No | | | |
| 3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class? | | | |
| Yes | | construction of more than 500 dwelling units. | EIA Mandatory EIAR required |
| No | X | | Proceed to Q4 |
| 4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]? | | | |
| Yes | X | Proposed development is a single dwelling substantially below the 500 dwelling unit threshold in Class 10(b) | Preliminary examination required (Form 2) |
| 5. Has Schedule 7A information been submitted? | | | |

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| No | X | Screening determination remains as above (Q1 to Q4) |
| Yes | | Screening Determination required |

Inspector:



Date: 19 March 2025

Appendix 2 - Form 2

EIA Preliminary Examination

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| An Bord Pleanála Case Reference Number | ABP-321252-24 |
| Proposed Development Summary | Construction of house, waste water treatment system and associated site works |
| Development Address | |
| <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.</p> <p>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>The development is a modest stand-alone construction of a 159 sqm single storey dwelling on elevated greenfield land and includes works such as a hardstanding driveway, wastewater treatment system, two soak pits, front and new boundary tree planting with access onto Glendarragh Lane c. 2km outside the village of Newtownmountkennedy.</p> <p>It does not require demolition works or the use of use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does</p> |

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| | not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health. |
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| <p>Location of development</p> <p>(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 development is situated in a rural area on improved elevated agricultural land which is abundant in the area. The development is removed from sensitive natural habitats, centres of population and designated sites and landscapes of identified significance in the County Development Plan.</p> |
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| 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). | Having regard to the modest nature and low impact characteristics of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act. | |
| 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: Kel Hurb Date: 19 March 2025

DP/ADP: _____ Date: _____
 _____ (only where Schedule 7A information or EIAR required)

