



An
Bord
Pleanála

Inspector's Report ABP-322141-25

Development	A house, on-site waste water treatment system, vehicular entrance and all associated site works.
Location	Kilpatrick, Redcross, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	2511
Applicant	Damien Hurley
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant	Damien Hurley
Observer(s)	None
Date of Site Inspection	27 th May 2025
Inspector	Matthew O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is 0.426ha and located in the townland of Kilpatrick, some 4.7km to the southeast of the village of Redcross in Co. Wicklow. The site is situated on the western side of the L-61741-0 (Local Road) on Barranisky/Ballymoyle Hill and is in a wooded area where the lands are covered with various trees and exposed rocks. The appeal site rises steadily from the road before flattening out. The roadside boundary comprises a low-level loose stone wall with the remaining boundaries undefined within the mixed woodland.
- 1.2. The topography of the area is lightly undulating with Barranisky/Ballymoyle Hill forming a local presence in the local landscape. The surrounding characterised by the mixed woodland/forestry on the hill with agricultural holdings in lower areas in addition to a number of dispersed one-off rural dwellings in individual and linear settings of varying styles, designs and configurations. The appeal site is not located within a Flood Zone and there are no Protected Structures or National Monuments within or immediately adjoining the site.

2.0 Proposed Development

- 2.1. The proposed development comprises:
- Construction of a single storey dwelling (184sq.m).
 - Installation of an on-site wastewater treatment system.
 - New vehicular entrance.
 - Associated site development works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 The Planning Authority recommended refusal for the subject development for the following reason:

1. *Having regard to the location of the proposed development, within an attractive rural area characterised by its sylvan setting, the overall works required to construct and access the proposed development on site inclusive of an access*

driveway of an excessive length, the extent of trees required to be removed to facilitate the proposed development, and the location of the dwelling on a plateau area significantly elevated above the public road, it is considered that the development would have a significant negative impact on the character and natural heritage of the locality, would form an incongruous and visually intrusive feature, would result in the excessive loss of trees, would set a precedent for similar negative insertions into this landscape, and would be contrary to the provisions of the Wicklow County Development plan 2022-2028, in particular CPO 6.44, CPO17.1, CPO17.20, CPO17.22, CPO17.37, which seek to resist development that would significantly or unnecessarily alter the natural landscape and topography , or which would result in the felling of mature trees of environmental or amenity value, and which requires the highest quality of layout and design, and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

- The Planner's Report forms the basis for the decision to refuse permission.
- The report notes planning history, Development Plan policy context, comments returned on internal/external referrals and the general details of the dwelling proposed.
- In terms of assessment, the Planning Authority deemed sufficient documentary evidence was submitted to demonstrate the applicant's Social Need for a dwelling in the locality.
- The Planning Authority noted it was the applicant's fourth attempt for permission on the site with previous applications withdrawn following a recommendation for refusal on the basis of visual impact, loss of natural heritage/biodiversity and precedent for similar undesirable development.
- The Planning Authority noted the dwelling's design and materials are in keeping with the rural design guidelines. Due to its setback from the road, the dwelling will be served by a driveway and would require extensive groundworks along with the provision of DWWTs, parking area in addition to the house itself which is

considered to form a visually intrusive feature on the landscape and granting same would set an undesirable precedent for similar negative insertions into the landscape.

- In terms of natural heritage, due to the extent of tree felling/clearance, the development would negatively impact on the natural landscape and biodiversity of the locality which would be contrary to the Development Plan.
- No residential amenity concerns are considered given the distance from the nearest dwellings.
- The access provision and sightline is considered to be adequate.
- Services in terms of wastewater treatment and surface water is deemed to be acceptable, subject to condition(s).
- No issues raised regarding Appropriate Assessment (AA) or Environmental Impact Assessment (EIA).

3.2.2. Other Technical Reports

Municipal District Engineer: No objection, subject to compliance with entrance details and surface water drainage.

Environmental Health Officer: No objection, subject to condition regarding DWWTs.

3.3. **Prescribed Bodies**

Arts Council: No response received.

Heritage Council: No response received.

Faite Ireland: No response received.

An Taisce: Response received noting the sensitive location and significant amount of woodland to be removed which would result in a loss of crucial ecosystem services and natural heritage. Clarification sought on tree condition, indicated by the applicant as being end-of-life commercial forestry, to ensure there would be no net loss of woodland biodiversity features. Preliminary clarification also required on tree species removal at proposed driveway which

may result in a loss of biodiversity. While the supplementary planting of native trees is welcome, existing native trees should be retained as much as possible,

3.4. Third Party Observations

- None.

4.0 Planning History

4.1. The following planning history is associated with the site:

- 21/371** Application for dwelling, waste water treatment system to EPA standards, garage, entrance and associated works. Applicant: Damien Hurley. Status: WITHDRAWN.
- 22/140** Application for dwelling, waste water treatment system to EPA standards, garage, entrance and associated works. Applicant: Damien Hurley. Status: WITHDRAWN.
- 23/329** Application for proposed dwelling, wastewater treatment system to EPA standards, garage, entrance, driveway and associated works. Applicant: Damien Hurley. Status: WITHDRAWN.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Wicklow County Development Plan 2022-2028 is the relevant Development Plan for the appeal site.

5.1.2. Chapter 4 relates to 'Settlement Strategy'. The appeals site is located in Level 10: The rural area (open countryside). According to the Development Plan, 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. The area is subject to housing occupancy controls and rural housing policy applies. The following objectives are considered relevant:

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

5.1.3. Chapter 6 relates to 'Housing' with Section 6.4 setting out a number of general housing objectives. The following housing objective is considered relevant in the context of 'Housing in the Open Countryside':

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.

5.1.4. The following excerpts from Table 6.3: Rural Housing Policy are considered relevant:

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, someone that already owns / owned a home who requires a new purpose built specially adapted house.

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. Persons whose livelihood is intrinsically linked to rural areas may include:

- those involved in agriculture;
- those involved in non-agricultural rural enterprise / employment intrinsically linked to the rural area;
- 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. 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;
- 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 settlement is now located within the development boundary;
- 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;
- 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.

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.

5.1.5. Chapter 13 relates to 'Water Services' with the section 13.2 setting out the Water Services Objectives in relation to Water Quality, Water Supply, Waste Water and Storm/Surface Water Infrastructure. The following objective considered particularly relevant:

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.*

5.1.6. Chapter 17 relates to 'Natural Heritage and Biodiversity' with Section 17.3 having regard to 'Landscape'. In terms of Wicklow's landscape categories, the appeal site is located within Hierarchy 4 with a Landscape Category defined as "Corridor". According to the Development Plan, the N11 Corridor covers the main access corridor area along the east of the County.

5.1.7. Section 17.4 sets out the Natural Heritage & Biodiversity Objectives and the following are considered to be relevant:

General

CPO 17.1 To protect, sustainably manage and enhance the natural heritage, biodiversity, geological heritage, landscape and environment of County Wicklow in recognition of its importance for nature conservation and biodiversity and as a non-renewable resource.

Woodlands, Trees and Hedgerows

CPO 17.20 Development that requires the felling of mature trees of environmental and/or amenity value, even though they may not have a TPO in place, will be discouraged.

CPO 17.21 To strongly discourage the felling of mature trees to facilitate development and encourage tree surgery rather than felling if such is essential to enable development to proceed.

CPO 17.22 To require and ensure the preservation and enhancement of native and semi-natural woodlands, groups of trees and individual trees, as part of

the development management process, and require the planting of native broad leaved species, and species of local provenance in all new developments.

Landscape, Views & Prospects

CPO 17.35 All development proposals shall have regard to the County landscape classification hierarchy in particular the key landscape features and characteristics identified in the Wicklow Landscape Assessment (set in Volume 3 of the 2016 County Development Plan) and the 'Key Development Considerations' set out for each landscape area set out in Section 5 of the Wicklow Landscape Assessment.

CPO 17.37 To resist development that would significantly or unnecessarily alter the natural landscape and topography, including land infilling / reclamation projects or projects involving significant landscape remodelling, unless it can be demonstrated that the development would enhance the landscape and / or not give rise to adverse impacts.

5.1.8. Volume 3 of the Development Plan contains a number of relevant appendices such as Appendix 1: 'Development and Design Standards' and Appendix 2: 'Single Rural Houses Design Guidelines'.

5.2. Natural Heritage Designations

5.2.1. The appeal site is not located on or within any designated Natura 2000 sites, with the nearest designated sites being the Buckroneys-Brittias Dunes and Fen SAC (Site Code: 000729) approximately 2.29 km to the east; and the Magherbeg Dunes SAC (Site Code: 001716) approximately 8.6km to the northeast. Additionally, the Buckroneys-Brittias Dunes and Fen is also a pNHA and the Avoca River Valley pNHA is approximately 5.39 km to west of the appeal site.

6.0 EIA Screening

6.1 The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development,

therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The First Party appeal has been prepared by the applicant against the Planning Authority's decision to refuse permission. The grounds of appeal are summarised as follows:

- The reason refusal is flawed as it is primarily based on the protection of end-of-life commercial forestry trees that would be felled by Coillte in the next 1-2 years had the site not been purchased.
- The Coillte Public Web Viewer identifies the site and surrounding hill as a '*Property in which clearfell operations may happen 2021-2025*'.
- The proposed driveway is not be considered excessive and is consistent with other driveways in the area.
- The Planning Authority have ignored the gain from the new planting in the form of 72 no. mixed native trees and 1,0003 no. flowering hedging plants.
- The natural topography of the site requires little excavation/changes to the natural topography for the construction of a house.
- The only topographical change is for the driveway in an isolated area which can be achieved with minimal disturbance due to the rocky nature of the site.
- While the proposed dwelling is to be 7 metres above the public road, it will have a 51 metre setback and low profile design which means it will not be visible from the public road.
- The application was accompanied by a Verified Photomontage Report which demonstrates the proposal and would not form an incongruous and visually intrusive feature.
- The Verified Views show the proposal will not be visible from the adjoining local road or from the nearby motorway. Whilst sited close to the highest point of the site, the proposal would be located near the bottom of the hill in the wider landscape.

7.2. Planning Authority Response

- No response received.

7.3. Observations

- None.

8.0 Assessment

Having examined the application details and all other documentation on file, the reports of the Planning Authority, having conducted an inspection of the site, and having reviewed relevant local policies and guidance, I consider that the main issues in this First Party appeal can be addressed under the following relevant headings:

- Principle of Development (Compliance with Rural Housing Policy)
- Design & Visual Amenity
- Wastewater Treatment
- Access
- Appropriate Assessment (Screening)

8.1. Principle of Development - Compliance with Rural Housing Policy (New Issue)

8.1.1. I note the Planning Authority has not raised the applicant's rural housing need as an issue in their reason for refusal. Nevertheless, a key consideration for the assessment of any planning application for a single one-off house in a rural area is the compliance with rural housing policy.

8.1.2. The appeal site is located in a rural area classed as the 'open countryside'. As per the Development Plan, Wicklow's rural areas are considered to be 'Area under Urban Influence'. In respect of housing in the open countryside, Objective CPO 6.41 of the Development Plan seeks to facilitate for residential development in the open countryside for those with a housing need based 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.

8.1.3. The three criterion set out in Table 6.3 (see section 5.1.3 of this report) which must be met by potential applicants for a rural house in rural Wicklow are 'Housing Need/Necessary Dwelling'; 'Economic Need'; and, 'Social Need'. Therefore, an

applicant seeking permission for a dwelling in the open countryside must have a clear housing need and then demonstrate their economic need or social need to reside in the rural area.

- 8.1.4. I have examined the submitted particulars and the applicant's documentary evidence in support of the planning application, which includes but is not limited to, personal information of the applicant's birth, education, sports club membership, financial/banking correspondence, a personal statement, letter from employer/family business and a map of wider family in locality.

Housing Need

- 8.1.5. In relation to the applicant's housing need, I note the Supplementary Information Form (Part B of Application Form) indicates that the has not owned a house/apartment and the submitted documentary evidence includes a Sworn Affidavit claiming that the applicant never owned a property or had a legal interest in any other property. It is further declared that the applicant has never previously applied for planning permission. In considering this information, I note that the Affidavit dates from April 2021 which is now over 4 years in the past. As such, I am of the view that the applicant's declaration is outdated and an updated Affidavit should have been submitted to demonstrate that the applicant does not currently own a house and therefore has a housing need in accordance with Objective CPO 6.41 of the Development Plan. I therefore cannot definitely conclude that the applicant has a housing need.

Social Need

- 8.1.6. In terms of the applicant's social need, the submitted documentation indicates that the applicant's family home is located at Clonpadden which is approximately 2.03km to the northeast of the appeal site. The submitted documentary evidence also includes correspondence from a financial institute dating between 2014 and 2024 which links the applicant to the rural townland of Clonpadden for a 10-year period. In addition, the submitted birth certificate indicates the dwelling place of the applicant's father as being in the locality of the appeal site. A map has also been provided listing relatives in the wider area. The applicant's baptism record and primary school attendance is also in the locality. I also note that the applicant has provided details of involvement in local sporting clubs/groups. The submitted documentation states that the applicant is willing

to enter into a Section 47 sterilisation agreement with the Local Authority preventing the sale of the dwelling in the future. From review of the submitted information, I am of the view that the applicant is local to the subject area having resided in the area for a considerable portion of their life and are engaged with the local community. I consider that the applicant has a 'social' need.

Economic Need

8.1.7. In terms of the applicant's economic need, I note that a letter has been submitted from their employer – a plant hire business, which is also the family business. In respect of this type of livelihood, whilst I note it may be established and longstanding in the open countryside area; I am not of the view that a home in the rural area is essential to the applicant's livelihood or that this livelihood could not be maintained while living in a nearby settlement. Therefore, I consider the applicant has no economic need to live in the area.

Conclusion

8.1.8. Having regard to the submitted information and planning history on the site, I acknowledge that the Planning Authority has deemed the applicant to qualify for a dwelling in the open countryside. Based on the documentary evidence, I would consider that the applicant has a social need to live in this area. Notwithstanding, based on the outdated information on the appeal file regarding the applicant's housing need, I am not satisfied that the proposed development would be in accordance with Objective CPO 6.41 of the Wicklow County Development Plan 2022-2028. This is a new issue and therefore, the Board may wish to seek the views of the parties. However, having regard to substantive reason for refusal set out below in section 8.2, I note that the Board may not consider it necessary to pursue the matter further.

8.2. Design & Visual Amenity

8.2.1. The Planning Authority's refusal reason was based on the consideration that the overall construction works, tree removal and location of the proposed development on an elevated plateau above the public road would have a significant negative impact on the character and natural heritage of the locality and form an incongruous and visually intrusive feature on the landscape. It was also considered by the Planning Authority that the development would be contrary to the provisions of the Development Plan which seek to resist development that would significantly or unnecessarily alter

the natural landscape/topography; result in the felling of mature trees of environmental or amenity value; and require the highest quality of layout and design. Having regard to the decision, I consider that an examination of the appeal site's context is pertinent in interpreting the overall proposal and its compliance with Development Plan policy and standards.

8.2.2. In terms of design, the Planning Authority's assessment considered the proposed dwelling design as being broadly in keeping with the provision of the rural design guidelines. I note Objective CPO 6.44 of the Development Plan requires 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 and that all new rural dwelling should demonstrate good integration within the wider landscape. The proposed single-storey 3-bed dwelling has a stated floor area of 184sq.m and is split into two pitched roofed blocks which are off-set and connected by a flat roofed area. The ridge height is indicated at 4.851 metres. The proposed dwelling is orientated to be east facing and will occupy a generally central position at the rear extent of the site with a set-back of approximately 51 metres from the road. The roof is to be slate with a render finish to the front block and charred larch cladding/painted render to the rear block. The proposed dwelling will be served by a serpentine driveway confined to the southern (side) extent of the site and opens to a hardstanding vehicle parking. On balance, I am of the view that the form is relatively simple and the mass has been broken up with the single storey design in 2 no. blocks. Therefore, I am satisfied that the proposed dwelling, when considered strictly on its own individual merits, would be acceptable from a rural design and materials perspective and would accord with Appendix 2: Single Rural House Design Guidelines of the Development Plan.

8.2.3. The appeal site is located in an established wooded site on the northeastern slope of Barranisky/Ballymoyle Hill. The site is not significantly elevated as it is on the lower part of the hillside but it is on higher ground to the wider locality. The appeal site is not exposed in the landscape on account on the mature trees covering a substantial portion of the hill. In respect of landscape designation, the site is located in the 'N11 Corridor - 4(a)' Landscape Area as per Table 17.1 of the Development Plan. This is described as the Corridor Area in terms of Landscape Categories and is rated fourth out of six categories in respect of hierarchies in Wicklow's landscapes. For context,

the first and most important is 'Mountains and Lakeshore Area of Outstanding Natural Beauty' and the sixth and least important are 'Urban Areas'. It is my opinion that the appeal site is in an area which can be considered as being a landscape of moderate importance. From my review the appeal file, I note that Verified Views submitted by the applicant include 4 no. viewpoints in the vicinity of the appeal site and illustrate the proposed dwelling with a red outline. In my consideration of the relevant landscape designations and categorisations as set out in the Development Plan, I do not consider that the proposal would interfere or obstruct any designated Views of Special Amenity Value or Special Interest. I do note that there is a Prospect of Special Amenity Value or Special Interest (No. 33: N11 south of Scratanagh Cross Roads Prospect of Ballymoyle Hill) which is located to the southeast of the appeal site. However, I am satisfied that the proposed development would not obstruct this prospect given the wooded setting of the site which obscures views into the site. Moreover, there are no protected structures or National Monuments within or immediately adjoining the appeal site which are likely to be directly impacted from the proposal.

8.2.4. Notwithstanding my considerations in respect of the dwelling design and direct visual/landscape impacts, I consider that the site is not a suitable location for a dwelling on account of its site setting at a wooded location with varying topography. From review of the Site Layout Plan, I note that the proposed dwelling is indicated as having a FFL of 99.25 which is considerably above the indicated levels along the public road which are listed 92.00. This is a differential of 7.25 metre between the stated road level and the stated FFL of the dwelling. The proposed layout and siting of the dwelling has been set to the rear extent of the site so as to prevent the visual impact of the dwelling from the public road as it sits on a plateau. I do not consider this arrangement to be a positive one as it shows the complexity of the site in terms of its gradient and the efforts employed to obscure the dwelling from the public road. Furthermore, the subject development will result in the construction of a new vehicular entrance, driveway and dwelling on extensively wooded lands which are undeveloped. It is my opinion that the combined works required to carry out this development would contribute to visual scarring of this site and its setting by way of tree loss and disruption to the natural landscape. To this end, I consider that the photomontages do not offer an exact representation of the dwelling in terms of the overall extent of the works proposed on the site to make a robust assessment of the local site impacts and while I acknowledge

that the Artist Impression of the dwelling is for illustrative purposes of the house design, I am of the view that site setting is inaccurate and does not reflect the surrounding context of the appeal site. On balance, I do not consider that the proposed dwelling is capable of demonstrating good integration within the wider landscape on account of the site context and would therefore be at odds with CPO 6.44 of the Development Plan.

8.2.5. In addition, according to applicant, trees and hedging will be planted on the site which will exceed trees that are to be removed. It is further contended by the applicant that the existing trees are deemed to be end-of-life commercial forestry trees that would have been felled by Coillte if the site had not been purchased. In consideration of tree loss, I firstly note that the provision of new planting does not negate the loss of established trees nor does it demonstrate consistency with the policy framework of the Development Plan, namely CPO 17.20 and CPO 17.21 which seeks to discourage removal of trees. Furthermore, I note that the phrasing of the Coillte Public Web Viewer for the subject site, as provided by the applicant, states '*property in which clearfell operations may happen 2021-2025*'. My assessment of this proposal is based on the existing site character of the area as an established wooded area. I am unable to speculate or have regard to potential or undefinitive tree felling operations which might occur in the area at a future date. Moreover, I would also note that consideration of the proposed development in a situation where trees have been removed on the appeal site and the surrounding lands would require alternative assessment of such a development where the lands are potentially exposed and may be visually discordant. As such, I have considered the subject development on its own merits.

8.2.6. Having regard to the above, whilst I am of the view that the visual impact of the proposed development may be limited in the wider area, given the specific site context, I consider that the proposed development would result in the diminishment of the rural character along with the scenic qualities of this wooded area by reason of tree loss and alterations to the existing terrain/topographt. Therefore, I consider that the proposed development would not be acceptable at this location and would be contrary to the policy provision for rural housing the Development Plan in relation to Housing in the Open Countryside and the policy provision for Natural Heritage and Landscape in relation to discouraging the felling of trees (CPO 17.20 and CPO 17.22) and resisting

development that alters the natural landscape (CPO 17.37). I recommend that permission be refused.

8.3. Wastewater Treatment (New Issue)

8.3.1. The matter of wastewater treatment and disposal was not raised in the reason for refusal and the Planning Authority noted the report received from the Environment Health Officer which indicated 'no objection' to the proposed domestic wastewater treatment system and soil polishing filter. Having reviewed the submitted particulars on the appeal file, I note the letter from the Site Assessor, dated 16th March 2021, proposing the installation of 8-person wastewater treatment unit and a 50sqm soil polishing filter in accordance with EPA 2009 standards.

8.3.2. I note the Site Characterisation Form is also dated 16th March 2021 and based on the EPA's Code of Practice Wastewater Treatment and Disposal Systems serving Single Houses (p.e. ≤ 10) (2009). Having regard to Circular Letter NRUP 01/2021 in relation to the updated EPA Code of Practice, I consider the arrangements to be clear. The 2009 Code of Practice was used for site assessments and subsequent installations commenced before 7th June 2021 or where planning permission had been applied for before that date; and the 2021 Code of Practice applies to site assessments and subsequent installations carried out on or after 7th June 2021. The subject application date is 21st January 2025 and therefore, the applicant was required to carry out the site assessment in accordance with the updated EPA Code of Practice 2021.

8.3.3. In the absence of sufficient information demonstrating that the proposed development can be carried out in accordance with the requirements of the EPA's Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) (2021), I am of the view that the Board cannot be satisfied that the proposed development would not be prejudicial to public health or accord with Objective CPO 13.16 of the Wicklow County Development Plan 2022-2028 with respect to wastewater treatment. As such, I consider this to be a 'new issue' and the Board may wish to seek the views of the parties. That said, having outlined the substantive reason for refusal in relation to Design and Visual Amenity, the Board may not deem it necessary to give further consideration to this matter.

8.4. Access

- 8.4.1. The subject development is to be served by a new vehicular entrance from the existing L-61741-0 (Local Road). In respect of visibility from the existing access, the applicant has shown sight lines of 90 metres in both directions to the nearside road edge. No works are required to achieve the sightlines and there are no obstructions present. During my inspection of the appeal site, I observed the public road to be of limited width and contains a number of bends and variation in gradients over short distances. That said, it is my view that the road is lightly trafficked and would therefore be conducive to lower traffic speeds on account of the alignment and carriageway width.
- 8.4.2. It is my opinion that the subject development would not result in significant additional traffic which may exacerbate the existing situation on this road. Therefore, I am satisfied the proposed development will not give rise to road safety concerns by way of creation of a traffic hazard.

9.0 Appropriate Assessment (Screening)

- 9.1. I have considered the subject development, which consists of the erection of a single storey dwelling house, on-site wastewater treatment system, vehicular entrance and all associated site works in light of the requirements S177U of the Planning and Development Act 2000 (as amended).
- 9.2. The subject development is located in a rural area approximately 2.29 km from the Buckroney-Brittas Dunes and Fen SAC (Site Code: 000729); and approximately 8.6km from the Magherbeg Dunes SAC (Site Code: 001716). The subject development has no hydrological or other connection directly to any European site.
- 9.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment as there is no conceivable risk to any European site. The reason for this conclusion is as follows:
- The scale and nature of the development; and,
 - The distance to the nearest European site and the lack of connections.

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 a retrospective Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 (as amended) is not required.

10.0 Water Framework Directive

10.1. I have considered the subject development and I am of the view that the proposal will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardize any water body in reaching its WFD objectives and consequently can be excluded from further assessment. I refer the Board to Appendix 3 for my screening assessment.

11.0 Recommendation

11.1 I recommend that permission be REFUSED for the following reason and consideration as set out below.

12.0 Reasons and Considerations

1. Having regard to the location of the subject site in an extensively wooded area with a significantly varying topography rising above the public road, it is considered that the development of the proposed dwelling would result in the removal of existing mature trees and alterations/adaptions to the natural terrain which would negatively impact on the character and natural heritage of this area. The proposed development would therefore be contrary to Objective CPO 6.44 of the Wicklow County Development Plan 2022- 2028. which requires that all new rural dwelling houses demonstrate good integration within the wider landscape and Objectives CPO 17.21, CPO 17.22 and CPO 17.37 of the Wicklow County Development Plan 2022- 2028 relation to discouraging the felling of trees and resisting development that alters the natural landscape. Therefore, the proposal would set an undesirable precedent for similar haphazard development in the surrounding area and would 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.

Matthew O Connor
Planning Inspector

27th June 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-322141-25
Proposed Development Summary	A house, on-site waste water treatment system, vehicular entrance and all associated site works.
Development Address	Kilpatrick, Redcross, Co. Wicklow
In all cases check box /or leave blank	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input checked="" type="checkbox"/> Yes, it is a Class specified in Part 1.	Class 10(b)(i)(iv) - Infrastructure Projects
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.	

EIA is Mandatory. No Screening Required	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2)	Class 10 (b)(i) Construction of more than 500 dwelling units - The proposed development is subthreshold as it relates to the construction of 1 no. dwelling.

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____

Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	ABP-322141-25
Proposed Development Summary	A house, on-site waste water treatment system, vehicular entrance and all associated site works
Development Address	Kilpatrick, Redcross, Co. Wicklow
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
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>The proposal comprises outline permission for the construction of 1 no. house in a rural area.</p> <p>The size of the development would not be described as exceptional in the context of the existing environment.</p> <p>The proposal will not produce significant waste, emissions or pollutants. By virtue of its development type, it does not pose a risk of major accident and/or disaster, or is vulnerable to climate change.</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>The proposed development is situated within a rural area.</p> <p>There are no significant environmental sensitivities in the vicinity – potential impacts on Natura 2000 sites is addressed under Appropriate Assessment (Screening).</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>Having regard to the limited nature and scale of the proposed development (i.e. 1 no. dwelling in a rural area in the open countryside), there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>

Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 3

Screening the need for Water Framework Directive Assessment Determination

The subject site is located on a site at Kilpatrick, Redcross, Co. Wicklow. The proposed development comprises the erection of a single storey dwelling house, on-site wastewater treatment system, vehicular entrance and all associated site works.

The subject site is located approximately 100 metres to the north of a water course, indicated as the "Scratenagh" and "Redcross_030" on respective data, which connects a series of small waterbodies before entering the Irish Sea roughly 2.55km to the southeast of the site (as the crow flies). There is no apparent hydrological connection to this watercourse from the subject site. According to available Water Framework Directive information, the "Redcross_030" is stated as being under 'Review'. This watercourse was indicated as having a "Good" status under the River Waterbody WFD Status 2016-2021. The coastal waterbody which this watercourse enters, the Southwestern Irish Sea - Brittas Bay (HA 10) is indicated as being "Not at Risk". In addition, the Groundwater Body is indicated as the "Wicklow" groundwater body which is stated as being 'At Risk' in relation to not meeting their Water Framework Directive objectives.

No water deterioration concerns were raised in the Planning Authority's assessment or as part of this planning appeal.

I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

The reason for this conclusion is as follows:

- Nature of works e.g. scale and nature of the development being 1 no. individual one-off dwelling; and,
- Location and distance from the nearest water bodies and/or lack of hydrological connections.

Conclusion

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.