



An  
Coimisiún  
Pleanála

## Inspector's Report

**ABP-322556-25**

<b>Development</b>	Proposed dwelling, wastewater treatment system to EPA standards, garage, entrance and associated works.
<b>Location</b>	Ballygannon, Kilcoole, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	24456
<b>Applicant(s)</b>	Bryan Cullen
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party v. Decision
<b>Appellant(s)</b>	Bryan Cullen
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	21 <sup>st</sup> August, 2025
<b>Inspector</b>	Robert Speer

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## Appendix 1 – Form 1: EIA Pre-Screening

## **1.0 Site Location and Description**

- 1.1. The proposed development site is located in the rural townland of Ballygannon, Co. Wicklow, approximately 1.4km northeast of Main Street in Kilcoole town centre and 700m west of the coastline, where it occupies a position within a larger landholding known as Ballygannon Farm. Although the surrounding landscape is primarily one of low-lying open countryside which falls in an easterly direction, there are intermittent instances / groupings of one-off rural housing, farmyards and associated outbuildings in the wider area with several such examples situated within the subject landholding. In this regard, there is a complex of farm buildings (in addition to a number of portacabins / static caravans seemingly in use as temporary accommodation) to the northeast of the application site with further outbuildings and 5 No. dwelling houses positioned alongside the private roadway which serves the wider landholding.
- 1.2. The site itself has a stated site area of 0.303 hectares, is rectangular in shape, and presently forms part of a larger agricultural field used for cereal production although the actual site area has been set aside and appears to have been allowed to become overgrown become being recently topped. Access is obtained via a private gated roadway which extends northwards from Local Road No. L-5044 (Lott Lane) to serve surrounding housing and farmlands. The site adjoins a dormer-style bungalow (the applicant's former residence) to the immediate west with an additional bungalow and outbuildings beyond same while the adjacent lands to the north and east are in agricultural use. It is bounded by mature hedgerow to the west and along the roadside to the south with the remainder of the site perimeter not physically defined at present.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of the construction of a detached, single storey dwelling house based on an irregular plan with a stated floor area of 231m<sup>2</sup> and a maximum ridge height of 5.621m. The overall design is conventional with an asymmetrical front elevation incorporating a front gabled feature, vertically emphasised fenestration, and an assortment of ridge heights. External finishes

include napp plaster, roof slates, granite sills & window reveals, and the feature use of local stone.

- 2.2. A free-standing garage (floor area: 45m<sup>2</sup>) is proposed to be constructed to the rear of the dwelling house.
- 2.3. Access to the site will be obtained via a new entrance arrangement onto the adjacent private roadway / accessway. The existing roadside site boundary is to be removed and reinstated in a recessed position so as to provide for sightlines with the new boundary construction comprising sod and stone banking with assorted planting.
- 2.4. It is proposed to install a packaged secondary wastewater treatment system with pumped discharge to a soil polishing filter. Water services are available via connection to the public mains.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. Following an extension of time and the receipt of unsolicited additional information, on 7<sup>th</sup> May, 2025 the Planning Authority issued a notification of a decision to refuse permission for the following single reason:
  - The proposed development would not represent a necessary dwelling in this Landscape designated Coastal Area of Outstanding Natural Beauty, contrary to the settlement strategy for the Rural Area as set out in Chapter 4 of the County Development Plan 2022-2028. This strategy seeks to control development to ensure the protection of the environmental and ecological quality of the rural area and ensuring that the scenic value, heritage value, and / or environmental / ecological / conservation quality of the area is protected. The Council's settlement strategy is to require new housing to locate on designated housing land within the boundaries of settlements, and to restrict rural housing to those with a housing need based on the core consideration of demonstratable functional social or economic need to live in the open countryside in accordance with the requirements set out in Table 6.3. It is considered that the applicant does not come within the scope of the housing need criteria as they do not comply with Table 6.3 in terms of

demonstrating a housing need. The proliferation of non-essential housing in rural landscape areas erodes the landscape value of these areas and seriously detracts from views of special amenity value.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

An initial report details the site context, planning history, and the relevant policy considerations, including the site location within the 'agricultural area / greenbelt' identified in the Greystones-Delgany & Kilcoole Local Area Plan, 2013-2019 as well as the Northern Coastline Area of Outstanding Natural Beauty. The report proceeds to consider whether the applicant complies with the requirements of the applicable rural housing policy by reference to Objective CPO 6.41 & Table 6.3 of the Development Plan and draws the following key conclusions:

- 'Housing Need / Necessary Dwelling': The sale of the applicant's home, which was seemingly required for personal reasons, does not fall within the category of repossession by a lending institution.
- Economic Need: Notwithstanding the applicant's assertion that he works on the family farm and as a landscaper, insufficient information has been provided to demonstrate a need to live close by (noting that other family members also live on the wider landholding).
- Social Need: No evidence has been provided to show the applicant's social ties to the area, although it is acknowledged that the applicant has family ties to the area.

Consequently, it was determined that the applicant had not demonstrated a housing, economic or social need and that the proposed development would not amount to a 'necessary' dwelling as provided for under Objective CPO 6.41 & Table 6.3 of the Plan (noting that the applicant had sold his previous dwelling and thus was not a first-time owner).

In terms of the location and siting of the proposed dwelling house, it is acknowledged that while the site is within an Area of Outstanding Natural Beauty and an agricultural greenbelt, the proposed development will appear as part of a cluster of rural housing

and will not be visible from the public road nor will it interfere with any view or prospect listed for protection in the Development Plan. The broader design and finish of the proposed development is also considered to be acceptable. No concerns are raised from a traffic safety perspective or to the proposed wastewater treatment proposals.

The report concludes by recommending that permission be refused for the following reason:

- The proposed development would not represent a necessary dwelling in this Landscape designated Coastal Area of Outstanding Natural Beauty, contrary to the settlement strategy for the Rural Area as set out in Chapter 4 of the County Development Plan 2022-2028. This strategy seeks to control development to ensure the protection of the environmental and ecological quality of the rural area and ensuring that the scenic value, heritage value, and / or environmental / ecological / conservation quality of the area is protected. The Council's settlement strategy is to require new housing to locate on designated housing land within the boundaries of settlements, and to restrict rural housing to those with a housing need based on the core consideration of demonstrable functional social or economic need to live in the open countryside in accordance with the requirements set out in Table 6.3. It is considered that the applicant does not come within the scope of the housing need criteria as they do not comply with Table 6.3 in terms of demonstrating a housing need. The proliferation of non-essential housing in rural landscape areas erodes the landscape value of these areas and seriously detracts from views of special amenity value.

Following the approval of an extension of time sought by the applicant and the receipt of unsolicited additional information (the contents of which sought to address the Planning Authority's concerns), a further report was prepared which reiterates that the applicant has not demonstrated compliance with Objective CPO 6.41 and Table 6.3 of the Plan. It subsequently recommends that permission be refused for the reason stated.

**3.2.2. Other Technical Reports**

- 3.2.3. *Senior Environmental Health Officer:* Recommends a grant of permission, subject to conditions.

**3.3. Prescribed Bodies**

None.

**3.4. Third Party Observations**

None.

**4.0 Planning History**

**4.1. On Site:**

None.

**4.2. On Adjacent Sites:**

- 4.2.1. PA Ref. No. 002569. Was granted on 23<sup>rd</sup> October, 2000 permitting Brian Cullen permission for the construction of a dwelling & septic tank at Ballygannon, Kilcoole, Co. Wicklow.
- 4.2.2. PA Ref. No. 041636. Was granted on 21<sup>st</sup> April, 2005 permitting Brian Cullen permission for the retention and completion of a revised dwelling previously granted under p.r.r.00/2569 as constructed on site, and retention of revised boundary and proposed garage at Ballygannon, Kilcoole, Co. Wicklow.
- 4.2.3. PA Ref. No. 24181. Was granted on 3<sup>rd</sup> July, 2024 permitting Bryan Cullen permission for change of use (removal of planning condition No. 2 of planning Ref. no. 00/2569) from restricted use as a dwelling to use by all classes of persons at Ballygannon, Kilcoole, Co. Wicklow.
- 4.3. On Sites in the Immediate Vicinity:**
- 4.3.1. PA Ref. No. 24345. Application by Bryan Cullen for permission for a proposed dwelling, wastewater treatment system to EPA standards, entrance and associated works at Ballygannon, Kilcoole, Co. Wicklow. This application was withdrawn.

#### **4.4. On Sites Elsewhere on the Landholding:**

- 4.4.1. PA Ref. No. 906241. Was granted on 8<sup>th</sup> January, 1991 permitting Niall Cullen permission for a bungalow at Ballygannon, Kilcoole, Co. Wicklow.
- 4.4.2. PA Ref. No. 038052. Was refused on 19<sup>th</sup> March, 2003 refusing Niall Cullen permission for the demolition of existing cottage and proposed replacement holiday cottage with one extra holiday cottage and 2 septic tanks at Ballygannon, Kilcoole, Co. Wicklow.
- 4.4.3. PA Ref. No. 052163. Was granted on 30<sup>th</sup> June, 2005 permitting Niall Cullen permission for an extension to the rear of dwelling at Ballygannon, Kilcoole, Co. Wicklow.
- 4.4.4. PA Ref. No. 052308. Was granted on 15<sup>th</sup> August, 2010 permitting Donal Cullen permission for a farm dwelling house, garage with septic tank treatment installation all at Ballygannon, Kilcoole, Co. Wicklow.
- 4.4.5. PA Ref. No. 114199. Was refused on 2<sup>nd</sup> September, 2011 refusing Cullen Excavations Ltd. permission for a construction and demolition waste recovery facility to include the recovery of construction and demolition waste (namely crushed concrete) and tarmacadam on site of 1.22 hectares at Ballygannon, Kilcoole, Co. Wicklow.
  - The proposed development is to be located in an unzoned rural area which is within a Coastal Area of Outstanding Natural Beauty (AONB) adjacent to a proposed Natural Heritage Area (pNHA) and in close proximity to a candidate Special Area of Conservation (cSAC). Having regard to the scale and nature of operations that will take place on site, it is considered that the development, which would involve the processing and storage of raw materials outdoors, would be inappropriate in this sensitive location and would seriously erode and interfere with the character and setting of the Coastal AONB, pNHA and cSAC, which is a landscape identified for preservation in the County Development Plan. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
  - Having regard to the width alignment and strength of the road network in the vicinity of the application site, which is suitable for local traffic only, it is



considered that the proposed development would result in the creation of a traffic hazard as this road network would not have the capacity to cater for the additional traffic movements associated with the development.

- The proposed development could seriously injure the amenities of properties in the vicinity due to the excessive levels of noise and dust associated with the operations on site. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
- Having regard to the criteria for the location of Construction and Demolition Waste Facilities as set out in Section 13.8.5 of the CDP, it is considered that the proposed development fails to fulfil these criteria. The proposed development would therefore be contrary to the CDP and would be contrary to the proper planning and sustainable development of the area.
- Given that the application site is within approximately 1km of The Murrough Wetlands Special Area of Conservation/Special Protection Area an Appropriate Assessment to meet the requirements of Article 6 of the Habitats Directive should be carried out to assess the likely effects of the development on the SPA and SAC. In this regard insufficient information has been submitted to allow a full screening for Appropriate Assessment or to allow an Appropriate Assessment to be carried out by the Planning Authority. It is considered that, in the absence of an Appropriate Assessment, the proposal would be contrary to Article 6 of the Habitats Directive, would be contrary to the conservation objectives of the SAC and SPA and the proper planning and sustainable development of the area.

4.4.6. PA Ref. No. 141924. Was refused on 23<sup>rd</sup> March, 2015 refusing Niall Cullen permission for an agricultural shed at Ballygannon, Kilcoole, Co. Wicklow.

- Having regard to:
  - The lack of agricultural lands within the applicant's ownership;
  - The insufficient information and documentary evidence to verify that agriculture is the applicant's primary source of income;
  - The existing farmyard further to the east of the site;

It is considered that the proposed development would not represent a necessary agricultural shed and would set an undesirable precedent for similar forms of inappropriate development in the greenbelt zone. The proposed development would therefore be contrary to the provisions of the County Development Plan 2010 and the proper planning and sustainable development of the area.

- The proposed development would represent consolidation of unauthorised development on this site, having regard to the existing development on site for which no permission exists. The provision of such a form of development unduly impacts on the amenities of the area, public health, the amenities of adjoining properties, undermines the planning regulations and would be contrary to the proper planning and sustainable development of the area.

4.4.7. PA Ref. No. 18378. Was refused on 19<sup>th</sup> September, 2018 refusing Ciaran Cuniffe permission for a dwelling, installation of effluent disposal system, connection to public water supply and all ancillary site works at Ballygannon, Kilcoole, Co. Wicklow.

4.4.8. PA Ref. No. 2560303. Was refused on 16<sup>th</sup> June, 2025 refusing Daniel Cullen permission for the following: Works to facilitate infill and recontouring of the lands using soil and subsoil to reclaim the land for agricultural infilling purposes. The infilled material will be seeded and grassed. All associated works and services and use of existing entrance onto public road. The application relates to an activity requiring a Waste Facility permit from Wicklow County Council or Article 27 approval from the EPA which will be applied for separately. All at Ballygannon, Kilcoole, Greystones, Co. Wicklow, A63 VR02.

- Having regard to the location's sensitive nature, the nature and extent of the proposed development, the proximity of the application site to hydrological pathways, which may provide direct links to the Murrough SAC and SPA (Site Code 002249 & 004186), approximately c.1km downstream from the proposed development, it is considered that there are serious risks that the proposed development would significantly alter the composition of runoff from the site into the nearby watercourses, resulting in altered sediment and pollution loads. Therefore, the proposed development could have adverse

impacts on the Murrough SAC and SPA. To permit the proposed development would therefore be contrary to the Habitats Directive and the provisions of the County Development Plan 2022 and would be contrary to proper planning and sustainable development.

- Having regard to the characteristics of the land for infilling, the lack of detail in relation to, noise, dust and road debris levels, the proximity of the works to watercourses, which would result in works within 25m of a watercourse, the scale of the works which will be 3.5m in height in parts, and the lack of justification for the proposed works and the provisions of the Appendix 1 of the County Development Plan 2022-2028, which provides that such development shall only be permitted where there is a proven need, to allow this development in the absence of such information and justification would be contrary to the provisions of the County Development Plan 2022, would lead to the unnecessary deterioration of this rural landscape, and would therefore be contrary to proper planning and sustainable development.

## **5.0 Policy Context**

### **5.1. National and Regional Policy**

#### **5.1.1. *Project Ireland 2040 - The National Planning Framework: First Revision (April, 2025):***

##### *National Policy Objective 24:*

- 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 28:*

- 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.

**5.1.2. *Eastern and Midland Regional Spatial & Economic Strategy (RSES), 2019-2031:***

Section 4.8: *‘Rural Places: Towns, Villages and the Countryside’ of the RSES states that:*

*‘A key challenge is to ensure that in planning for rural places, responses are uniquely tailored to recognise the balance required between managing urban generated demand in the most accessible rural areas, typically in proximity to Dublin and other towns, whilst supporting the sustainable growth of rural communities and economies, including those facing decline. In general, those rural places in proximity to large urban centres have experienced significant growth and urban generated pressures and require levels of growth to be managed in order to ensure that there is a requisite service level for the existing population’.*

It further states that the rural housing planning policy of local authorities should be evidence-based and accommodate rural-generated housing consistent with the settlement framework contained in the RSES and the *‘Sustainable Rural Housing, Guidelines for Planning Authorities, 2005’*, or any successor thereof, and should be accommodated within the Housing Needs Demand Assessment, reflecting the housing needs of the county as a whole.

In this regard, Regional Policy Objective (RPO) 4.80 states that:

- Local authorities shall manage urban generated growth in Rural Areas Under Strong Urban Influence (i.e. the commuter catchment of Dublin, large towns and centres of employment) and Stronger Rural Areas by ensuring that in

these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and settlements.

**5.1.3. ‘Sustainable Rural Housing, Guidelines for Planning Authorities, 2005’:**

These Guidelines promote the development of appropriate rural housing for various categories of individual as a means of ensuring the sustainable development of rural areas and communities. Notably, the proposed development site is located in an ‘Area under Strong Urban Influence’ as indicatively identified by the Guidelines.

**5.2. Development Plan**

**5.2.1. Wicklow County Development Plan, 2022-2028:**

*Chapter 4: Settlement Strategy:*

*Section 4.2: County Wicklow Settlement Strategy:*

*Level 10: The rural area (open countryside)*

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.

*Section 4.3: Settlement Strategy Objectives:*

**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.

*Chapter 6: Housing:*

*Section 6.3.8: Rural Housing:*

Wicklow's countryside hosts a variety of uses including rural communities, attractive towns and villages, agriculture, forestry, tourism, renewable energy, rural enterprise and scenic landscapes. The Planning Authority will continue to carefully manage demand for housing in the countryside in order to protect natural resources, continue to cater for a variety of land uses, protect the environment and rural landscape, to avoid urban generated rural housing and ensure the needs of those with a bona fide necessity to live in the rural area are facilitated. It is also important that the scale of rural housing permitted does not undermine the role of small towns and villages and threaten their viability.

Rural areas are more sensitive to development and therefore require a quality design response to help assimilate development into the landscape. All new rural housing is required to apply the design principles set out in the Wicklow Rural Housing Design Guide which is included in the appendices.

#### *Section 6.4: Housing Objectives:*

**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 6.41:** Facilitate residential development in the open countryside for those with a **housing need** based on the core consideration of **demonstrable functional social or economic need** to live in the open countryside in accordance with the requirements set out in Table 6.3.

#### **Table 6.3 Rural Housing Policy:**

##### ***Housing Need / Necessary Dwelling***

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

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

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

### ***Economic Need***

The Planning Authority recognises the rural housing need of persons whose livelihood is intrinsically linked to rural areas subject to it being demonstrated that a home in the open countryside is essential to the making of that livelihood and that livelihood could not be maintained while living in a nearby settlement.

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

a) Those involved in agriculture

The Planning Authority will positively consider applications from those who are engaged in a significant agricultural enterprise and require a dwelling on the agricultural holding that they work. In such cases, it will be necessary for the applicant to satisfy the Planning Authority with supporting documents that due to the nature of the agricultural employment, a dwelling on the holding is essential for

the ongoing successful operation and maintenance of the farm. In this regard, the Planning Authority will consider whether there is already a dwelling / dwellings on the farm holding when determining if a new dwelling can be justified.

b) Those involved in non-agricultural rural enterprise / employment

The Planning Authority will support applications from those whose business / full time employment is intrinsically linked to the rural area that can demonstrate a need to live in the vicinity of their employment in order to carry out their full time occupation. The Planning Authority will strictly require any applicant to show that there is a particular aspect or characteristic of their employment that requires them to live in that rural area, as opposed to a local settlement.

Where an applicant's case for a new dwelling on the basis of economic need is based on establishing a new or alternative agricultural / non-agricultural rural enterprise and they have no previous experience in agriculture / rural enterprise, the Planning Authority shall not consider the above requirements met until the applicant can show that the new agricultural / non-agricultural rural enterprise has been legally and continuously ongoing for at least 5 years prior to the making of the application for a dwelling, and is the applicant's primary occupation and source of income. Applicants whose proposed business is not location-dependent will not be considered.

c) Other such persons as may have definable economic need to reside in the open countryside, as may arise on a case by case basis.

***Social Need***

The Planning Authority recognises the need of persons intrinsically linked to rural areas that are not engaged in significant agricultural or rural based occupations to live in rural areas.

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



- Permanent native residents of that rural area (including Level 8 and 9 settlements) i.e. a person who was born and reared in the same rural area as the proposed development site and permanently resides there;
- A former permanent native of the area (including Level 8 and 9 settlements) who has not resided in that rural area for many years (for example having moved into a town or due to emigration), but was born and reared in the same rural area as the proposed development site, has strong social ties to that area, and now wishes to return to their local area;
- A close relative who has inherited, either as a gift or on death, an agricultural holding or site for his/her own purposes and can demonstrate a social need to live in that particular rural area,
- The son or daughter of a landowner who has inherited a site for the purpose of building a one off rural house and where the land has been in family ownership for at least 10 years prior to the application for planning permission and can demonstrate a social need to live in that particular rural area,
- Persons who were permanent native residents of a rural area but due to the expansion of an adjacent town / village, the family home place is now located within the development boundary of the town / village;
- Local applicants who are intrinsically linked to their local area and, while not exclusively involved in agricultural or rural employment, have access to an affordable local site;
- Local applicants who provide care services to family members and those working in healthcare provision locally; and
- Other such persons as may have a definable strong social need to live in that particular rural area, which can be demonstrated by way of evidence of strong social or familial connections, connection to the local community / local organisations etc as may arise on a case by case basis.

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.

*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.

### *Chapter 13: Water Services:*

#### *Section 13.2: Water Services Objectives:*

*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.

#### *Chapter 17: Natural Heritage & Biodiversity:*

##### *Section 17.3: Landscape:*

##### *2. Coastal Areas Area of Outstanding Natural Beauty: 2(a) - The Northern Coastline:*

The Northern Coastline comprises of lands north of Wicklow Town-Rathnew extending to south of Greystones. The northern coastline provides intermittent views of the sea from the coast road with this area being somewhat more developed than the southern coastline. This landscape category includes a number of key environmental features such as the Murrough SAC/SPA, a designated European site and Natural Heritage Area (NHA). While this section of the Wicklow coastline is not as heavily utilised from a tourist perspective compared to the southern coastline it does act as a significant recreational resource to the local residential population, the use of which must be managed in an appropriate manner.

(*N.B.* The proposed development site is located within the Northern Coastline Area of Outstanding Natural Beauty as shown on Map No. 17.09B of the County Development Plan).

*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 17.36:* Any application for permission in the AONB which may have the potential to significantly adversely impact the landscape area shall be accompanied by a Landscape / Visual Impact Assessment, which shall include, inter alia, an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape, a series of photos or photomontages of the site / development from clearly identified vantage points, an evaluation of impacts on any listed views / prospects and an assessment of vegetation / land cover type in the area (with particular regard to commercial forestry plantations which may be felled thus altering character / visibility). The Assessment shall demonstrate that landscape impacts have been anticipated and avoided to a level consistent with the sensitivity of the landscape and the nature of the designation.

*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.

*CPO 17.38:* To protect listed views and prospects from development that would either obstruct the view / prospect from the identified vantage point or form an obtrusive or incongruous feature in that view / prospect. Due regard will be paid in assessing development applications to the span and scope of the view / prospect and the location of the development within that view / prospect.

*Schedule 17.12 Prospects of Special Amenity Value or Special Interest:*

- No. 7: Railway from Greystones to Wicklow town: Prospect of coast along railway line.

## *Chapter 19: Marine Spatial Planning and Coastal Zone Management:*

### *Section 19.3: Coastal Cells:*

#### *Cell 5 Greystones to Kilcoole (Ballynerrin):*

This cell consists of the coastal strip between the R761 and the coast between the southern 'settlement boundary' for Greystones – Delgany and the northern 'settlement boundary' for Kilcoole (including the northern tip of the lands designated 'The Murrough pNHA' and excludes the lands designated 'The Murrough cSAC'). This area is intensively used for agricultural purposes and includes pockets of rural housing - at Ballygannon near Glenroe Open Farm and near the train station.

This area is characterised by a soft shore line, which has implications for both the existing railway line and the development of new dwellings. Coastal protection works have been carried out by Iarnród Éireann to protect the railway line, particularly the installation of rock armour on the seaward side of the line. These works however are not adequate to protect all lands to the east of the railway line from risk from flooding and therefore the development of new dwellings requires to be strictly controlled, in the interests of public health and safety.

### *Section 19.4: Marine Spatial Planning and Coastal Zone Management Objectives:*

**CPO 19.8:** To protect the character and visual potential of the coast and conserve the character and quality of seascapes.

**CPO 19.9:** To strictly control the nature and pattern of development within coastal areas and ensure that it is designed and landscaped to the highest standards, and sited appropriately so as not to detract from the visual amenity of the area. Development shall be prohibited where the development poses a significant or potential threat to coastal habitats or features, and/or where the development is likely to result in undesirable patterns of erosion or deposition elsewhere along the coast.

**CPO 19.20:** *Cell 5 Greystones to Kilcoole (Ballynerrin)*

1. To facilitate the development of visitor and interpretative facilities, particularly those relating to bird watching, in a

sustainable and suitable manner which does not compromise either landscape quality or habitats.

2. To control and limit residential development to that shown to be strictly necessary (in accordance with the County settlement and rural development strategies) and to require the highest standards of siting and design for any new dwellings and regard to environmental designations.
3. To prohibit the development of new dwellings within 100m of the shoreline.
4. To protect all listed views and prospects along the R761 and coast in this cell.
5. To strictly control the development of new entrances and access driveways on the R761, to those which can be proven to be necessary for either traffic safety reasons or the normal functioning of the landholding.
6. To facilitate the development of a coastal walk (having due regard to environmental designations and compliance with the EU Habitats Directive) and to restrict development that interferes with the achievement of this objective.
7. To facilitate and support the upgrading of Kilcoole train station and associated facilities.
8. To facilitate coastal protection works (natural, soft and hard engineered), to protect both the ecological and amenity value of the coastline and the significant economic and social value of the railway line.

*Appendix 2: Single Rural Houses, Design Guidelines for New Homes in Rural Wicklow*

**5.2.2. Greystones-Delgany & Kilcoole Local Area Plan, 2013-2019:**

Land Use Zoning:

The proposed development site is located in an area zoned as 'AG / GB: Agriculture / Green Belt' with the stated land use zoning objective 'To generally protect the open

*nature and landscape quality of lands, to protect and enhance local biodiversity, and to maintain the primary use of the land for agricultural purposes’.*

Other Relevant Sections / Policies:

Section 2.2: *Development Strategy:*

- The retention of a suitable agricultural / greenbelt buffer between Greystones-Delgany and Kilcoole.

Section 9: *Natural and Built Heritage:*

**HER10:** Within Agriculture / Greenbelt areas, it is the objective of the Council to generally protect the open nature and landscape quality of lands, to protect and enhance local biodiversity, and to maintain the primary use of the land for agricultural purposes. The following objectives shall apply to the agriculture / greenbelt areas:

- Agriculture / Greenbelt areas form part of the rural area. As such, the rural development objectives and standards of the Wicklow County Development Plan shall apply as appropriate. Rural housing may be permitted subject to compliance with the rural development objectives and standards of the CDP. The Coastal Zone Management Plan objectives, as set out in the CDP shall apply to areas designated a ‘coastal cell’.
- Protect the integrity of Natura 2000 sites in accordance with objective HER2.
- Protect listed views/prospects and other features of natural and built heritage.
- Provide for the development of greenroutes in the area. In particular, facilitate the development of (i) a pedestrian/cycling route between Lott Lane, Kilcoole and Shoreline Sports Park, Charlesland, and (ii) a coastal walk, having due regard to environmental designations and compliance with the EU Habitats Directive, and to restrict development that interferes with the achievement of this objective.

### 5.2.3. **Draft Greystones – Delgany & Kilcoole Local Planning Framework, 2025:**

(N.B. The Commission is advised that the Draft Greystones / Delgany & Kilcoole Local Planning Framework (LPF) 2025 is being prepared under proposed Variation No. 4 to the Wicklow County Development Plan, 2022 – 2028 and that the LPF/variation was on display from 9<sup>th</sup> May, 2025 to 20<sup>th</sup> June, 2025. The Chief Executive's Report on submissions received has been prepared and issued to the Elected Members. The Commission may wish to review this LPF should it be formally adopted in advance of any decision on the subject appeal).

#### Land Use Zoning:

The proposed development site is located outside the settlement boundaries of Greystones-Delgany and Kilcoole, however, it falls within the boundary of the Local Planning Framework boundary on lands zoned as 'AG: Agriculture' with the stated land use zoning objective '*To provide for the sustainable development of agriculture, forestry and essential rural development*'.

This 'AG: Agriculture' land use zoning is described as follows;

*'Subject to the protection and enhancement of natural biodiversity, the rural landscape, and built and cultural heritage, to facilitate the further development and improvement of agriculture, forestry and essential rural development including rural-related enterprise and amenity / utility related infrastructure in accordance with the County Development Plan policies and objectives relating to rural areas'.*

Uses generally appropriate for agriculture (AG) zoned land are agricultural uses (and associated buildings) including crop cultivation, horticulture, animal husbandry, forestry, residential (subject to policies in relation to housing in the open countryside as set out in the Wicklow County Development Plan), farm shops, agri-business and agri-tourism where required to be in a rural location, equestrian uses, kennels, allotments, sustainable energy installations and utility structures, amenity walks and greenways.

#### Other Relevant Sections / Policies:

*A.4: Development Strategy:*



The key parameters for the future physical development of Greystones-Delgany and Kilcoole are based around protection of the environment, addressing climate change, sustainability, compact growth and developing the settlement in a manner that will generate the minimal number of private car journeys and maximum walking, cycling and use of public transport.

The following provisions are of note:

3. The development strategy for Greystones-Delgany will be one primarily of consolidation and infill, with no further settlement expansion beyond the previous LAP boundary; the development strategy for Kilcoole will focus on the lands to the east of the Main Street in the Lott Lane area, in order to maximise use of the existing road network, to improve the eastern route around the town centre and to maximise proximity to Kilcoole train station.
4. To maintain an agricultural buffer between the two settlements.

### **5.3. Natural Heritage Designations**

5.3.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Murrough Proposed Natural Heritage Area (Site Code: 000730), approximately 270m east of the site.
- The Murrough Special Protection Area (Site Code: 004186), approximately 657m east of the site.
- The Murrough Wetlands Special Area of Conservation (Site Code: 002249), approximately 765m southeast of the site.

## **6.0 EIA Screening**

6.1. Having regard to the nature, size and location of the proposed development, which comprises the construction of a single dwelling house served by a wastewater treatment system, the proximity of the site to nearby sensitive receptors, and to the criteria set out in Schedule 7 of the Regulations, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at

preliminary examination and a screening determination is not required. Please refer to the completed Forms 1 and 2 appended to this report.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

- The subject application was lodged in compliance with Objective CPO 6.41 of the Wicklow County Development Plan which aims to facilitate residential development in a rural area for those with a housing need based on the core consideration of a demonstrable functional, social or economic need to live in the countryside in line with the requirements of Table 6.3 of the Plan. In this regard, the applicant satisfies each of the sub-headings ('Housing Need / Necessary Dwelling', 'Economic Need' and 'Social Need') set out in Table 6.3.
- Although the decision to refuse permission appears to place considerable reliance on Table 6.3 of the Development Plan, no consideration has been given to Objective CPO 6.41 which states the following:

***“someone that previously owned a home and is no longer in possession of that home as it had to be disposed of following legal separation / divorce / repossession by a lending institution, the transfer of a home attached to a farm to a family member or the past sale of a home following emigration”.***

Considering that the family home was disposed of in the circumstances outlined above, the applicant clearly qualifies under Objective CPO 6.41.

- The applicant has demonstrated an absolute housing need as he is presently without a home to provide for his family and is relying on the kindness of relatives. The documentation and particulars submitted with the original planning application and the grounds of appeal serve to demonstrate that the applicant has a definable social and economic need to live on the family farm.
- All the supporting documents lodged with the planning application clearly indicate that the applicant was required to dispose of his original home by his

lending institution. Therefore, he is entitled to favourable consideration under Objective CPO 6.41.

- The applicant was born and reared on the farm and both he and his son help the applicant's elderly father manage the farm daily. With a herd of cattle that fluctuates between 50 and 100 No. head annually and 80 No. acres of corn to be tended, there is always a need for the applicant and his family to attend the 270 No. acre farm.
- The Cullen family farm is an extensive holding which makes a significant contribution to the local economy. It is run by the applicant's father, the applicant and the applicant's son and, therefore there are three generations currently involved in the farming of this land.
- The refusal of permission refers to the settlement strategy set out in the Development Plan which seeks *'to control development to ensure the protection of the environmental and ecological quality of the rural area and ensuring that the scenic value, heritage value, and / or environmental / ecological / conservation quality of the area is protected'*, however, the Planning Authority has previously permitted two dwelling houses and an agricultural shed on lands adjoining the subject proposal. Given that the proposed development is located within this same area of scenic amenity, the foregoing is indicative of a lack of proper assessment of the subject application. The proposed development will be sited adjacent to the applicant's original dwelling and within a cluster of other houses and farm buildings. It is not on an isolated site at a distance from other existing buildings.
- The proposed house design is in keeping with the surrounding pattern of development.
- In refusing permission solely on the basis that the applicant previously owned a dwelling on the farm, the Planning Authority appears to have ignored the extensive supporting documentation which details the reasons why he had to dispose of that property. The applicant is presently without a home and is prepared to rebuild to provide for his family having been through a stressful time when a lending institution pursued recovery of his debts. The resolution

of this situation and the disposal of the affected property now allow for the applicant to provide a family home in accordance with Objective CPO 6.41 of the Development Plan.

- It is contradictory and confusing for the Planning Authority to have determined that the applicant is not eligible to construct a dwelling house on the family farm under the terms of Table 6.3 of the Development Plan while at the same time ignoring Objective CPO 6.41 which states that he is entitled to favourable consideration.

#### **7.2. Planning Authority Response**

None.

#### **7.3. Observations**

None.

#### **7.4. Further Responses**

None.

### **8.0 Assessment**

8.1. From my reading of the file, inspection of the site, and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development / rural housing policy
- Overall design / visual impact
- Traffic implications
- Wastewater treatment and disposal

These are assessed as follows:

#### **8.2. The Principle of the Proposed Development / Rural Housing Policy:**

8.2.1. In terms of assessing the principle of the proposed development having regard to the applicable rural housing policy, it is of relevance in the first instance to note that the

proposed development site is located in an ‘*Area under Strong Urban Influence*’ as indicatively identified by the ‘*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*’ and that there is no further identification of rural area types at a county level contained in the Wicklow County Development Plan, 2022. The Guidelines also state that these areas will exhibit characteristics such as their proximity to the immediate environs or the close commuting catchments of large cities and towns (e.g. Greystones-Delgany) and will generally be under considerable pressure for the development of housing due to their proximity to these urban centres or the major transport corridors accessing same (e.g. the M11 / N11 corridor). Notably, within these ‘areas under urban influence’, the National Planning Framework: First Revision (‘Project Ireland 2040: Building Ireland’s Future’) states that the provision of single housing is to be based on the core consideration of a demonstrable economic or social need to live in a rural area and the siting and design criteria for rural housing contained in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements (please refer to National Policy Objective No. 28). The Guidelines also state that the housing requirements of persons with roots or links in rural areas are to be facilitated and that planning policies should be tailored to local circumstances.

- 8.2.2. While the Wicklow County Development Plan, 2022 does not provide any further detailed identification of rural area types at a county level in accordance with the ‘*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*’, this would appear to be attributable to the specific circumstances of the county given its proximity to Dublin City and the M11 Corridor. Having conducted a site inspection, I am satisfied that the proposed development site could be construed as being within an ‘Area under Strong Urban Influence’ given the site location relative to the urban centres of Greystones-Delgany, Kilcoole, the Greater Dublin Area, and the M11 / N11 Corridor.
- 8.2.3. Section 6.3.8: ‘*Rural Housing*’ of the County Development Plan emphasises the need to avoid urban-generated rural housing and to facilitate those who have a ‘bona fide’ need to live in a rural area. In this respect I would refer the Board to Objective CPO 6.41 which states that residential development in the open countryside will be facilitated for with a housing need based on the core consideration of demonstrable

functional, social or economic need in accordance with the requirements set out in Table 6.3: '*Rural Housing Policy*'.

- 8.2.4. From a review of the available information, including the planning history of the wider area, it is apparent that the pertinent issue requiring consideration in the assessment of the subject appeal is whether the applicant satisfies the relevant eligibility criteria set out in Table 6.3 pursuant to Objective CPO 6.41. In this regard, the applicant's decision to dispose of his former dwelling house and the circumstances which gave rise to same are of particular relevance.
- 8.2.5. At the outset, I would advise the Commission that the applicant was originally granted planning permission in 2002 for the construction of a dwelling house for his own use on lands to the immediate west of the subject site under PA Ref. No. 002569. In that instance, the applicant indicated that he was acquiring the site in question from his father (Mr. Dan Cullen) and that he desired to live on the family farm given that he was born and reared in the area. The Planning Authority accepted this submission and determined that the applicant was local to the area and had established a need to live at the site. Upon the receipt of planning permission, the applicant proceeded to construct this dwelling house and appears to have occupied the property in 2002 although permission was subsequently granted in 2005 under PA Ref. No. 041636 for the retention and completion of deviations from the development as previously approved. Notably, in 2024 permission was granted under PA Ref. No. 24181 for the removal of the occupancy condition attached to the original grant of permission (PA Ref. No. 002569) so as to allow for the dwelling house to be occupied by any party. The Planning Authority was amenable to the removal of this restriction on the basis that the applicant had provided such information as to demonstrate his occupation of the dwelling house for the previous 10 No. years whereas the applicable Development Plan provision in place at the time only mandated an occupancy restriction of 7 No. years.
- 8.2.6. At this point I would draw the Commission's attention to the supporting particulars lodged with the subject application wherein it has been set out that the applicant experienced considerable difficulty following the financial crash which culminated in his lending institution / creditor issuing demands for the repayment of monies owed. Owing to the severity of his situation and a failure to reach an agreed repayment plan, the applicant has submitted that he was forced to place his previous dwelling

house on the market in order to pay off his debts and it appears that the sale of this property to a third party was completed in early 2025. The case has thus been put forward that the applicant is now in need of a dwelling house and that the sale of his former residence has not only allowed him to repay the monies owed but has also afforded him the opportunity to fund and build a new family home at the location proposed. In further support of the subject proposal, the applicant has sought to emphasise his connections to the locality and the family landholding while it has also been submitted that he (and his son) work part-time with his elderly father on the farm. In addition, reference is made to the use of sheds / yards on the family farm for the storage of machinery and equipment associated with the applicant's landscaping business.

8.2.7. Having regard to the foregoing, Objective CPO 6.41 of the Development Plan states that residential development in the open countryside is to be facilitated for those with a *housing need* based on the core consideration of *demonstrable functional social or economic need* in accordance with the requirements set out in Table 6.3. Therefore, it is apparent that there are two tests to be applied. Firstly, an applicant must have a 'housing need' and secondly, they must have a demonstratable 'economic' or 'social' need to reside at the location proposed.

8.2.8. With respect to the issue of 'Housing Need / Necessary Dwelling', this is defined as someone who can demonstrate a clear need for new housing and, in this regard, it is of note that the relevant eligibility criteria expressly includes provision for persons who previously owned a home and are no longer in possession of that home as it had to be disposed of following legal separation / divorce / repossession by a lending institution. While I would acknowledge the position adopted by the Planning Authority that the sale of the applicant's former dwelling house would not amount to its repossession by a lending institution, I am inclined to suggest that this is an overly rigid interpretation of the policy intent, particularly as house repossession is typically a matter of last resort and as it would not be unusual for a debtor to dispose of the property in the first instance with a view to repaying any outstanding monies. Notwithstanding, it is notable that Table 6.3 also includes a provision whereby consideration may be given to '*other such circumstances that clearly demonstrate a bona fide need for a new dwelling in the open countryside notwithstanding previous / current ownership of a home*'. Therefore, in light of the applicant's circumstances as

outlined in the preceding paragraphs and the submitted particulars, it is my opinion that the applicant has established a genuine housing need and thus satisfies the first qualifying criterion of Objective CPO 6.41.

- 8.2.9. In terms of 'economic' and / or 'social' need, it is apparent from a review of the available information, including the planning history of the applicant's former dwelling house, that he has intrinsic familial and social connections to both the locality and the landholding in question given that he was born and grew up in the area (as was previously accepted by the Planning Authority) and seemingly resided on the adjacent site for in excess of 20 No. years. His functional economic need for a dwelling house at this location is supported further by his involvement in assisting his elderly father in the farming of the wider landholding. Accordingly, I am satisfied that the applicant has a demonstratable need to live at the location proposed in accordance with the provisions of Table 6.3 of the Development Plan.
- 8.2.10. Therefore, on balance, it is my opinion that the applicant has established a genuine housing need and has long-term residency and social / familial links to the immediate locality to the effect that he is an intrinsic part of the rural community and thus satisfies the relevant eligibility criteria set out in Table 6.3: 'Rural Housing Policy' thereby complying with the requirements of Objective CPO 6.41 of the Development Plan.

### **8.3. Overall Design / Visual Impact:**

- 8.3.1. In terms of assessing the visual / landscape impact of the proposed development, it is of relevance in the first instance to note that the proposed development site is located within the Northern Coastline Area of Outstanding Natural Beauty as shown on Map No. 17.09B of the County Development Plan and thus consideration must be given to the provisions of Objective CPO 17.36 which require any application for permission within the AONB with the potential to significantly adversely impact the landscape area to be accompanied by a Landscape / Visual Impact Assessment. In addition, cognisance should be taken of the site location on lands zoned as 'AG / GB: Agriculture / Green Belt' in the Greystones-Delgany & Kilcoole Local Area Plan, 2013-2019 where the stated land use zoning objective seeks '*To generally protect the open nature and landscape quality of lands, to protect and enhance local biodiversity, and to maintain the primary use of the land for agricultural purposes*'. By



extension, it is of note that the application site is proposed to be zoned as ‘AG: Agriculture’ in the Draft Greystones – Delgany & Kilcoole Local Planning Framework, 2025 with the development strategy set out in that document expressly aiming to maintain an agricultural buffer between Greystones-Delgany and Kilcoole.

- 8.3.2. In a local context, the surrounding landscape is primarily one of low-lying open countryside which falls in an easterly direction towards the coastline with intermittent instances / groupings of one-off rural housing, farmyards and associated outbuildings in the wider area. The site itself is located within a larger landholding known as Ballygannon Farm (which seemingly extends to 270 No. acres) whereupon there is a complex of farm buildings (including a number of portacabins / static caravans seemingly in use as temporary accommodation) and several examples of dwelling houses having been constructed by the applicant’s extended family. The proposed development will occupy a position alongside an existing dormer-style bungalow (the applicant’s former residence) to the immediate west thereby forming a series of three contiguous residential sites when taken in conjunction with another dwelling further west. Notably, it appears that this ‘clustering’ of the proposed development with nearby dwellings is in direct response to concerns previously raised by the Planning Authority during its assessment of PA Ref. No. 24345 (which was subsequently withdrawn) when the same applicant sought permission to construct a dwelling house on the opposite side of the private roadway at a remove from the existing housing.
- 8.3.3. In reference to the actual design of the proposed dwelling house, it is my opinion that the proposal broadly adheres to the basic design principles set out in Objective CPO 6.44 and Appendix 2: ‘*Single Rural Houses, Design Guidelines for New Homes in Rural Wicklow*’ of the Development Plan. It involves the construction of a conventionally designed single storey dwelling house, which is generally comparable to the surrounding pattern of development (as typified by the conventional single-storey and dormer bungalows constructed elsewhere on the landholding), while the site location along a private roadway is such that the proposed dwelling will not be visible from the public road. The proposal will be screened in part by the mature hedgerow and existing development to the west while the implementation of an appropriate programme of landscaping will further serve to aid its assimilation into the surrounding landscape. Its overall visual impact will be limited given the broader

site context and in this regard it is of note that the proposed development will not interfere with any view or prospect of special amenity value / interest listed for protection in the Development Plan (noting that Prospect No. 7: *'Railway from Greystones to Wicklow town: Prospect of coast along railway line'* is orientated away from the proposed development site).

- 8.3.4. Having regard to the foregoing, on balance, I am satisfied that the overall design and siting of the proposed development is acceptable and will not unduly detract from the visual amenity or scenic quality of the surrounding rural landscape, including when taken in combination with adjoining development. While the site occupies a locally elevated position in an Area of Outstanding Natural Beauty, the development will not be so conspicuous as to have a disproportionate or dominating visual impact on the surrounding environment nor will it interfere with any view or prospect listed for protection in the Development Plan.

#### **8.4. Traffic Implications:**

- 8.4.1. The proposed development site will be accessed via a new entrance arrangement onto a private gated roadway which extends northwards from Local Road No. L-5044 (Lott Lane) to serve surrounding housing and farmlands. This accessway is well maintained and in a good overall condition with speed ramps having been installed along its length. I am satisfied that it can accommodate the additional traffic movements consequent on the proposed development.
- 8.4.2. The development works themselves include for the removal of the existing mature roadside boundary and its reinstatement in a recessed position to provide for sightlines through the construction of a sod and stone embankment with planting atop same. This arrangement continues that adopted for the neighbouring dwellings to the west and is considered acceptable.

#### **8.5. Wastewater Treatment and Disposal:**

- 8.5.1. The proposed development includes for the installation of a wastewater treatment system and provides for treated effluent to be discharged to ground by way of pumped discharge to a soil polishing filter. On the basis of the information available, including the submitted Site Characterisation Form, the report of the Environmental Health Officer of the Local Authority has concluded that the proposed wastewater treatment and disposal arrangements are acceptable, subject to conditions.

## 9.0 AA Screening

### 9.1. Screening the need for Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive):

- 9.1.1. I have considered the proposed development, which includes for the construction of a single-storey dwelling house, garage, entrance, and associated site development works, including the installation of a packaged secondary wastewater treatment system with pumped discharge to a soil polishing filter in accordance with EPA standards, all at Ballygannon, Kilcoole, Co. Wicklow, in light of the requirements S177U of the Planning and Development Act, 2000, as amended.
- 9.1.2. (Please refer to Section 2.0 of this report for a more detailed description of the proposed development).
- 9.1.3. The proposed development site is located in the rural townland of Ballygannon, Co. Wicklow, approximately 1.4km northeast of Main Street in Kilcoole town centre and 700m west of the coastline, where it occupies a position within a larger landholding known as Ballygannon Farm and forms part of a 'clustering' of rural houses set on individual sites and served by a private access road. The surrounding landscape is primarily one of low-lying open countryside which falls in an easterly direction towards the coastline (c. 700m further east) although there are intermittent instances / groupings of one-off rural housing, farmyards and associated outbuildings in the wider area with several such examples situated within the subject landholding. The immediate site surrounds include an existing dwelling house on the adjoining site to the west with an additional bungalow and outbuildings located beyond same. The remainder of the adjacent lands to the north and east are in agricultural use with a complex of farm buildings located further east. The subject site is not located within or adjacent to any European Site with the closest such sites as follows:
- The Murrough Special Protection Area (Site Code: 004186), approximately 657m east of the site.
  - The Murrough Wetlands Special Area of Conservation (Site Code: 002249), approximately 765m southeast of the site.
- 9.1.4. No nature conservation concerns have been raised in the planning appeal.

9.1.5. 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.

9.1.6. The reasons for this conclusion are as follows:

- The nature and scale of the development;
- The location of the development site and its distance from the nearest European site(s), and the absence of hydrological or other ecological pathways to any European site; and
- The contents of the appropriate assessment screening and conclusions completed by Wicklow County Council.

9.1.7. 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.

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

## **10.0 Water Framework Directive**

10.1.1. The subject site is located in the rural townland of Ballygannon, Co. Wicklow, approximately 1.4km northeast of Main Street in Kilcoole town centre and 700m west of the coastline, where it occupies a position within a larger landholding known as Ballygannon Farm. The surrounding landscape is primarily one of low-lying open countryside which falls in an easterly direction with intermittent instances / groupings of one-off rural housing, farmyards and associated outbuildings in the wider area. It is situated within the Kilcoole Stream\_010 WFD River Sub Basin (IE\_EA\_10K010580) and the Wicklow Ground Water Body (IE\_EA\_G\_076) which has 'Good' chemical, quantitative and overall GW status.

10.1.2. The proposed development comprises the construction of a single-storey dwelling house, garage, entrance, and associated site development works, including the installation of a packaged secondary wastewater treatment system with pumped discharge to a soil polishing filter in accordance with EPA standards. Surface water runoff is to be directed to an on-site soakpit.

10.1.3. No water deterioration concerns were raised in the planning appeal.

10.1.4. I have assessed the proposed construction of a dwelling house, garage, entrance, wastewater treatment system, and associated site development works at Ballygannon, Kilcoole, Co. Wicklow, 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.

10.1.5. The reason for this conclusion is as follows:

- The small scale and nature of the development,
- The adequacy of the proposed wastewater treatment and disposal arrangements, and
- The nature of the receiving environment.

#### *10.1.6. 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.

## **11.0 Recommendation**

11.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions set out below.

## 12.0 Reasons and Considerations

- 12.1. Having regard to the policies and objectives of the Wicklow County Development Plan, 2022-2028, with particular reference to Objective CPO 6.41 and Table 6.3: 'Rural Housing Policy, and the nature, design and siting of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not have a significant negative impact on the character and natural heritage of the area, would not be visually obtrusive, would not seriously injure the amenities of the area or of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 12<sup>th</sup> day of March, 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2.

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

written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

- b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

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

3.

- a) The vehicular access, including visibility splays, shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.
- b) The gradient of the access driveway shall not exceed 1 :40 from a minimum distance of six metres from its junction with the road unless otherwise agreed with the planning authority.
- c) 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 road or adjoining properties.
- d) 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.

**Reason:** In the interest of traffic safety and to prevent flooding or pollution.

4.

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

**Reason:** In the interest of public health.

5.

- a) The external wall finishes of the proposed dwelling house shall have a neutral coloured nap plaster render, using colours such as grey or off white.



- b) The roof colour of the proposed dwellinghouse shall be blue-black, or slate grey using tiles or slates. The colour of the ridge tiles/cappings shall be the same as the colour of the roof.
- c) White uPVC shall not be used for windows, external doors and rainwater goods.

**Reason:** In the interest of visual amenity.

- 6. All service cables associated with the development (such as electrical, telecommunications and communal television) shall be located underground throughout the site.

**Reason:** In the interest of visual amenity.

- 7. Prior to commencement of works, the developer shall submit to and agree in writing with the planning authority a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures, and off-site disposal of construction / demolition waste.

**Reason:** In the interest of public safety and amenity.

- 8. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

- 9. The site shall be landscaped, using only indigenous deciduous plants and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of

similar size and species, unless otherwise agreed in writing with the planning authority.

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

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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

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Robert Speer  
Senior Planning Inspector

25<sup>th</sup> August, 2025

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-322556-25		
<b>Proposed Development</b> <b>Summary</b>	Proposed dwelling, wastewater treatment system to EPA standards, garage, entrance and associated works		
<b>Development Address</b>	Ballygannon, Kilcoole, Co. Wicklow.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	✓		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment</b> (if relevant)
			<b>Conclusion</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>	✓	Class 10(b)(i): Threshold: 500 No. dwelling units Proposal: 1 No. dwelling house	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination Required
Yes		Screening Determination required

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	ABP-322556-25
<b>Proposed Development Summary</b>	Proposed dwelling, wastewater treatment system to EPA standards, garage, entrance and associated works.
<b>Development Address</b>	Ballygannon, Kilcoole, Co. Wicklow.
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>1. Characteristics of proposed development</b> (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 proposed development involves the construction of a single-storey dwelling house (floor area: 231m<sup>2</sup>). Associated works include the installation of an on-site wastewater treatment system with discharge to a soil polishing filter, the construction of a detached garage, landscaping, and other ancillary site development works.</p> <p>Given the surrounding pattern of development in the area, the proposal is not considered exceptional in the context of the receiving environment.</p> <p>Wastewater treatment will be required to adhere to the Environmental Protection Agency's 'Code of Practice: Domestic Waste Water Treatment Systems (Population Equivalent ≤10)'.</p> <p>It is considered that there are no environmental implications with regard to the size, design, cumulation with existing / proposed development, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health.</p>
<b>2. Location of development</b> (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	<p>The proposed development site is located in a rural area where it forms part of a 'clustering' of rural houses set on individual sites and served by a private access road. The surrounding landscape is primarily one of low-lying open</p>

<p>natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>countryside which falls in an easterly direction towards the coastline (c. 700m further east) although there are intermittent instances / groupings of one-off rural housing, farmyards and associated outbuildings in the wider area with several such examples situated the subject landholding. The immediate site surrounds include an existing dwelling house on the adjoining site to the west with an additional bungalow and outbuildings located beyond same. The remainder of the adjacent lands to the north and east are in agricultural use with a complex of farm buildings located further east.</p> <p>The proposed development site lies within the within the Northern Coastline Area of Outstanding Natural Beauty as shown on Map No. 17.09B of the County Development Plan as well as Coastal Cell 5: <i>'Greystones to Kilcoole (Ballynerrin)'</i> for coastal zone management purposes.</p> <p>Mature boundaries define the southern and western site boundaries with the remainder of the site perimeter not physically defined at present. The design &amp; visual impact of the proposal are considered further in the planning assessment of the Inspector's Report.</p> <p>Concerns as regards the protection of ground and surface waters can be satisfactorily mitigated through the implementation of suitable measures / controls.</p> <p>The Murrough Proposed Natural Heritage Area (Site Code: 000730) is located approximately 270m east of the site.</p> <p>The Murrough Special Protection Area (Site Code: 004186) is approximately 657m east of the site while the Murrough Wetlands Special Area of Conservation (Site Code: 002249) is c. 765m to the southeast. Screening for the</p>
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	<p>purposes of appropriate assessment has concluded that the proposed development would not be likely to have a significant effect on any European site.</p> <p>There are no further environmental sensitivities in terms 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. wetlands, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance.</p>
<p><b>3. Types and characteristics of potential impacts</b></p> <p>Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the scale of the proposed development (i.e. a single-storey dwelling house served by an on-site wastewater treatment system) and the nature of the works associated with the development, its location removed from any sensitive habitats / features, the likely limited magnitude and spatial extent of effects, and the absence of in combination effects, there is no potential for significant effects on the environment factors listed in Section 171A of the Act.</p>
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.