



An
Coimisiún
Pleanála

Inspector's Report PL-500040-WW

Development	Domestic garage, new wastewater treatment system and all associated site works.
Location	Killough Lower, Kilmacanogue, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	25/60211
Applicant(s)	Theresa Lawless
Type of Application	Permission
Planning Authority Decision	Grant Permission + Conditions
Type of Appeal	Third Party Normal Planning Appeal
Appellant(s)	Margaret Harris
Observer(s)	None
Date of Site Inspection	7 th January 2026
Inspector	Susan McHugh

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Appendix 1 – Form 1: EIA Pre-Screening

Appendix 2 – Form 2: EIA Preliminary Examination

Appendix 3 – Screening for Appropriate Assessment

1.0 Site Location and Description

- 1.1. The subject site is located in the townland of Killough Lower, c. 2km to the west of Kilmacanogue, Co. Wicklow.
- 1.2. The site is located in a rural area and to the west side of a short stretch of a narrow local road which connects the R755 to the east with the R760 to the north. A speed limit of 80km p/h applies. There are houses located to the north and south and across the road to the east.
- 1.3. The proposed development site comprises of an existing dwelling which is served by an existing septic tank and vehicular access from the local road. The existing bungalow (which appears unoccupied) has a stated floor area of 140sqm.
- 1.4. The subject site as outlined in red is irregular in configuration. It comprises of an undulating open field located to the rear of the existing house, and which slopes down to the west. There are mature stands of trees and hedgerow on the western boundary of the site, while the northern boundary is undefined. It also includes an extended area of road frontage to the north and south of the existing vehicular entrance located to the east.
- 1.5. The subject site has a stated site area of 0.5ha.

2.0 Proposed Development

- 2.1. Permission is sought for a domestic garage, new waste water treatment system, relocation and improvements to existing entrance and associated site works.
 - 2.1.1. The proposed double garage provides parking for two cars. It includes two sets of double doors along the front east facing elevation, a single window on both side elevations, with an entrance door and two windows on the rear west facing elevation. The floor area of the proposed garage is stated as 40sqm on the application form and includes a pitched roof with a ridge height of 5.725m. It is finished in a white render and roof tiles to match the existing house.
 - 2.1.2. The proposed new wastewater treatment system will replace the existing treatment plant. The application was accompanied by a Site Characterisation Form and Site-Specific Proposal dated 08/12/2021.

- 2.1.3. It is proposed to relocate and improve the existing entrance which includes the set back of the existing roadside boundary for a distance of approx. 110m.
- 2.1.4. It is also proposed to provide a separate access driveway and gate to serve adjoining lands to the north.
- 2.1.5. The proposed development was amended by way of further information lodged 29th August 2025 to include amended garage internal floor area dimensions, a reduction in the ridge height of the proposed garage, and details of existing and proposed site levels/cross sections of the area for the proposed garage relative to the existing house.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of Further Information, the planning authority granted planning permission 15/09/2025 subject to 8 no. conditions as follows

Condition No. 1 Plans and particulars

Condition No. 2 WWTS requirements

Condition No. 3 Existing septic tank on site to be removed

Condition No. 4 Roof finish blue/black slate

Condition No. 5 External walls of garage cement render finish

Condition No. 6 Restriction of garage use for private domestic use only

Condition No. 7 Requirements for area between the public road and carriageway, revised boundary to the north and south of the entrance, and entrance gates.

Condition No. 8 Surface water requirements for relocated entrance.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

An initial planning report dated 13/05/2025 recommended further information, with respect to the height and area of the proposed garage with existing and proposed site levels relative to the existing house.

A further planning report dated 15/09/2025 recommended permission be granted.

3.2.2. Other Technical Reports

- **EHO:** Report dated 01/04/25 recommends further information in relation to the proposed WWTS and location of private wells.

3.3. Prescribed Bodies

The application was circulated to An Taisce, Dept. of Housing Local Government and Heritage, Fáilte Ireland. No reports received.

3.4. Third Party Observations

Two no. third party observations were submitted to the PA, from the following parties;

- Cllr. Melanie Corrigan
- Robert Whelan.

Issues raised are similar to those raised by the third-party appellant in the grounds of appeal.

4.0 Planning History

PA Reg. Ref. 22/599 ABP-315665-23: Permission **refused** 16/02/2024 for new dwelling, connection to mains water, effluent disposal system, relocation of existing entrance on to public road to service both this dwelling and existing dwelling, upgrade of existing septic tank serving existing dwelling to new domestic waste water treatment system and percolation area and associated site works. The applicant was Jennifer Lawless. The three reasons for refusal include

1. 'The proposed development by reason of:

- (a) The site being located on a minor road which is seriously substandard in terms of width, horizontal and vertical alignment,
- (b) The extra traffic and turning movements generated by the proposed development in conjunction with the already excessive number of houses in the area with access onto this busy local road, and
- (c) The restricted sightlines at the proposed vehicular entrance and the insufficient information regarding traffic speeds on the adjacent public road.

It is considered that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users and would, therefore, not be in accordance with the proper planning and sustainable development of the area.

2. The proposed development by reason of:

- (a) The location of the site within a landscape, designated as High Amenity, and
- (b) The open and exposed nature of the site and the visibility of the proposed development from the wider landscape and from views designated with a Special Amenity Value or Special Interest,

It is considered that the proposed development, taken in conjunction with existing development in the area, would constitute an excessive density of development in a rural area designated as a High Amenity Landscape and would have a detrimental impact on a view of the Scalp and Scalp Valley from Ballyman to the west of the site which is designated with a Special Amenity Value in the Wicklow County Development Plan 2022-2028. The proposed development would contravene CPO 17.38 of the Wicklow County Development 2022-2028 which seeks to protect listed views and prospects from development, would be detrimental to the visual amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development would contribute to the suburbanisation of this rural area. It is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by wastewater treatment

facilities in a limited area. The proposed development, would, therefore be prejudicial to public health.

The Board noted on the basis of the material submitted with the application that the Inspector raised concerns relating to the existing house on the site and conditions attached to a previous permission. The Board considered that further analysis would ordinarily have been warranted, however, having regard to the substantive reasons for refusal set out above, it was decided not to pursue this further in the context of the current appeal.'

PA Reg. Ref. 21/1477: Application for permission **withdrawn** 07/04/2022 for new dwelling, connection to mains water, effluent disposal system to EPA guidelines. Alterations to existing entrance on to public road to service both this dwelling and existing dwelling, upgrade of existing septic tank serving existing dwelling to new domestic waste water treatment system and percolation area to EPA standards 2021 and associated siteworks, after a recommendation to refuse permission on grounds of traffic safety and visual amenity issues (as per planners report) by the same applicant (Jennifer Lawless).

PA Reg. Ref. 21/716: Permission **refused** 30/07/2021 for new dwelling, connection to mains water, effluent disposal system to EPA guidelines 2009 accessed via upgraded existing entrance on to public road to service both this dwelling and existing dwelling and associated site work, on grounds of traffic safety, visual amenity and issues regarding sporadic development, by the same applicant (Jennifer Lawless).

The Bray Engineers Report on file recommended that the said development be refused on the grounds of traffic safety and issues regarding concentration of septic tanks in a limited area.

PA Reg. Ref. 19/1303: Application for permission **withdrawn** 03/06/2020 for dwelling, garage, connection to mains water, effluent disposal! system to EPA 2009, new entrance onto public road to service both this dwelling and existing dwelling, closing up existing dwelling entrance and associated site works by Jennifer Lawless. Application withdrawn after a recommendation to refuse permission (as per planners report) Reasons for refusal relate to traffic safety, visual amenity, and rural housing policy.

5.0 Policy Context

5.1. Wicklow County Development Plan 2022-2028

Chapter 6 – Housing

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

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 and Biodiversity Wicklow County (as altered with Variation No. 2 (2025))

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 17.23 - To require the retention, wherever possible, of hedgerows and other distinctive boundary treatment in the County. Where removal of a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, provision of the same type of boundary will be required of similar length and set back within the site in advance of the commencement of construction works on the site (unless otherwise agreed by the Planning Authority).

Landscape Views and 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 17.38 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.

Wicklow Landscape Category Map No.17.09A As Altered – identifies the site as located in an area designated Area of High Amenity.

Views of Special Amenity Value or Special Interest View 3 - L5507 Ballyman Road, Enniskerry. View of Scalp and Scalp Valley from Ballyman.

The Single Rural Houses Design Guidelines provide that two storey garages in excess of 40sqm will not normally be permitted.

5.2. Natural Heritage Designations

- 5.2.1. There are no designated areas in the immediate vicinity of the site.
- 5.2.2. The Wicklow Mountains SPA/SAC are located approximately 5km to the west of the site. Knocksink Wood SAC and Ballyman Glen SAC are located c. 3.5 km and 4km respectively to the north. Bray SAC is c. 5km to the east and Glen of the Downs SAC is c. 3.5km to the southeast.
- 5.2.3. The Great Sugar Loaf pNHA is located c.133m northwest, and Powerscourt Woodland pNHA is located c1.75km to the east. The pNHA Dargle River Valley is located c1.75km to the north.

5.3. EIA Screening

- 5.3.1. 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.
- 5.3.2. EIA Pre-Screening is attached as Appendix 1 and EIA Preliminary Examination is attached as Appendix 2 of this report.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of the third-party appeal can be summarised as follows
- Inaccurate statement regarding entrance approval – notes recent refusal under ABP 315665 and planning history of refusals by PA.
 - Road Safety Hazards – repeatedly identified and unresolved -
 - Invalid and incomplete application
 - Existing garage – No demonstrated need

- Unnecessary and excessive development
- Failure to address third party submissions
- Conflict with Wicklow County Development Plan 2022-2028
- Wastewater and environmental health concerns
- Restrictive covenant – Section 38 sterilisation agreement

6.1.2. The grounds of the third-party appeal were accompanied by land registry folio details.

6.2. Applicant Response

- None received.

6.3. Planning Authority Response

- None received.

6.4. Observations

- None received.

7.0 Assessment

7.1. Introduction

7.1.1. I would draw the attention of An Coimisiún to the recent planning history on this site.

7.1.2. An application for permission by a different applicant (Jennifer Lawless) was granted by the PA under PA.Reg.Ref. 22/599 and refused permission under ABP-315665-23 on 16/02/2024. The subject appeal site as outlined in red essentially subdivides the overall site (as outlined under ABP-315665-23) into two.

7.1.3. The planners report of the PA however does not reference the inspectors report or the planning decision of the Coimisiún to refuse permission in the assessment of the current application.

- 7.1.4. The current application is similar in part to the recent application in that it is proposed to relocate the existing entrance onto the public road. In the current application this is to service the existing dwelling, proposed garage and new access road and gate to adjoining part of the overall site. Under the previous application the relocation of the entrance was to serve both the existing and proposed houses.
- 7.1.5. The current application also includes the area to the north and south of the existing entrance proposed to achieve sightlines within the red line boundary.
- 7.1.6. The current application differs from the previous application as it provides for a new domestic wastewater treatment system to serve the existing dwelling rather than two WWTS as previously proposed to serve both the existing and proposed dwellings.
- 7.1.7. There have been no significant changes in planning policy, and the same County Development Plan applies. The main national policy changes relate to the revised National Planning Framework and Climate Action Plan CAP 2025.
- 7.1.8. The main issues are those raised in the planning application and the grounds of appeal, and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:
- Planning Policy/Visual Amenity
 - Traffic Safety/Sightlines
 - Foul Drainage
 - Other Issues

7.2. Planning Policy/Visual Amenity

- 7.2.1. The third-party appellant raises concern in relation to the need for the proposed garage which it is submitted has not been demonstrated, is unnecessary and that the proposed works to the existing vehicular entrance and roadside boundary are excessive.
- 7.2.2. CPO 6.44 of the Wicklow County Development Plan (CDP) 2022-2028 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. All new rural dwelling houses should demonstrate good integration within the wider landscape.

- 7.2.3. The site is located within a rural area designated as Landscape Category 3 – High Amenity in the Wicklow CDP 2022-2028. The subject site is also located within a View of Special Amenity Value or Special Interest designated as View 3 Ballyman Road, Enniskerry - View of Scalp and Scalp Valley from Ballyman (as designated in the Wicklow CDP 2022-2028).
- 7.2.4. CPO 17.38 of the Wicklow County Development Plan 2022-2028 seeks 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.
- 7.2.5. I will assess the proposed garage below and works proposed to the existing vehicular entrance and roadside boundary in section 7.4 of my report.
- 7.2.6. The Single Rural Houses Design Guidelines provide that two storey garages in excess of 40sqm will not normally be permitted.
- 7.2.7. The proposed garage is a stand-alone structure located along the southern side gable of the existing bungalow. It is proposed to lower site levels in this location to accommodate the structure. The internal layout provides car parking for two cars with two sets of double doors presenting to the front east facing elevation. Floor plan drawings submitted illustrate a floor area of 51sqm based on the dimensions indicated.
- 7.2.8. Following initial concerns raised by the PA in relation to the scale of the proposed garage, revised floor plans and elevations were submitted by way of further information. The revised internal floor area of 39.98sqm (6.475m x 6.175m), meets the requirements of the above Guidelines.
- 7.2.9. The ridge height of the proposed garage was also reduced by way of further information to 5.075m from that initially proposed 5.725m.
- 7.2.10. I am satisfied that the scale and height of the proposed garage is not excessive in its context and will not be visually intrusive. I am also satisfied that subject to a condition restricting its use for non-habitable or commercial purposes that the

proposed garage would not be injurious to residential amenities of adjoining properties.

- 7.2.11. I am therefore, satisfied that the nature and scale of the proposed garage is in accordance with CPO 6.44 of the Wicklow County Development Plan 2022-2028, is not excessive, and is acceptable in this rural area.

7.3. Traffic Safety/Sightlines

- 7.3.1. The third-party appellant raises concern in relation to road safety and notes the previous reason for refusal by the Board under ABP-315665-23.
- 7.3.2. Reason for refusal no. 1 refers to the local road which is seriously substandard in terms of width, horizontal and vertical alignment, the already excessive number of houses in the area with access onto this busy local road, and restricted sightlines at the proposed vehicular entrance and the insufficient information regarding traffic speeds on the adjacent public road. It is submitted by the appellant that these hazards remain unchanged and that the proposed development would similarly endanger public safety by reason of a traffic hazard.
- 7.3.3. As already noted in the introduction the proposed development is materially different to the previous application as it does not provide for an additional house and therefore does not in and of itself result in an intensification of use of the existing entrance.
- 7.3.4. The appeal site is located on a local road which connects the R755 with the R760. I can confirm from my site visit that the minor local road is relatively narrow and is substandard in terms of horizontal and vertical alignment, and also the proximity of a number of existing vehicular entrances. I can also confirm that the existing vehicular entrance to the existing house on site provides restricted sight visibility splays in both directions exiting the site.
- 7.3.5. It is proposed to relocate the existing entrance further to the north to serve the existing house, proposed associated garage, and new access road and gate to adjoining part of the overall site. I would share the concerns raised in submissions received in relation to the purpose of this entrance particularly given the proposed new access road and gate and recent planning history on the site.

- 7.3.6. Details of the existing and proposed relocated entrance, existing boundary set back, and sightline distances are identified on the Site Layout Drawing ID 02. The Site Layout Drawing submitted is annotated with a reference to the 60m sightlines to the north and 50m to the south as agreed between WCC area Engineer and Cormac O'Brien B. Eng Traffic Consultant. This requires the removal of the existing roadside boundary for a length in total of 110m. I note the sightlines provided to the north have increased (by 10m to 60m) from the previous application which indicated a sightline of 50m. I note there is no record of a meeting on file, and no report from the Transportation section of the PA in respect of the current application, or appeal was received.
- 7.3.7. While the speed limit is 80kph I accept that operating speeds would be lower especially given the tight bend and steep climb to the R755. In the absence of a traffic survey however with evidence of lower recorded traffic speeds then sight distances based on an 80kph speed limit apply. In this respect I am not satisfied that the previous reason for refusal has been adequately addressed in the current application and would not endanger public safety by reason of traffic hazard and obstruction of road users.
- 7.3.8. I would concur with the appellant that the scale and extent of works proposed to the existing entrance and roadside boundary appears excessive given the nature of the proposed development which is ostensibly for a new domestic garage, new WWTS serving an existing house, and new access road and gate to adjoining part of the overall site. I am not convinced that the proposed development the overall site warrants a revised access arrangement.
- 7.3.9. Having regard to the location of the site within an area designated as high amenity, and the extent of works proposed to facilitate the relocated entrance and sightlines, I would have serious concerns regarding the need/environmental/visual impact of such works. In my opinion the scale and extent of works proposed requiring the removal of existing roadside planting has not been justified in the current application. I concur with the appellant that the proposed works would lead to the degradation of the rural landscape and would be contrary to policies to protect scenic routes.

- 7.3.10. I am satisfied, therefore, that the proposed relocation of the existing entrance, and removal of existing roadside planted boundary is excessive and is unacceptable in this rural area.
- 7.3.11. In my opinion the impact of the proposed works would be injurious to the visual amenity of the area, would be contrary to CPO of the Wicklow County Development Plan 2022-2028, and should be refused.

7.4. Foul Drainage

- 7.4.1. The third-party appellant raises concern in relation to compliance with EPA requirements for WWTS, CPO 13.16 (private WWTS standards) of the Wicklow CDP 2022-2028 and risk to groundwater and potential private wells.
- 7.4.2. It is proposed to decommission the existing septic tank and percolation area and install a new wastewater treatment system and soil polishing filter to serve the existing dwelling. Both the existing septic tank and the proposed WWTS are located to the rear of the existing house. The existing house is served by an existing connection to the public water mains so is not reliant on a private well.
- 7.4.3. The location, model/design and capacity of the replacement/proposed WWTS is identical to that previously proposed under PA Reg. Ref. 22/599 ABP-315665-23. However, this previous application was for both the replacement WWTS and new WWTS to serve the proposed new house.
- 7.4.4. I note from the previous inspector's report that *'there is no planning history associated with the existing house on site which appears to be of modern concrete construction. There are no details of the same in the file nor in the planners report. I would consider it important to establish whether this house has permission or not or whether it is in fact a pre 63 development.'*
- 7.4.5. I note that the current application has not provided any further information which clarifies the planning history/planning status of the existing house on site. I have however examined the publicly available Tailte Éireann GeoHive Map Viewer and the existing house appears on 1995 aerial photography of the area, so would have been constructed prior to that date.

- 7.4.6. I note from Land Registry details submitted by the appellants a reference to a grant of permission under PA Ref. 91/006616 on the 25th April 1991, to which condition no. 9 related to a Section 38 Agreement. The details submitted include a map including the subject site and Section 38 Agreement entered into by owner Theresa Lawless and the LA. I am satisfied therefore on the basis of this information that the existing house does have the benefit of planning permission from 1991 which would correspond with the aerial photographs referenced earlier.
- 7.4.7. I note that the subject site is located at a site contour of 150m in a low-lying area between the Little Sugar Loaf to the east and Ballybawn/Ballinagee to the west
- 7.4.8. The Site Characterisation Form on file dated 08/12/2021 indicates a groundwater protection response of R2, i.e. generally acceptable subject to specific conditions and requirements. The T test result is 70.33, which is not suitable for a septic tank system but may be suitable for a secondary treatment system with a polishing filter at the depth of the T-test hole.
- 7.4.9. The soil type is clay and I can also confirm from my site visit that the trial holes illustrated in the Site Characterisation Form are no longer evident on site. It is noted that the trial holes were originally inspected on 27th November 2021.
- 7.4.10. A packaged secondary wastewater treatment system and polishing filter are proposed with a raised percolation bed which will be a pressurised system. The wastewater treatment system and percolation area are downslope from the two existing dwellings to the south of the appeal site. These both appear to be in the extended family ownership (Brendan Lawless (applicant's father) and Gabriel Lawless) and each rely on WWTS.
- 7.4.11. Distances to existing septic tanks/WWTS and wells, etc., are not indicated and therefore does not accord with the recommendations provided in the EPA 2021 Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10).
- 7.4.12. I note the Environmental Health Officers Report on file dated 01/04/25 recommends further information in relation to the suitability of the proposed WWTS and location of private wells. The EHO Report refers to the water table in the surface test holes is indicated to be 500mm below ground level, but that as the subsurface test hole had

been largely filled in it could not be examined. The EHO Report notes that the 900mm of unsaturated subsoil could not be demonstrated.

- 7.4.13. The EHO concludes that ‘the current wastewater treatment proposal is not considered suitable and that the applicant should address this issue and make a submission to the satisfaction of Wicklow County Council.’ The EHO recommends that further information is required in respect of any private wells that may be within 100m of the proposed wastewater treatment system.
- 7.4.14. Despite this recommendation the PA did not seek further information on the matter on the basis that with as part of PA Reg.Ref. 22/599 it was established that the water supply for these homes is to the public mains.
- 7.4.15. The fact remains that the proposed development would result in a new waste water treatment system in the immediate vicinity of two other dwellings to the south and three more dwellings to the north, all of which appear to be served by waste water treatment systems. The location of the proposed waste water treatment system and percolation area relative to existing waste water treatment system and percolation areas serving houses to the south along with the location of any private wells has not been indicated in the application or in the appeal.
- 7.4.16. I consider that, given the location of the proposed waste water treatment system and percolation area, when taken in conjunction with the existing waste water treatment systems serving adjoining residential properties in the immediate vicinity, the proposed development would give rise to a proliferation of treatment systems in a restricted area which would be prejudicial to public health. Having regard to the above I am not satisfied that the site is suitable for wastewater treatment.
- 7.4.17. I note that reason for refusal no. 3 referred to an ‘*excessive concentration of development served by wastewater treatment facilities in a limited area*’, which would be prejudicial to public health.
- 7.4.18. While I accept that a new WWTS and percolation area would provide an improved treatment system to the existing septic tank, I am not satisfied that the current proposal which is for a replacement WWTS would not result in an intensification of private WWTS which would be prejudicial to public health.

7.4.19. In this respect I am not satisfied that the previous reason for refusal has been adequately addressed in the current application and would not be prejudicial to public health.

7.5. Other issues

7.5.1. *Legal Ownership* – The third-party appellant notes that the sightlines indicated rely on lands outside the applicant’s ownership, and that no evidence of consent has been provided.

7.5.2. Section 5.13 of the Section 28 Development Management Guidelines for Planning Authorities (June 2007) states that ‘*The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not entitled solely by reason of a permission to carry out any development.*

7.5.3. I do not consider it is necessary for the Coimisiún to comment further on the matter regarding land ownership. As stated under Section 34 (13) of the Planning and Development Act 2000 (as amended), whilst permission may be granted for the development of land, consent is still required by the owner to carry out that development. If there is a dispute, then that is a matter for the courts not the Coimisiún.

7.5.4. *Section 38 Sterilisation Agreement* – The third-party appellant notes that the application lands form part of Folio WW6520, which is subject to a sterilisation agreement entered into under Section 38 of the Local Government (Planning and Development) Act. It is submitted that the allowance for three houses under this agreement has already been exhausted and exceeded, with four family houses approved.

7.5.5. I note the wording of the Board Order under ABP-315665-23 which states that ‘*The Board noted, on the basis of the material submitted with the application, that the Inspector raised concerns relating to the existing house on the site and conditions attached to a previous permission, the Board considered that further analysis would ordinarily have been warranted, however having regard to the substantive reasons*

for refusal set out above, it was decided not to pursue this further in the context of the current appeal.'

- 7.5.6. I note the applicant has not provided any response to these grounds of appeal or sought to clarify matters in relation to a previous permission. Without clear details with respect of the planning application associated with the Section 38 agreement then I am of the opinion that the applicant needs to submit further details to satisfy the Coimisiún on this matter.

8.0 AA Screening

- 8.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located in a cluster of rural dwellings in a rural area .3.5 km and 4km respectively to the south of Knocksink Wood SAC and Ballyman Glen SAC. Glen of the Downs SAC is c. 3.5km to the southeast.

The proposed development comprises the construction of a garage, wastewater treatment system and associated site works as per Section 2.0 of this report. No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site. The reason for this conclusion is as follows:

- Nature of works
- Lack of connections to nearest European sites

I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Water Framework Directive Screening

- 9.1.1. The nearest water body is the Killough River c.183m to the west of the site (good water body status) and the groundwater body is River Dargle_20,

IE_EA_10D010100. This groundwater body is stated as being 'Poor' in relation to not meeting their Water Framework Directive objectives. The proposed development is detailed in section 2.0 of my report.

I have assessed the proposed development works 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.

9.2. The reason for this conclusion is as follows:

- Small scale and nature of the development
- Location-distance from nearest water bodies and/or lack of hydrological connections.

9.3. 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.

10.0 Recommendation

10.1. I recommend permission be refused.

11.0 Reasons and Considerations

1. The proposed development by reason of:

- a) The site being located on a minor road which is seriously substandard in terms of width, horizontal and vertical alignment,
- b) The traffic and turning movements generated by the proposed development in conjunction with the already excessive number of houses in the area with access onto this busy local road, and

- c) The restricted sightlines at the proposed vehicular entrance and the insufficient information regarding traffic speeds on the adjacent public road.

It is considered that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users and would, therefore, not be in accordance with the proper planning and sustainable development of the area.

2. The proposed development by reason of:
 - a) The location of the site within a landscape, designated as High Amenity, and
 - b) The open and exposed nature of the site and the visibility of the proposed development from the wider landscape and from views designated with a Special Amenity Value or Special Interest,

It is considered that the proposed development taken in conjunction with existing development in the area, would constitute an excessive removal of roadside boundary to serve an existing dwelling in a rural area designated as a High Amenity Landscape and would have a detrimental impact on a view of the Scalp and Scalp Valley from Ballyman to the west of the site which is designated with a Special Amenity Value in the Wicklow County Development Plan 2022-2028. The proposed development would contravene CPO 17.38 of the Wicklow County Development 2022-2028 which seeks to protect listed views and prospects from development, would be detrimental to the visual amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

3. It is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by wastewater treatment facilities in a limited area. The proposed development, would, therefore be prejudicial to public health.

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.

Susan McHugh

16th January 2026

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Coimisiún Pleanála Case Reference	PL-5000-40-WW		
Proposed Development Summary	Domestic garage, new wastewater treatment system and all associated site works		
Development Address	Killough Lower, Kilmacanogue, Co. Wicklow		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes	X	Schedule 5, Part 2, Class 1(a) of Part 2 (rural restructuring/hedgerow removal) provides that EIA is required where the length of field boundary to be removed is above 4km.	
No			
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	
Yes	X	Length of proposed roadside boundary set back is 110m	Proceed to Q.4

		substantially below the 4km threshold in Class 1(a)		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Appendix 2 - Form 2
EIA Preliminary Examination

Case Reference Number	PL-5000-40-WW
Proposed Development Summary	Domestic garage, new wastewater treatment system and all associated site works
Development Address	Killough Lower, Kilmacanogue, Co. Wicklow
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The development is a modest stand-alone construction of a domestic garage and includes works such as a new wastewater treatment system, with relocated entrance and roadside boundary set back. The existing boundary is along the west side of a narrow local road which connects the R755 to the east with the R760 to the north.</p> <p>It does not require demolition works (apart from decommissioning of the existing septic tank) or the use of substantial natural resources or give rise to significant risk of pollution or nuisance.</p> <p>The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The development is situated in a rural area on improved agricultural land which is abundant in the area.</p> <p>The development is removed from sensitive natural habitats, centres of population and designated sites and landscapes of identified significance in the County Development Plan.</p>

<p>Types and characteristics of potential impacts</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 modest nature and low impact characteristics of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</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.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____ **Date:** _____

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

(only where Schedule 7A information or EIAR required)

Appendix 3 Screening for Appropriate Assessment

I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located in a cluster of rural dwellings in a rural area .3.5 km and 4km respectively to the south of Knocksink Wood SAC and Ballyman Glen SAC. Glen of the Downs SAC is c. 3.5km to the southeast.

The proposed development comprises the construction of a garage, wastewater treatment system and associated site works as per Section 2.0 of this report. No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site. The reason for this conclusion is as follows:

- Nature of works
- Lack of connections to nearest European sites

I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.