



An  
Coimisiún  
Pleanála

## Inspector's Report PL-500340-WW-25

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<b>Development</b>	2 containers to be kept on site during construction of temporary security fencing phase. Single storey extension of machine store, removal of condition no 2 granted under reference number 21/961 and all associated site works.
<b>Location</b>	Greenane Beg , Ballintombay Lower , Rathdrum
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	25256
<b>Applicant(s)</b>	Brian Cruise
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party Appeal
<b>Appellant(s)</b>	Brian Cruise
<b>Observer(s)</b>	None

**Date of Site Inspection**

19th January 2026

**Inspector**

Frank O'Donnell

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## 1.0 Site Location and Description

- 1.1. The subject appeal site is a prominent open and exposed corner site located on the northern side of an intersection of two county roads within the Level 8 Village of Greenan (Rural Node), c. 4.7 km to the west of Rathdrum. The subject appeal site has a stated site area of 0.18 hectares and is higher than the public road. There are 2 no. containers on site and the site itself is for the most part fenced off with metal security fencing (heras type). There is an existing shop and associated outbuildings located to the immediate east. The site is adjacent and to the east of Greenan Bridge which is a Recorded Monument (WI029-006002) over the Avonbeg River.
- 1.2. The subject appeal site is located within the Mountain and Lakeshore Area of Outstanding Natural Beauty (Hierarchy 1 AONB) (Mountain Uplands).

## 2.0 Proposed Development

- 2.1. The proposed development comprises the following main elements:
  - Retention of
    - 2 no. 20 ft Shipping Containers (to be kept on site for the duration of the construction phase).
    - Temporary Security Fencing (Heras Fencing) (to be kept on site for the duration of the construction phase).
  - Permission to
    - Remove condition no. 2 of planning reg. ref. no. 21/961 (See Section 4.0 Planning History below).
    - Erect a single storey Machine Store (12 metres in length by 12 metres in width) (stated ridge height of 4.9 metres) (stated floor area of 147 sqm).
    - Erect 1.8 metre high paladin perimeter fencing and entrance gates and perimeter hedgerow.
    - Bally Lusk stone driveway or similar approved stone.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Local Authority issued a decision to REFUSE permission in October 2025 for the following 5 no. reasons, as follows:

1. *Having regard to,*

- (a) The design, nature and location of the proposed machinery store and Paladin perimeter fencing development on a prominent site within Greenane a Level 8 village and an Area of Outstanding Natural Beauty.*
- (b) The house design, layout, size, internal standards, shared wastewater treatment and lack of dedicated car parking,*
- (c) Objective 6.4 of the County Development Plan 2022-2028 i.e. 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,*
- (d) Appendix 1: Development and Design Standards of the Wicklow County Development Plan 2022-2028 which requires new developments in Level 8 settlements to be designed such that it fits with its surroundings and complements any existing development in the settlement.*

*It is considered that the proposed development, would not fit within its surroundings and complement the existing development in the settlement, would therefore materially contravene objective 6.4 of the County Development Plan 2022 – 2028 as it would not achieve a high quality of layout and design to accord with Section 3.3.8 of the Development and Design Standards and would be contrary to the visual amenities of the area and to the proper planning and sustainable development.*

2. *The proposed removal of Condition number 2 of PPR 21/961 represents a fundamental change to the permitted development. The omission of Condition*

*2 entails the creation of standalone residential units for permanent occupation as opposed to holiday use. The proposed development is located within the Level 8 – TYPE 2 Village, these settlements represent the more rural settlements in the County. It is an objective of the County Development Plan as set out under Objective CPO 6.37 that any new single house developments shall be for persons who are either a resident for at least 3 years duration in County Wicklow or in permanent employment for at least 3 years duration in County Wicklow, of within 30km of Greenane prior to making of application. Compliance with this requirement has not been demonstrated. The Planning Authority is therefore not satisfied that this development will meet the needs of local as opposed to regional growth and therefore the development is contrary to the stated County Development Plan policy and to the proper planning and sustainable development of the area.*

- 3. Having regard to the limited size of the landholding, and the inadequate information provided regarding the proposed use of the lands, it has not been demonstrated that the proposed development is necessary to support the use of the lands for agriculture or agri-business. Consequently, the proposed development would not be in accordance with the objectives of the County Development Plan 2022-2028 relating to agriculture and would be contrary to the proper planning and sustainable development of the area.*
- 4. The proposed development would be prejudicial to public health and would materially contravene the Wicklow County Development Plan 2022-2028 because:*
  - (a) Objective CPO 13.17 of the Wicklow County Development Plan 2022 – 2028 states that private wastewater treatment plants for multi-house developments will not be permitted.*
  - (b) Inadequate information has been submitted to should that the effluent treatment system would accord with the provisions of the Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ ) Code of Practice published by the EPA 2021. to public health.*
  - (c) Inadequate information has been submitted to show that the proposed development itself is not at risk of flooding and the development does not*

*increase the flood risk in the relevant catchment (both up and down stream of the application site), taking into account all sources of flooding.*

5. *The proposed development would endanger public safety by reason of serious traffic hazard because the attainment of adequate sightlines has not been demonstrated for the entrance location of this development.*

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- The **Local Authority Planner** raised concerns as to the proposed development description, as presented. In particular, the Local Authority Planner considered that item no. 4 of the proposed development description, which relates to '*planning permission to remove condition no. 2 granted under planning permission register reference number 21/961*' could be interpreted as being misleading by a member of the public. The proposed dwelling size, shared effluent treatment system, the lack of a defined access, dedicated parking or private amenity spaces for the 2 no. permitted holiday cottages are highlighted as an additional concerns, particularly as the Applicant is seeking permission to repurpose the said properties as permanent residences for local occupancy by persons satisfying local need criteria. The Local Authority Planner notes the proposals omit the grass verge and seek to introduce a new entrance without the provision of sightlines. It is further noted by the Local Authority Planner that the proposed 2 no. 2-bed residential units are located entirely within the identified Flood Zones and that the severity of associated flood impacts could be intensified as a result of the excavation of the subject lands within Flood Zone B.
- In reference to the retention of the caravan, shipping container and security fencing, the Local Authority Planner submits that while it may be reasonable to retain these elements during the construction phase, this has yet to be defined and would appear to be indefinite, without a valid planning permission. The fencing is not considered to be necessary until building works commence.

- No information has been presented by the Applicant as to how they or identified purchaser(s) qualify to build or buy a dwelling in the area, as per Objective CPO 6.38 of the County Development Plan, 2022 to 2028.
- In relation to the proposed Machinery Shed, the Local Authority Planner considers there is a lack of information presented to show how the proposal would be in accordance with CPO 9.41 of the Wicklow County Development Plan, 2022 to 2028, which relates to new agricultural buildings.
- The proposed design and siting of the Machinery Shed, fencing and shipping containers is out of context with the prominent and sensitive setting of the subject site. Under planning reg. ref. no. 23/60441 an application for a dwelling on the site was withdrawn following a recommendation to refuse permission on the site on the basis of the proposed design and layout. Although the site has been cleared and partially levelled, the permitted 2 no. holiday cottages have not been commenced to date. The Local Authority Planner considers the proposed development would not be part of the village settlement and that the industrial type design of the Machinery Shed is not considered appropriate. As such, the Local Authority Planner considers the proposed development does not accord with Section 3.38 of Appendix 1 Development and Design Standards and that as such it is contrary to the Objective of the Development Plan and the proper planning and sustainable development of the area. Although the permitted 2 no. holiday homes have been deemed acceptable from a design and visual impact perspective, the proposed change of use would require reassessment and this is considered by the Local Authority Planner to be unacceptable. Sufficient private open space remains on site, but there has been no private parking identified.
- The Local Authority Planner finally notes the location of the proposed bored well is not indicated and that there are nearby wastewater treatment systems. It is not clear how the permitted effluent treatment system will be amended to be compliant with planning reg. ref. no. 21/961 having regard to the extent of onsite excavations which have occurred. There is also a concern as to how the proposed soakaway system will function, as well as the continued

drainage in the area and the fact that it is proposed to serve 2 no. residential units via one shared effluent treatment system contrary to CPO 13.17.

- In relation to Access and Parking the Local Authority Planner considers alterations have been made to the grass margin/ verge, footpath and siting of the proposed structure to the road at the front of the permitted holiday cottages. A new access is proposed between the holiday cottages and the machinery shed with no parking proposed or sightlines indicated.
- The concerns of the Environment Department, see below, are referenced by the Local Authority Planner. Refusal is recommended as per the 5 no. reasons for refusal issued.

### 3.2.2. Other Technical Reports

- The **Area Engineer** recommends that Further Information be sought in relation to the surface water drainage arrangements and maintenance of existing drainage routes via open drains serving as drainage channels for the site and adjoining fields. These were piped to the Avonbeg River during previous footpath works in the area.
- The **Environment Department** recommend that Further Information be sought in relation to the type of machinery proposed to be stored within the Machinery Store, the proposed activities (i.e. if it is proposed to carry out the maintenance of machinery in the shed) and whether it is proposed to store fuels/ oils/ solvents in or within the vicinity of the proposed Machinery Shed.
- The **Transportation & Infrastructure Delivery Department** recommend that Further Information is sought in relation to Access & Sightlines, Details of the proposed Site Entrance (gradient, surfacing, surface water discharges) and the nature and types of Large Vehicles/ Machinery proposed and a swept path analysis for large vehicles.

### 3.3. Prescribed Bodies

- None

### 3.4. Third Party Observations

- None

## 4.0 Planning History

### 4.1. Planning History on the subject appeal site

- **23/60441:** Applicant: Nicola Fennell. Permission for the construction of a new dwelling, garage, wastewater treatment unit and polishing filter, new well, new entrance onto public road and associate works. Application WITHDRAWN in February 2024.
- **22/1232:** Applicant: Laurence McCarthy. Permission for conversion of part of out buildings to a 2-bedroom apartment. Permission was GRANTED in April 2023 subject to 5 no. conditions.
- **21/961:** Applicant: Laurence McCarthy. Permission for the construction of 2 no. holiday homes, connection to existing effluent unit and all associated site works. Permission was GRANTED on 29<sup>th</sup> March 2022 subject to 8 mo. conditions.

Condition no. 2 of planning reg. ref. no. **21/961** read as follows:

2. *Prior to the commencement of the development. the applicant shall enter into a legal agreement with the Planning Authority specifying that the entire development, consisting of the proposed tourism development and the existing dwelling/pub/shop, outbuildings and any other structure on the landholding delineated in red on the site location map submitted on 4/08/21 shall be held in single ownership and shall not be subdivided, and the holiday units shall be available for short term holiday letting only of maximum duration 4 weeks. This agreement shall be registered as a burden against this site in the Land Registry within three months of commencement of development.*

*REASON: To ensure that the development is suitable accords with the policies of the County Development Plan as regards tourism infrastructure.*

Condition no. 4 of planning reg. ref. no. **21/961** read as follows:

- **19/930:** Applicant: Laurence McCarthy. RETENTION of a sewage treatment system and percolation area. RETENTION was GRANTED in May 2020 subject to 3 no. conditions.
- **14/1206:** Applicant: Laurence McCarthy. RETENTION of effluent Treatment system. RETENTION was REFUSED in March 2022 for 2 no. reasons, as follows:
  1. *The proposed development would be prejudicial to public health because insufficient information has been submitted to properly assess the effluent treatment system installed, and from examination no evidence of the polishing filter is visible on site, and the in the absence of such evidence the system cannot be confirmed to comply with current EPA standards.*
  2. *The proposed development would represent consolidation of un-authorized development on this site, having regard to the existing converted outhouse on site, delineated on the plans as a dwelling 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 objectives of the County Development Plan and planning regulations and would be contrary to proper planning and sustainable development.*

#### 4.2. Planning History on the adjacent site to the immediate north

- **20/51:** Applicant: Laurence McCarthy. Permission for bungalow, detached domestic garage, effluent treatment system in accordance with EPA 2009 and associated site works. Permission was **GRANTED** in October 2020 subject to 10 no. conditions.

#### 4.3. Enforcement History

- **UD5930:** Alleged Unauthorised Development consisting of new entrance, caravan and container on site.

## 5.0 Policy Context

- *Wicklow County Development Plan, 2022 to 2028 (the Development Plan)*

### 5.1. Development Plan

5.1.1. I have reviewed the Development Plan and I consider the following Chapters, Sections, Policies and Objectives to be of relevance to the assessment of the proposed development.

5.1.2. **Chapter 4** relates to **Settlement Strategy**. The subject appeal site is located within Greenan Village which is designated as a Level 8 Village (Type 2). As part of the Role and Function of such settlements, the following is stated:

***‘These settlements have limited capacity to absorb growth. As such, the scale of new residential development should be in proportion to the scale, pattern and grain of the existing village. Expansion of the village should be commensurate within the existing village structure and should proceed on the basis of a number of well integrated sites including infill sites within and around the village centre rather than focusing on one very large site. In order to facilitate commensurate growth, any multi-unit housing development should not be larger than 5 units.’***

5.1.3. Section 4.3 relates to Settlement Strategy Objectives and includes the following:

- **CPO 4.13:** *To require that the design, scale and layout of all new residential development is proportionate to the existing settlement, respects the character, strengthens identity and creates a strong sense of place.*
  - *For Level 6 towns no one development should increase the existing housing stock by more than 10%.*
  - *For Level 7 Villages, any multi-unit housing development should not be larger than 10 units.*
  - *For the Level 8 Villages, any multi-unit housing development should not be larger than 5 units.*

- **CPO 4.14:** *To ensure that key assets in rural areas such as water quality and natural and cultural heritage are protected to support quality of life and economic vitality.*
- **CPO 4.15:** *To protect and promote the quality, character and distinctiveness of the rural landscape.*

5.1.4. Housing Occupancy Controls apply to Multi-House Developments and ii) Single House in Level 8 (Type 2) Villages, see **CPO 6.38** below.

5.1.5. **Chapter 5** relates to **Town and Village Centres – Placemaking and Regeneration.**

### **Objectives**

#### Healthy Town Centres – Vitality & Viability

- **CPO 5.3:** *To particularly promote and facilitate residential development in town and village centres:*
  - *Promote the ‘active’ use of above ground floor levels, and in particular to promote the concept of ‘living over the shop’ in centres. Where a ‘living over the shop’ use is proposed, a relaxation in density, car parking and open space standards will be considered, where the development meets very high quality of design and accommodation.*
  - *Other than in the retail core area, residential development shall be the primary development objective for lands zoned town centre or village centre. This shall not preclude commercial development on lands zoned town centre or village centre when suitable sites are not available in the core retail area.*
  - *For smaller towns that do not have a defined core retail area the priority will be to facilitate uses which are consistent with maintaining activity and vitality in the town centre and addressing vacancy. While this may allow for the development of residential only developments in the town centre, any such proposals shall fully justify how such use will not diminish vibrancy in the town centre, or result in the town not being able to meet the retail / services needs of the local population.*

## **Regeneration & Renewal**

- **CPO 5.8:** *To target development that will regenerate and revive town and village centres, address dereliction and vacancy and deliver sustainable reuse and quality placemaking outcomes.*
- **CPO 5.9:** *To facilitate and support well-designed development that will contribute to regeneration and renewal, consolidation of the built environment and include interventions in the public realm and the provision of amenities.*

## **Placemaking**

- **CPO 5.16:** *To actively pursue and implement environmental and public realm improvements and provision of amenities that create more attractive places and encourage healthier lifestyles for all ages and abilities.*

## **Heritage**

- **CPO 5.17:** *To harness and integrate the special physical, social, economic and cultural value of built heritage assets through appropriate and sensitive reuse, recognising its important contribution to placemaking. New development should respect and complement the historic fabric of existing towns and villages – the traditional street patterns, plot sizes, mix of building types, distinctive paving and attractive street furniture.*
- **CPO 5.18:** *To protect, integrate and enhance heritage assets, including attractive streetscapes and historic buildings, through appropriate reuse and regeneration and restrict inappropriate development that would undermine the settlement's identity, heritage and sense of place.*

5.1.6. **Chapter 6** relates to **Housing**.

## **Housing Objectives**

### **General**

- **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.*

## Design

- **CPO 6.3:** *New housing development shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.*
- **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).*

## Housing in Rural Settlements

- **CPO 6.38:** *To implement the following housing occupancy controls for Type 2 Villages (Level 8), as set out in the Settlement Strategy:*

### **Multi-House Development**

*50% Applicant / purchaser of any new home must be either:*

- *a resident for at least 3 years duration in County Wicklow or*
- *in permanent employment for at least 3 years duration in County Wicklow,*

*of within 30km of the Type 2 Village in question prior to making of application / purchase of new house.*

*50% Applicant / purchaser of any new home must be either:*

- *a resident for at least 5 years duration in County Wicklow or*
- *in permanent employment for at least 5 years duration in County Wicklow,*

*of within 15km of the Type 2 Village in question prior to making of application / purchase of new house.*

### **Single House**

*100% Applicant / purchaser of any new home must be either:*

- *a resident for at least 5 years duration in County Wicklow or*
- *in permanent employment for at least 5 years duration in County Wicklow,*

*of within 15km of the Type 2 Village in question prior to making of application / purchase of new house.*

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

### **Housing in the Open Countryside**

- **CPO 6.44:** *To require that rural housing is well-designed, simple, unobtrusive, responds to the site's characteristics and is informed by the principles set out in the Wicklow Single Rural House Design Guide. All new rural dwelling houses should demonstrate good integration within the wider landscape.*
- **CPO 6.45:** *Subject to compliance with CPO 6.41 (rural housing policy), the Council will facilitate high quality rural infill / backland development in accordance with the design guidance set out in the Wicklow Rural House Design Guide provided that such development does not unduly detract from the residential amenity of existing properties or the visual amenities of the area, or the rural character and pattern of development in the area and does not result in a more urban format of development.*
- **CPO 6.46:** *Subject to compliance with CPO 6.41 (rural housing policy), the Council will facilitate a new dwelling house that results in the creation of a rural cluster layout provided that such development is of a high quality design, meets all requirements in terms of public health and safety and does not unduly impact on the residential amenity of neighbouring properties.*

5.1.7. Chapter 8 relates to **Built Heritage**.

#### **Archaeology Objectives**

- **CPO 8.2:** *No development in the vicinity of a feature included in the Record of Monuments & Places (RMP) or any other site of archaeological interest will be permitted which seriously detracts from the setting of the feature or which is seriously injurious to its cultural or educational value.*

5.1.8. Chapter 9 relates to **Economic Development**.

#### **General Objectives**

- **CPO 9.3:** *To normally require new employment generating developments to locate on suitably zoned or identified land in settlements. Proposals in settlements with no zoning plan should be assessed on the basis of their individual merits, taking into consideration the objectives set out in this chapter of the plan and all other matters pertaining to the proper planning and sustainable development of the area, including ensuring that the proposal is appropriately sited in a location so that it enhances, complements, is ancillary to or neutral to the existing land uses in the area. All other proposals for employment generating developments outside of settlements will be assessed on the 'Objectives for Wicklow's Rural Economy'.*
- **CPO 9.5:** *To permit proposals for employment generating development where it can be demonstrated that the development complies with the relevant development standards and is not detrimental to residential amenity or to environmental quality and is acceptable with regard to its impact on the character and visual amenity of the area. Regard will be paid to ensuring that existing or planned infrastructure can acceptably accommodate a proposed development. Developments that result in a high level of traffic generation that cannot be accommodated by the local road network in the vicinity, that are detrimental to residential amenity, the character or visual amenity of an area or to existing service infrastructure will not be permitted.*

#### **Rural Economy Objectives**

- **CPO 9.32:** *To permit the development of employment generating developments in rural areas, where it is proven that the proposed*

*development requires to be located in a rural area (e.g. dependent on an existing local resource) and will have a positive impact on the location.*

- **CPO 9.35:** *To permit the development of small-scale commercial / industrial developments in rural areas that are not dependent on an existing local resource, subject to compliance with all of the following criteria:*
  - *The proposed development shall be a small-scale industrial / commercial scheme or service and the number employed shall be appropriate in scale to the location and its characteristics, including proximity to the workforce and customers;*
  - *the proposed development shall be located on the site of a redundant farm building / yard or similar agricultural brownfield site; and*
  - *the nature and scale of the proposed development and the proposed process or activity to be carried out, shall be appropriate to and compatible with, the character of the rural environment of the site at which the development is proposed, and shall not be detrimental to the rural amenity of the surrounding area. In the assessment of planning applications, cognisance shall be taken of the location of the site vis-à-vis the proximity of the site to the national and regional road network.*

5.1.9. **Chapter 11** relates to **Tourism & Recreation**.

5.1.10. **Chapter 13** relates to **Water Services**.

#### **Objectives**

- **CPO 13.17:** *Private wastewater treatment plants for multi-house developments will not be permitted.*

5.1.11. **Chapter 14** relates to **Flood Risk Management**.

#### **Flood Risk Management Objectives**

- **CPO 14.06:** *To implement the 'Guidelines on the Planning System and Flood Risk Management' (DoEHLG/OPW, 2009).*
- **CPO 14.09:** *Applications for new developments or significant alterations/extension to existing developments in an area at risk of flooding shall comply with the following:*

- *Follow the ‘sequential approach’ as set out in the Flood Risk Management Guidelines;*
- *An appropriately detailed flood risk / drainage impact assessment will be required with all planning applications, to ensure that the development itself is not at risk of flooding and the development does not increase the flood risk in the relevant catchment (both up and down stream of the application site), taking into account all sources of flooding;*
- *Restrict the types of development permitted in Flood Zone A and Flood Zone B to that which are ‘appropriate’ to each flood zone, as set out in Tables 3.1 and 3.2 of the Flood Risk Management Guidelines unless the ‘plan making justification test’ has been applied and passed;*
- *Where a site has been subject to and satisfied the ‘Plan Making Justification Test’ development will only be permitted where a proposal complies with the ‘Justification Test for Development Management’, as set out in Box 5.1 of the Guidelines.*
- *Flood Risk Assessments shall be in accordance with the requirements set out in the Guidelines and the SFRA.*

*Where flood zone mapping **does not indicate a risk of flooding** but the Planning Authority is of the opinion that flood risk may arise or new information has come to light that may alter the flood designation of the land, an appropriate flood risk assessment will be required to be submitted by an applicant for planning permission and the sequential approach shall be applied as the ‘Plan Making Justification Test’ will not be satisfied.*

- **CPO 14.10:** *To prohibit development in river flood plains or other areas known to provide natural attenuation for floodwaters except where the development can clearly be justified with the Flood Risk Management Guidelines ‘Justification Test’.*
- **CPO 14.11:** *To limit or break up large areas of hard surfacing in new developments and to require all surface car parks to integrate permeability measures such as permeable paving.*

- **CPO 14.12:** *Excessive hard surfacing shall not be permitted for new, or extensions to, residential or commercial developments and all applications will be required to show that sustainable drainage techniques have been employed in the design of the development.*
- **CPO 14.13:** *Ensure the implementation of Sustainable Urban Drainage Systems (SUDS) in accordance with the Wicklow County Council SuDS Policy to ensure surface water runoff is managed for maximum benefit. In particular to require proposed developments to meet the design criteria of each of the four pillars of SuDS design; Water Quality, Water Quantity, Amenity and Biodiversity.*

5.1.12. **Chapter 17** relates to **Natural Heritage and Biodiversity**.

5.1.13. The following Development Plan Appendices, as set out in Volume 3, are also considered to be of relevance to the assessment of the proposed development:

- **Appendix 1: Development and Design Standards**
- **Appendix 2: Single Rural Houses Design Guidelines**
- **Appendix 5: Landscape Character Assessment of the Wicklow County Development Plan, 2016 to 2022.**
  - **Section 5.3: Key Development Considerations**
  - **Section 5.3.2 The Mountains Uplands KDC (see Appendix 4 Map 10.13 b)**
    1. *All developments within the Mountain Uplands AONB landscape area shall be accompanied by a detailed justification of the need for the proposed development at this location.*
    2. *Where development is to be permitted within the Mountain Uplands AONB landscape area a very high standard of siting, design and landscaping will be required in order to ensure that the proposed development will be assimilated into the existing landscape.*
    3. *To ensure that developments on steep slopes (i.e. 10%) will not be conspicuous or have a disproportionate or dominating visual impact*

*on the surrounding environment as seen from relevant scenic routes and settlements.*

- 4. To maintain the favourable conservation status of existing natural habitats including Natura 2000 sites (SACs and SPAs) and Annex I-Habitats and Annex II-Animal and Plant species within this Mt. Uplands AONB landscape area.*
- 5. To support and facilitate in co-operation with relevant bodies, the provision of amenity routes within and adjoining the Mountain Uplands AONB landscape area in a manner which does not detract from the scenic nature of the area.*

## **5.2. Natural Heritage Designations**

5.2.1. The site is not located within or adjacent to a Natura 2000 site. The nearest Natura 2000 sites are as follows:

- Vale of Clara (Rathdrum Wood) SAC (Site Code: 000733) located c. 3.4 km to the northeast.
- Wicklow Mountains Special Area of Conservation (SAC) (Site Code: 002122) located c. 4.5 km to the northwest.

## **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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The proposed development is the subject of a First Party Appeal. The main Grounds of Appeal can be summarised as follows:

- Reason for Refusal no. 1 Design
  - Permission has already been granted for the 2 no. dwelling units under planning reg. ref. no. 21961 which is an extant permission. The design and layout of the said 2 no. units has already been deemed to be acceptable.
  - It is unreasonable to now refuse permission on the basis of design, given that permission has already been granted.
  - The Applicant has submitted revised architectural drawings for the consideration of the Commission, intended to respond to the reasons for refusal. The revised proposals include individual car parking spaces for each of the residential units. Each residential unit will be served by generous individual rear private garden space.
  - The Applicant submits that the houses permitted under 21961 can be accommodated for use as private residential homes.
  - The Applicant invites the Commission to review the revised proposals as presented.
  - Regarding the proposed Machine Store, the Applicant submits it will be of only 3.5 metres in height, set back from the roadside and therefore will have a negligible impact on the established character of the area. The Applicant submits this is further supported by the proposed boundary treatment and landscaping proposals which can include semi-mature planting. This will address any visual impact. The Applicant is willing to accept an appropriate condition in this regard which would ensure such planting is carried out in the first planting season.
  - There is an existing agricultural shed on lands further to the east which is higher than the subject proposal. The proposed store would have no

adverse visual impact owing to the backdrop of a much larger agricultural shed. Given the immediate context of its surroundings, it is unreasonable to refuse the proposed machinery store.

- The Appellant submits the first reason for refusal has been overcome.
- Reason for Refusal no. 2 Local Needs
  - Reason for refusal no. 2 notes that the proposed omission of Condition no. 2 of planning reg. ref. no. 21961 does not comply with Objective CPO 6.38. The Applicant acknowledges he does not comply with Objective CPO 6.38. The applicant is willing to accept a condition which restricts the occupancy of the dwellings to those who comply with Objective CPO 6.38 of the Development Plan. The Applicant has provided suggested wording for such a condition.
  - The Applicant reiterates that permission has already been granted under planning reg. ref. no. 21961. It is the intention of the Applicant to construct the houses however the provision of tourist accommodation is not economically viable. The Applicant is therefore seeking to provide permitted houses as permanent private residences. This will assist in the delivery of rural housing in the Greenan area.
  - The Applicant submits that Reason for Refusal no. 2 can be overcome by way of a suitably worded condition.
- Reason for Refusal no. 3 Use of Lands
  - The proposed development will have a Residential use and a Storage use.
  - The residential element will relate to the 2 no. houses and associated private open space and car parking area.
  - The Machinery Store is proposed for the storage of machinery for use of local hedge cutting and tree felling machines.
  - The remainder of the site will be devoted to the Wastewater Treatment System permitted under planning reg. ref. no. 21961.
  - There is adequate space on the subject site (0.18 hectares) to accommodate the required storage.

- The Applicant's Planning agents note that no intensive work will take place within the machinery storage building.
- The Applicant submits there is sufficient information presented in the Appeal to overturn Reasons for Refusal no. 3.
- Reason for Refusal no. 4 Drainage
  - The Applicant submits that reason for refusal no. 4 relates to civil matters. Reasons 4 a) and 4 b) relate to wastewater treatment system (WWTS) and 4 c) relates to flood risk.
  - The WWTS has already been granted under planning reg. ref. no. 21261. The Applicant is seeking to utilise this permitted system and requests that the Commission grant permission in this regard. The Response to Further Information under planning reg. ref. no. 21961 confirmed that the system could accommodate 8 persons. The Applicant invites the Commission to refer to the documentation of planning reg. ref. no. 21961.
  - Both dwellings have 2 bedrooms each and would therefore cater for a maximum of 4 no. occupants each (8 in total). The permitted WWTS is therefore suitably sized. The 2 no. dwellings would share the WWTS subject to a formal management agreement which could be agreed by way of condition. The Applicant submits the WWTS permitted under planning reg. ref. no. 21961 is therefore acceptable for the subject application.
  - In relation to Flood Risk, permission has already been granted under planning reg. ref. no. 21961 with no flood risk concerns raised. There are significant differences in level between the River Avonbeg and the subject site. The applicant can provide a reinforced concrete wall to prevent any issue of flooding or spillage to the river.
  - Flood Risk was not raised as an issue in recent applications in the area which include planning reg. ref. no. 211233 and 2051.
  - There is sufficient and adequate information presented to ensure appropriate drainage systems are provided to the proposed houses and to ensure that the site will not be at risk of flooding, nor that it will increase flood risk elsewhere.

- The Commission is requested to overturn the decision of the Local Authority, particularly the permitted development on site, as planning reg. ref. no. 21961 refers.
- Reason for Refusal no. 5 Sightlines
  - The Applicant has presented an updated layout as part of the Appeal submission. The fencing and hedging has been removed to ensure adequate sightlines can be achieved. The speed limit is 60kn/h and 90 metre sightlines are achievable. The Applicant is willing to accept any appropriate boundary treatment condition whilst also achieving adequate sightlines.
  - The Applicant submits that reason for refusal no. 5 can be overcome.

## 6.2. Planning Authority Response

- None

## 6.3. Observations

- None

## 6.4. Further Responses

- None

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal and the reports of the planning authority and having inspected the site, and having regard to relevant local/ regional and national policies and guidance, I consider the main issues in this appeal are as follows:

- Flood Risk
- Effluent Treatment
- Traffic Safety/ Sightlines

- Condition no. 2 of planning reg. ref. no. 21/961
- Design
- Machinery Store
- Other Matters
  - *Material Contravention*

## 7.2. Flood Risk

- 7.2.1. Part c) of Reason for refusal no. 4 relates to the issue of Flood Risk. The Local Authority is of the view that inadequate information has been provided to show that the proposed development itself is not at risk of flooding and the development does not increase the flood risk elsewhere in the catchment (both upstream and downstream of the application site), taking account of all sources of flooding. I note the application is not accompanied by a Flood Risk Assessment.
- 7.2.2. I note the Applicants' planning case in relation to Flood Risk as set out in the Appeal submission.
- 7.2.3. As per Figure B.10 of Appendix 8 of Volume 3 of the Development Plan, a significant part of the southern part of the subject appeal site is shown to be located within indicative Flood Zones A and B. The 2 no. holiday cottages and associated effluent treatment system, approved under planning reg. ref. no. 21/961, are shown to be partially located within Flood Zone B. The junction of the proposed site entrance with the public road is shown to be located entirely within Flood Zone B.
- 7.2.4. I note the previous application, reg. ref. no. 21/961, was Granted permission in March 2022 under the previous County Development Plan (2016 to 2022). The current Development Plan (2022 to 2028) came into force in September 2022. The issue of Flood Risk did not arise as part of the Local Authority Planners Assessment of planning reg. ref. no. 21/961. I note the Flood Map for Greenan, as shown in the image for Greenan on page 87 of Appendix 11 of Volume 3 of the previous Wicklow County Development Plan (2016 to 2022) differs from the current Flood Zone Map and does not indicate the subject appeal site within the extents of Flood Zone A or B. Having regard to the more up to date Flood Map for Greenan, as set out in Figure B.10 of Appendix 8 of Volume 3 of the current Development Plan (2022 to 2028) and to the flood extents indicated on current CFRAM Mapping, which is available online,

it is my opinion that there is an onus upon the Applicant, to demonstrate, by way of an appropriate Flood Risk Assessment that the proposed development, as presented, is acceptable from a Flood Risk perspective. In the absence of same, it is my opinion, that the Applicant has not demonstrated that the proposed development is acceptable from a flood risk perspective.

- 7.2.5. Should the Commission be favourably disposed to considering a Grant of permission, further information could be sought in relation to this issue, however, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

### 7.3. Effluent Treatment

- 7.3.1. The Applicant is proposing to service the 2 no. dwellings with a shared effluent treatment system and percolation area. The principle for a shared effluent treatment system to serve 2 no. holiday cottages is established under planning reg. ref. no. 21/961. The Applicant indicates that the further information response submitted under planning reg. ref. no. 21/961 confirmed that the permitted effluent treatment system could accommodate 8-persons.
- 7.3.2. The proposed scenario to serve both dwellings by means of a single effluent treatment system, in my view, has the potential to create significant issues into the future in terms of the appropriate management and maintenance of such a system and would serve to create an undesirable precedent for similar proposals. In this regard I note Wastewater Objective CPO 13.17 of the Development Plan which states *'Private wastewater treatment plants for multi-house developments will not be permitted.'* In my opinion, the proposed development does not accord with CPO 13.17.
- 7.3.3. I note that site levels have recently been raised on the subject appeal site and that this includes the area of the site upon which the effluent treatment system and associated percolation area is proposed to be located. The drainage characteristics of this imported or regraded material are unclear. In a scenario where the revised levels are being proposed, it is my opinion that a revised Site Characterisation Test would be necessary. In any case, new individual revised tests would be required in the case of a multiple unit development as a shared system would not be acceptable as set out above.

7.3.4. I note the position of the proposed bored well along the northwest site boundary to the east of the proposed Machinery Shed. I estimate this to be within c. 16.5 metres to the northwest of the proposed percolation area. I note the EPA Site Characterisation Form attached as part of the Response to Further Information under planning reg. ref. no. 21/961. It is accepted that the location of the proposed bored well is on higher ground to the rear of the site relative to the location of the proposed effluent treatment system and percolation area and that the ground falls in a general southwest direction. I further note the location of the proposed bored well is shown to be over 30 metres away from the existing soil polishing filter on the adjacent site to the immediate northeast. In this regard, the location of the proposed bored well, in terms of adequate separation distances, would be consistent with recommendations set out in the EPA Code of Practice (Domestic Waste Water Treatment systems (Population Equivalent  $\leq 10$ ), 2021). It is important however to any new effluent treatment system is sufficiently down gradient from the location of the proposed bored well.

7.3.5. Finally, as noted further above, the proposed development site is considered to be at risk of flooding and the proposed effluent treatment system is located within Flood Zone B. The proposed location of such a system within Flood Zone B would need to be suitably justified as part of a Flood Risk Assessment. In the absence of same, it is my opinion that the proposed effluent treatment system, as presented, has the potential to create a significant pollution risk and resultant negative impact to public health.

#### 7.4. Traffic Safety/ Sightlines

7.4.1. Reason for refusal no. 5 relates to an endangerment of public safety by reason of serious traffic hazard because the attainment of adequate sightlines has not been demonstrated for the entrance location of this development. I note the proposed site vehicular entrance is positioned in the centre of the southern site boundary to the west side of the 2 no. dwellings previously permitted under planning file ref. no. 21/961. The principle for a vehicular entrance to the site at this location is not established under planning reg. ref. no. 21/961.

7.4.2. As part of the Appeal submission, the Applicant has provided a revised Site Layout Drawing (Drg. no. 005) indicating proposals for the achievement of 90 metre and 60

metre sightlines in both an eastern and northwestern direction. The sightlines are shown to the near edge of the public road and the Applicant has referenced a 60 km speed limit. In the written appeal submission, the Applicant states *'it is noted that the speed limit on the subject road is 60 km/h, with 90-metres of sight lines achievable.'*

- 7.4.3. The proposed sightlines of both 90 metres and 60 metres to the east towards and past the existing shop are currently obscured by, but not limited to, an existing low block wall and piers located to the front of existing shop to the east. These lands are not understood to be in the ownership or control of the Applicant, and no consent has been provided for works on said lands which, in my view, would be necessary to enable the achievement of the sightlines, as presented.
- 7.4.4. No sightline is indicated to the southwest towards Greenan Bridge. A 90 metre sightline in this direction from the proposed site entrance to the nearside of the said Bridge would, in my opinion, be obscured by the existing bridge wall on its southeast side. A 60 metre sightline in this southwest direction may be achievable, but this has not been demonstrated by the Applicant.
- 7.4.5. The proposed sightline to the northwest is similarly shown to traverse third party lands which comprise a separate folio and which form part of the defined dwelling site permitted under planning reg. ref. no. 20/51, which is currently under construction. The permitted site layout for planning reg. ref. no. 20/51 shows a new stone wall set back from the front roadside and I note condition no. 6 a) and 6 b) of same, planning reg. ref. no. 20/51, relate to the treatment of said roadside boundary.
- 7.4.6. I note that the levels within the subject site have been raised to the northwest of the proposed site entrance and that the site boundary along the public footpath, as per proposed site layout drawing (Drg. No. 004, received by the Local Authority on 04<sup>th</sup> September 2025) is shown to comprise a new boundary hedge of indigenous species. I note as part of the Appeal submission, the Applicant states it is now proposed to remove the fencing and hedgerow from the proposal and that this can be confirmed with an appropriate drawing submitted under separate cover of this appeal, outlining that adequate sightlines have been achieved. The achievement of a 90 metre sightline, as shown on the Applicants revised site layout drawing (Drg. 005 received by the Commission on 25<sup>th</sup> November 2025) would, in my opinion, require works on third party lands outside the defined red line boundary of the subject

appeal site and would require third party consent. I am not satisfied that a 90 metre sightline, as shown, is achievable within the scope of this appeal.

- 7.4.7. I note from available online street imagery that the public road fronting the subject appeal site (L-2127 Local Primary Road), is located within the confines of Greenan Rural Node and within the 50 kph speed limit. As per recommendations set out in Table 4.2 of the Design Manual for Urban Roads and Streets (DMURS), 2019, sightlines (Sight Stopping Distance (SSD)) of 45 metres are applicable within the 50 kph zone. A sightline of 45 metres in an eastern direction would, in my opinion, be likely obscured by the aforementioned wall to the front of the shop. A 45 metre sightline would, in my opinion, be achievable to the northwest subject to the appropriate grading of the subject site so as not to obscure the said sightline. A 45 metre sightline is similarly available to the southwest.
- 7.4.8. Based on my on-site observations however, it is my opinion, that traffic speeds are likely to be higher than 50 kph, especially along the main local road fronting the site. The guidance provided in Table 4.2 of DMURS indicates a sight stopping distance of 59 metres where the design speed is 60 kph. As discussed further above, a sightline of 60 metres is not achievable to the east or northwest without works outside the defined redline boundary of the site and without the necessary third party consents. As such required information is not forthcoming, it is my opinion that the Applicant has not suitably demonstrated the achievement of adequate sightlines. The proposed development therefore represents a traffic hazard.
- 7.4.9. In addition to the above, I note the concerns of the Transportation Infrastructure Delivery Department as raised in the Report attached to the Planning file. I note the Applicant states in the application Cover Letter that it is intended to house agricultural machinery in the Machinery Storage Shed. As part of the Appeal submission, the Applicant states the proposed Machinery Store shall be used for storage of machinery for use of local hedge cutting and trees felling machines. Aside from this information, there is, in my opinion, a lack of sufficient detail presented with the application and appeal which allows for a full appraisal of the likely traffic impacts arising as a result of the proposed use of the Machinery Shed.

- 7.5. Condition no. 2 of planning reg. ref. no. 21/961
- 7.5.1. As per planning reg. ref. no. 21/961, planning permission was previously granted on the eastern side of the subject appeal site together with the adjacent shop site and outbuilding for the construction of 2 no. holiday homes and associated site works. The said holiday homes have not been constructed to date.
- 7.5.2. As per the proposed development description for planning reg. ref. no. 21/961, as set out in the public notices, the Applicant sought and obtained permission for '2 no. holiday homes..'. Condition no. 2 serves, in part, to control the use of said 2 no. holiday homes for their permitted use as short term holiday lets, to retain them together with the remainder of the site, in single ownership and to avoid the subdivision of same.
- 7.5.3. As per the Cover Letter which accompanies the planning application, the Applicant requests the Council to reconsider this condition (condition no. 2 of planning reg. ref. no. 21/961). The Applicant submits that the previous applicant under planning reg. ref. no. 21/961 has since sold off the lands in 2 no. lots. The existing dwelling/ pub/ shop and outbuildings to the east form Lot 1. The Applicant purchased the subject appeal site (Lot 2) which extends to 0.44 acres and includes the site of the permitted 2 no. holiday units, effluent treatment system soakaway pit and well water. The Applicant further states in the Cover Letter that he wishes to erect the dwelling units for local occupancy.
- 7.5.4. I note the internal layout of the proposed 2 no. 2 bedroom single storey semi-detached units permitted under planning reg. ref. no. 21/961 and the stated respective 43 sqm floor areas of each. As per the plans, elevations and sections drawing (Drg. no. 002) lodged as part of the Appeal submission, the total floor space for each of the 2 no. permitted holiday cottages is indicated to measure 48.1 sqm. This is below the recommended minimum target gross floor area for a 2 Bed/3P Apartment (63 sqm) or a 2 Bed/3P house (1 Storey) (60 sqm) as set out in the Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Sustaining Communities, 2007. The aggregate living area for each of the 2 no. permitted holiday cottages measures c. 15 sqm which is also below the recommended minimum target floor area of 28 sqm for the same format of Apartment (2 Bed/3P – 63 sqm) or House (2 Bed/3P – 60 sqm). In my opinion, as

the 2 no. permitted holiday cottages are below minimum recommended standards, they would not be suitable for permanent occupancy.

- 7.5.5. As part of the Appeal submission, the Applicant acknowledges the proposals do not comply with Objective CPO 6.38. Objective CPO 6.38 of the Development Plan relates to housing occupancy controls for Type 2 Villages (Level 8) and is quoted above in Section 5.0 Policy Context of this Report. I agree the proposed development, as presented, does not comply with Objective CPO 6.38 of the Development Plan.
- 7.5.6. The Applicant indicates he is willing to accept a condition which restricts the occupancy of the dwellings to those who comply with Objective CPO 6.38 of the Development Plan and has presented suggested wording in this regard. In my view, the purpose of Objective CPO 6.38, which is specific to Type 2 Villages (Level 8), is to implement housing occupancy controls to prospective applicants/ purchasers who are local to the area. As the permitted 2 no. holiday cottages are below the aforementioned minimum standards, are proposed to share a communal effluent treatment system and do not include in curtilage car parking, it is my opinion they are substandard and not suitable for permanent occupancy. I am satisfied therefore that there is no planning merit presented in the applicants' case, to set aside Condition no. 2 of planning reg. ref. no. 21/961 or to attach a condition, in the event of a Grant of permission being issued, to restrict future occupancy to those satisfying the criteria set out in Objective CPO 6.38 of the Development Plan. To do so, in my opinion, would serve to create an undesirable precedent for similar proposals into the future, i.e. to repurpose permitted substandard holiday cottages for permanent occupancy with a communal effluent treatment system and no in curtilage parking.
- 7.6. Machinery Store
- 7.6.1. As part of the Appeal submission, the Applicant has clarified that the purpose of the proposed Machinery Store is to provide for the storage of machinery for use of local hedge cutting and tree felling machines. The Applicant had previously indicated that the purpose of the Machinery Store was to house Agricultural machinery. In my opinion, based on the information presented and the lack of any evidence in relation to any substantial agricultural holding in the control or ownership of the Applicant, the

proposed Machinery Shed, as presented, is for commercial as opposed to agricultural purposes.

- 7.6.2. The subject site is located at a prominent intersection in what can arguably be considered the village centre.
- 7.6.3. In addition to the concerns raised further above in relation to Traffic Safety and Sightlines, I note the Local Authority Transportation Infrastructure Delivery Department raise concerns in relation to the type and nature of anticipated traffic movements associated with the proposed Machinery Shed. In particular, a requirement to provide a swept path analysis for the identified design vehicle covering ingress and egress, is raised. The Application is also lacking specific detail as to the full nature of additional activities which are proposed to take place within the Machinery Shed which could for example include machinery maintenance. It is accepted that the Applicant indicates that no intensive work is proposed to take place within the Machinery Store however there are still, owing to the lack of precise information, a concern in relation to potential impacts on surrounding residential amenities, for example, in relation to noise and the potential environmental implications which may arise in relation to the storage of fuels/ oils/ solvents within the site.
- 7.6.4. Having regard to the foregoing and the lack of information presented as part of the Application and Appeal, it is my opinion that the Applicant has not presented an acceptable planning case for the proposed development of a commercial Machinery Storage Shed at this prominent location in the village centre. In my opinion therefore, the proposed development, as presented, does not comply with Objectives CPO 9.3, CPO 9.5, CPO 9.32 or CPO 9.35 of the Wicklow County Development Plan, 2022 to 2028.

## 7.7. Design

- 7.7.1. As noted above, the 2 no. holiday cottages, permitted under planning reg. ref. no. 21/961, are not considered to satisfy minimum internal floorspace standards and are therefore considered substandard for the purposes of permanent occupancy.
- 7.7.2. I note Appendix 1 of Volume 3 of the Development Plan relates to Development and Design Standards. Section 3.3.8 of same specifically relates to Level 8 Villages where it is stated that '*...in most cases there will be little existing development from*

*which to draw inspiration or reference for new developments.*’ The adjacent shop/ pub/ house and associated outbuildings, in my opinion, serve as a relevant design references from which to draw inspiration. Although the permitted holiday cottages observed the established building line of the adjacent shop/ pub/ house, in my view, any revised proposals, in terms of design, should take full cognisance of the prominent and central setting of the site, the aforementioned design references, the palette of building materials used, including stone and the proximity of the site to Greenan Bridge, a recorded monument.

7.7.3. Having regard to the foregoing and owing to the prominence of the subject site and the sensitivity of the setting, I am not satisfied that the proposed Machinery Shed, being of Industrial appearance, represents an optimum design approach or indeed use of the subject appeal site. Similarly, the design of the 2 no. holiday cottages, have not, in my opinion, suitably demonstrated adherence to design recommendations set out in Section 3.38 of the Appendix 1 of Volume 3 of the Development Plan.

#### 7.8. Other Matters

- *Material Contravention*

7.8.1. I note reason no. 4 of the decision issued by the Local Authority relates to the issue of public health and flooding. In summary, the Local Authority consider the proposed development would be prejudicial to public health and would materially contravene the Wicklow County Development Plan, 2022 to 2028 and, specifically Objective CPO 13.17. The said Objective CPO 13.17 states *‘Private wastewater treatment plants for multi-house developments will not be permitted.’*

7.8.2. The Applicant is proposing to repurpose 2 no. permitted holiday cottages, permitted under planning reg. ref. no. 21/961, for permanent occupancy. I agree with the Local Authority that such a proposal represents a multi-house development. The wording of CPO 13.17 is, in my opinion, specific and unambiguous. The proposed development, being a multi-house development for which it is proposed to use a shared private wastewater treatment, falls within the remit of CPO 13.17. I am satisfied that the proposal, if permitted, would materially contravene said objective.

7.8.3. Reason for refusal no. 1 refers to a Material Contravention of Objective CPO 6.4 of the Development Plan which relates to House Design. As discussed further above,

the proposed house designs are considered to be substandard in terms of size and do not accord with recommendations set out in Section 3.3.8 of Appendix 1 of Volume 3 of the Development Plan. I consider the proposed development, specifically the proposed house designs, materially contravene Objective 6.4 of the County Development Plan.

7.8.4. I note the provisions of Section 37 (2) b) of the Planning and Development Act, 2000, as amended, which relates to the power of the Commission to Grant permission in circumstances where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan. In my opinion, owing to the specific circumstances of the subject case, as set out above, the proposed development, as presented, does not represent a circumstance where the provisions of Section 37 (2) b) can and should be applied particularly since

- the proposal is not of strategic or national importance,
- there are no apparent conflicting objectives in the development plan or the objectives are not clearly stated, in so far as the proposed development is concerned,
- there is no specific reason to grant permission having regard to the Regional Spatial and Economic Strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,
- there is no specific reason to grant permission for the proposed development having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

## **8.0 Appropriate Assessment 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 not located within of adjacent to any European site. The closest European Sites, part of the Natura 2000 Network, is Vale of Clara (Rathdrum Wood) SAC (Site Code: 000733)

located c. 3.4 km to the northeast and Wicklow Mountains Special Area of Conservation (SAC) (Site Code: 002122) located c. 4.5 km to the northwest.

8.1.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

8.1.3. The reason for this conclusion is as follows:

- the nature and scale of the proposed development;
- the location of the development in an urban area, the distance from European Sites and the absence of any ecological or hydrological pathways to any European Site.

8.1.4. The Appropriate Assessment Screening Determination of the Local Authority.

8.1.5. 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.

8.1.6. 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**

9.1.1. The Avonbeg River (Avonbeg\_030 (IE\_EA\_10A040600) lies within c. 19 metres to the west of the subject appeal site (Waterbody Status: Moderate). The site lies above the Wicklow Groundwater body ((EU Code: IE\_EA\_G\_076) (Waterbody Status: Good). The proposed development is detailed in section 2.0 of my report. No specific water deterioration concerns were raised in the planning appeal or observations.

9.1.2. I have assessed the proposed development and associated 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.

9.1.3. 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.

9.1.4. The reason for this conclusion is as follows:

- Nature of works e.g. small scale and nature of the development;
- Location-distance from nearest water bodies and/or lack of hydrological connections;

9.1.5. 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 that permission be REFUSED for the reasons and considerations set out below.

## 11.0 Reasons and Considerations

1. The proposed development site is located within Flood Zones A and B and is at risk of flooding. The Applicant has not provided a Flood Risk Assessment in accordance with the requirements of Objective CPO 14.09 of the Wicklow County Development Plan, 2022 to 2028. In the absence of same, the proposed development, as presented, represents a significant flood risk and is therefore not in accordance with the proper planning and sustainable development of the area.
2. Objective CPO 13.17 of the Wicklow County Development Plan, 2022 to 2028, states that '*private wastewater treatment plants for multi-house developments will not be permitted.*' The proposed development, as presented, which represents a multi-house development and is proposed to share a communal private effluent treatment system, materially contravenes

said objective and, if permitted, would serve to create an undesirable precedent for similar proposals into the future. The proposed development is therefore not in accordance with the proper planning and sustainable development of the area.

3. The proposed development, as presented, would endanger public safety by reason of a serious traffic hazard as the achievement of appropriate sightlines have not been suitably demonstrated for the location of the proposed entrance. The proposed development therefore, as presented, would not be in accordance with the proper planning and sustainable development of the area.
4. Having regard to the prominent location of the subject appeal site in the centre of Greenan Village, the proximity to nearby residential properties and the established pattern of development in the area, there is a lack of sufficient information, including an acceptable planning case, presented with the application which would serve to justify the proposed commercial Machinery Shed. In this regard, the proposed development, as presented, is not considered to be in accordance with Objectives CPO 9.3, CPO 9.5, CPO 9.32 or CPO 9.35 of the Wicklow County Development Plan, 2022 to 2028. The proposed development therefore, as presented, would not be in accordance with the proper planning and sustainable development of the area.
5. Having regard to the prominent location of the subject appeal site in the centre of Greenan Village, within an Area of Outstanding Natural Beauty, the proposed design and layout of the machinery store, the proposed house design and associated internal standards, together with the proposed shared effluent treatment system and lack of dedicated parking, Objective CPO 6.4 and the provisions of Section 3.3.8 - Development and Design Standards of Appendix 1 of Volume 3 of the Wicklow County Development Plan, 2022 to 2028, it is considered that the proposed development would be out of character with the established pattern of development in the area, would serve to materially contravene objective CPO 6.4 and would not serve to achieve a high quality of layout and design. The proposed development would

therefore not be in accordance with the proper planning and sustainable development of the area.

6. Based on the lack of sufficient information presented with the application and appeal, it is considered that the Applicant has not demonstrated compliance with the requirements of Objective CPO 6.38 (Housing Occupancy) of the Wicklow County Development Plan, 2022 to 2028. The proposed development, if permitted, would serve to create an undesirable precedent for similar proposals into the future which is not considered to be in accordance with the proper planning and sustainable development of the area.

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

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Frank O'Donnell  
Planning Inspector  
26<sup>th</sup> February 2026

## Form 1 - EIA Pre-Screening

<b>Case Reference</b>	PL-500340-WW-25
<b>Proposed Development Summary</b>	2 containers to be kept on site during construction of temporary security fencing phase. Single storey extension of machine store, removal of condition no 2 granted under reference number 21/961 and all associated site works.
<b>Development Address</b>	Greenane Beg , Ballintombay Lower , Rathdrum, County Wicklow.
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development	

under Article 8 of the Roads Regulations, 1994.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b>  <b>OR</b>  <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b>	<b>Class 10 b) (i)</b>  Construction of more than 500 dwelling units.  <b>Class 10 b) (iv)</b>  Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

<b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b>	
<b>Yes</b> <input checked="" type="checkbox"/>	<b>Screening Determination required (Complete Form 3)</b> <i>[Delete if not relevant]</i>
<b>No</b> <input type="checkbox"/>	<b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b> <i>[Delete if not relevant]</i>

## Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	PL-500340-WW-25
<b>Proposed Development Summary</b>	2 containers to be kept on site during construction of temporary security fencing phase. Single storey extension of machine store, removal of condition no 2 granted under reference number 21/961 and all associated site works.
<b>Development Address</b>	Greenane Beg , Ballintombay Lower , Rathdrum, County 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>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).	The subject appeal site has a stated site area of 0.18 hectares and comprises an open corner field, the levels of which have been recently raised. There are 2 no. 20ft containers on site. There are no demolition works proposed. The proposed development will not result in any significant use of natural resources, will not produce a significant amount of waste, is unlikely to cause significant pollution or nuisance and does not serve to significantly increase the risk of accidents, disasters and/ or risks to human health.
<b>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 natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	There are no Protected Structures on the site or surrounding area or building or features listed on the National Inventory of Architectural Heritage (NIAH). The site is not located within or adjacent to sensitive sites or European Sites including any Natura 2000 sites. The site is not located within what can be considered to be a densely populated area and is not within an area of archaeological significance.

<p><b>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 relatively small scale nature of the proposed development, its location removed from 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 environmental 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>
<p>There is no real likelihood of significant effects on the environment.</p>	<p>EIA is not required.</p>
<p><del>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</del></p>	<p><del>Schedule 7A Information required to enable a Screening Determination to be carried out.</del></p>
<p><del>There is a real likelihood of significant effects on the environment.</del></p>	<p><del>EIAR required.</del></p>

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

DP/ADP: \_\_\_\_\_ Date: \_\_\_\_\_

(only where Schedule 7A information or EIAR required)

## WFD IMPACT ASSESSMENT STAGE 1: SCREENING

### Step 1: Nature of the Project, the Site and Locality

<b>An Bord Pleanála ref. no.</b>	PL-500340-WW-25	<b>Townland, address</b>	Greenane Beg, Ballintombay Lower, Rathdrum, County Wicklow
<b>Description of project</b>	2 containers to be kept on site during construction of temporary security fencing phase. Single storey extension of machine store, removal of condition no 2 granted under reference number 21/961 and all associated site works.		
<b>Brief site description, relevant to WFD Screening,</b>	The site levels of the subject appeal site have been recently raised. The site comprises freely draining brown earths within a rural node. The site is surrounded by well drained grassland. The Avonbeg River lies within c. 19 metres to the west of the subject appeal site.		
<b>Proposed surface water details</b>	Soakaway and Rainwater harvester.		
<b>Proposed water supply source &amp; available capacity</b>	It is proposed to serve the site with water from a new bored well on site. No capacity issues arise.		
<b>Proposed wastewater treatment system &amp; available capacity, other issues</b>	The applicant is proposing to install an effluent treatment system and percolation area which was approved under planning reg. ref. no. 21961. No apparent capacity issues arise.		

Others?		Not applicable				
<b>Step 2: Identification of relevant water bodies and Step 3: S-P-R connection</b>						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River Waterbody	Adjacent to the west c. 19 metres.	Avonbeg_030 (IE_EA_10A040600)	Moderate	At risk	Forestry, Urban Wastewaters	Hydrologically connected to surface watercourse.
Groundwater waterbody	Underlying site	Wicklow (IE_EA_G-076)	Good	At risk	Unknown, Agricultural	Free draining soil conditions.

**Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.**

**CONSTRUCTION PHASE**

No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Surface	Avonbeg_030 (IE_EA_10A040600)	Existing run off to public road and onto river water course.  Proposed soakaway and rainwater harvester.	None	None	No	Screened out
2.	Ground	Wicklow (IE_EA_G-076)	Drainage	Hydrocarbon Spillages	Standard Construction Measures / Conditions	No	Screened out

**OPERATIONAL PHASE**

3.	Surface	Avonbeg_030 (IE_EA_10A040600)	Proposed soakaway and rainwater harvester.	None	None	No	Screened out
4.	Ground	Wicklow (IE_EA_G-076)	None	None	None	No	Screened out

<b>DECOMMISSIONING PHASE</b>							
5.	NA						