



An
Bord
Pleanála

Inspector's Report ABP.300696-18

Development	Permission for development of 4 detached houses and access road.
Location	Sidmonton Court and Sidmonton Park, Bray, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	17/1263
Applicant(s)	John and Margaret Maguire
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party and Third Party
Appellant(s)	<ol style="list-style-type: none">1. As above2. Sidmonton Court Residents Association
Observer(s)	Fergus and Bernadette Doyle, Peter Oakes, Michael Durand and Siobhan Enright, Teresa Gantly
Date of Site Inspection	28 th March 2018
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The appeal site is located in Bray, Co. Wicklow, approximately 300m west of the seafront in an established residential area.
- 1.2. The subject site is effectively an infill site and is adjoined by Sidmonton Park to the north and Sidmonton Court to the south. Sidmonton Park comprises of 3 no. single storey houses facing towards the appeal site and Sidmonton Court comprises of a suburban type development consisting of single storey detached houses.
- 1.3. There are established single storey houses, which face onto Sidmonton Road, situated to the west of the appeal site. The rear gardens of these houses adjoin the western boundary of the appeal site.
- 1.4. There are five houses situated to the immediate east of the appeal site. Three of these houses face onto Meath Road (R766) whereas two houses have south facing orientations and take their access from a narrow lane off Meath Road.
- 1.5. There is a linear green space that adjoins the southern boundary of the appeal site and this green space provides pedestrian access between Sidmonton Road to the west and Meath Road to the east.
- 1.6. The overall size of the appeal site is approximately 0.2415 ha (0.59 acres) and the shape of the site subject is irregular.
- 1.7. The site itself is generally overgrown with vegetation and there is a small number of construction materials stored on the site including blocks and pipes.
- 1.8. There is a small fall in the gradient of the site from west to east towards the coastline.

2.0 Proposed Development

- 2.1. The proposed development is for the construction of 4 no. detached dwellings. All four houses proposed are two storey in height. There are 3 no. house types proposed and these are summarised in table form below.

<u>House Type</u>	<u>No. of units</u>	<u>Floor Area</u>	<u>Private Open Space Provision</u>
A	1	207 sq. m.	160 sq. m.
B	2	151 sq. m.	130 sq. m & 155 sq. m.
C	1	151 sq. m.	124 sq. m.

2.2. The proposed vehicular access to serve the proposed development is from Sidmonton Court.

3.0 Planning Authority Decision

Wicklow County Council decided to **refuse** planning permission for the following reason;

1. Having regard to the design and layout of the development, it is considered that the development would result in a substandard development due to;
 - a. The unacceptable degree of overlooking from the 1st floor windows into adjoining properties which are single storey and presently not overlooked.
 - b. The height of the dwellings which are excessive in comparison to surrounding properties.
 - c. The dominance of the boundary wall along Sidmonton Park.

The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.1. Planning Authority Reports

3.1.1. The main issues raised in the planner's report are as follows;

Assistant Planner

- The site is zoned for residential development.
- The plot ratio and site coverage for the proposed development are considered acceptable.
- It is proposed to build a vehicular access on an existing right of way that traverses over a section of public open space.
- A previous decision by An Bord Pleanála (appeal ref. 240671) prevented vehicular access across the site from Sidmonton Court. Condition no. 2 of this permission stated that the only access from Sidmonton Court shall be a pedestrian access.
- Section 9.4.5 of the Bray Development Plan is relevant.
- The applicant's have a right of way across the open space which is not necessarily a road.
- A key question is whether an access road would impact on the functionality of the open space and whether the construction of an access road through the open space would materially contravene the Development Plan.
- The proposal includes the provision of 230 sq. m. of public open space in the south west corner and this would compensate the loss of public open space from the access road.
- It is submitted that Sidmonton Court was granted permission in 1977 (PRR1205).
- The removal of an existing hedgerow along the southern boundary of the site took place in 2005 and this was in breach condition no. 1 of the original planning permission. This is a planning enforcement issue.
- It is submitted that the proposed public open space incorporates well into Sidmonton Court and would create a more functional open space.
- Sightline provision appears adequate.
- It is not considered that an entrance at this location would create a traffic hazard.

- Vehicles traveling across the open space would be travelling at a low speed and as such would not be a hazard for pedestrians.
- The Roads' Section indicated no objections.
- The height of the proposed dwellings is 7.7m. The subject site is surrounded by single storey properties.
- The heights could be reduced to a maximum of 7m by condition.
- The separation distance from the rear of the proposed dwellings with the front of the single storey houses facing onto Sidmonton Park is 24 metres. It is recommended that the maximum height of the proposed dwellings shall be 7m and that the dormer windows are replaced with rooflights.
- Having regard to proposed planting and given that there are existing wall boundaries in place the proposed boundary is not considered out of place.
- Private open space is considered acceptable.
- The parking provision is considered acceptable.
- It is proposed to connect to public services.
- Works carried out since August 2008 will significantly reduce flood risk.
- Part V will not apply.

The following departments of the Local Authority reported on the proposed development;

3.1.2. Roads; - No objections subject to conditions.

3.2. **Third Party Submissions**

There is eight third-party submissions and the issues raised have been noted and considered. The issues raised are broadly similar to those issues raised in the observations submitted to the Board.

3.3. Submissions

There is a submission from Irish Water who have no objections.

4.0 Planning History

- PL39.128210: The Board **refused** planning permission to Margaret Maguire on 26th July 2002 for the erection of a dwelling house for the following reason '*the proposed access across public amenity open space and a pedestrian route from a curved portion of roadway to the site would endanger public safety by reason of traffic hazard and would seriously injure the amenities of the area.*' The second refusal reason relates to height and scale.
- L.A. Ref. 03/018: Bray Town Council **refused** permission to Margaret Maguire for a house and entrance on 11th April 2003. The applicant sought a High Court Declaration on this case for a 'default' permission on the basis that the decision was made outside the appropriate period under the Act. The High Court ruled (Margaret Maguire v Bray Town Council 2010 IEHC 226) on 6th April 2010 that the applicant was not entitled to a default permission as the development of a bungalow and entrance constituted a material contravention of the Development Plan.
- PL39.206357: The Board **refused** permission to Margaret Maguire for the development of one house and entrance, on 5th August 2004. The reason for refusal stated that '*the proposed access across public amenity open space and a pedestrian route from a curved portion of roadway to the site would endanger public safety by reason of traffic hazard and would seriously injure the amenities of the area.*'

- PL39.230185: The Board **refused** permission to Margaret Maguire for a detached house. The reason for refusal stated that *'the proposed access across public amenity open space and a pedestrian route from a curved portion of roadway to the site, would create an obtrusive feature which would detract from the layout, character and visual amenities of the open space and would therefore, seriously injure the amenities of the Sidmonton Court development.'* It was also noted that the proposal would be contrary to the stated Development Plan policy in relation to the provision of open space.
- PL39.236006: - The Board **refused** permission on 9th June 2010 for the construction of a detached house and entrance, associated site works, boundary treatment and landscaping of adjoining public open space including realignment of public footpath. The Planning Inspector recommended a grant of permission however the Board decided to refuse permission. The reason for refusal also referred to the proposed access which would create an obtrusive feature detracting from the layout, character and visual amenities of the open space. The Board in deciding not to accept the Inspector's recommendation considered that the proposal contains the essentials of that previously refused by the Board and that the proposed improvements would not outweigh the losses.
- PL39.240671: Permission **granted** construction of house, entrance, associated site works, boundary treatment and landscaping of adjoining public open space and realignment of public footpath. However, condition no. 2 of this permission stated that any access from Sidmonton Court shall be pedestrian access only.

- PL27.245191 – The Board **granted** permission for 4 no. detached dwellings. A Judicial Review by the High Court (case no. 2016 34 JR) quashed the Board’s decision to grant permission.

5.0 Policy Context

5.1. Wicklow County Development Plan, 2016 – 2022,

The relevant sections are;

- Section 5.4.3.4 – Densities
- Section 5.4.3.1 – Sustainable Communities

5.2. Adopted Bray Municipal District Local Area Plan, 2018 – 2024.

Wicklow County Council have adopted a new Bray Development Plan on the 14th of May 2018 which will come into effect on the 10th of June 2018.

5.3. Bray Town Development Plan, 2011 – 2017.

The operational development plan is the Bray Town Development Plan, 2011 – 2017. The site is zoned RE1, **Primary Residential Uses** with a stated objective ‘*to protect existing residential amenity to provide for appropriate infill development, to provide for new and improved ancillary services*’.

The following sections are relevant;

- Section 9.4.5 – Open Space
- Section 3.4.3 – Infill development

Chapter 12

- 12.2.1.1 Residential Development in Established Residential Areas
- 13.3.1.3 Guidelines for New Housing Developments

- 12.3.3.1 Private Open Space Standards
- 12.3.3.2 Public Open Space Standards in Residential Schemes
- 12.3.7 Backland Development

6.0 Appeal

6.1. The following is the summary of a first-party appeal submitted by Cunnane Stratton Reynolds.

Summary of issues

- Proposal is fully consistent with planning policy.
- Planning policy has shifted in the last number of years towards urban consolidation and densification, including infill development.
- All applications raised in the previous applications have been addressed.
- No issue with overlooking. Residual overlooking is in no way unacceptable.
- The proposal is in keeping with the character of the area.
- Proposal will cause no negative visual impact and will enhance the quality of the urban landscape.

Grounds of Appeal

- The proposal complies with the standards of the Bray Town Development Plan (BTDP) in terms of separation distances and overlooking.
- The layout of the proposed houses maximizes separation distances greater than 22m and in compliance with Section 12.3.3.1 of the BTDP.
- The design of the proposed dwellings and their orientation and materials (frosted glass) minimises overlooking.
- The proposed landscaping will form effective screening between the new houses and the neighbouring houses.
- It is contended that the proposed height of 7.7m is modest by modern standards.
- There is a mix of heights in the local area including taller dormer bungalows.

- These taller houses in the local area are illustrated by submitted photographs in the appeal submission.
- There is no policy objective that new buildings in Bray or the appeal site should be the same height as existing buildings.
- It is submitted that the proposed development will have no negative impact on the character of the area by reason of their height.
- The relatively minor variance in height will have limited visual impact having regard to (a) existing and proposed landscaping, (b) varying local ground levels, (c) existing single storey houses locally have added first floor levels, (d) local variance in building types, (e) minor variance in building height is not a negative element.
- The plot ratio and site coverage are considered acceptable by the Planning Officer.
- It is submitted that a boundary wall of 1.8m high screened by a continuous row of shrubs cannot be reasonably considered to be dominant. Boundary walls of this height are typical in an urban context.
- A 1.8m high boundary wall along Sidmonton Park always existed and had collapsed in recent years.
- The proposal is therefore to reinstate an existing wall.
- The submitted Landscape Masterplan, drawing ref. 17436-2-100, illustrates the view from Sidmonton Park.
- The redevelopment of the site and the reinstatement of the 1.8m high wall will improve the local area which is subject to anti-social behaviour.

Policy Provisions

- The proposal is consistent with the NSS and the NPF in terms of the reuse of underutilised and brownfield sites.
- The Sustainable Residential Development in Urban Areas, 2009, encourage infill development and Section 5(9)(i) is relevant to the proposed development.

- The proposal is consistent with Policy SP1 and Policy SR2 of the Regional Planning Guidelines for the Greater Dublin Area, 2010 – 2022.
- The proposal is consistent with policy objectives HD9, HD10 and HD11 of the Wicklow County Development Plan, 2016 – 2022.
- The subject site is zoned residential in accordance with the Bray Town Development Plan (BTDP).
- The proposal is consistent with Section 3.4.3 and Section 12.3.1.1 of the BTDP.

Planning History

- In relation to appeal ref. 245191 An Bord Pleanála overturned Wicklow County Council decision to refuse permission. This development is similar to the current development before the Board.

Public Open Space

- The proposed development intends to improve overall public open space provision by incorporating public open space within the subject site adjoining established public open space.

Traffic

- The Traffic & Transport Assessment (TTA) indicates that the total traffic associated with the proposed development on a daily basis will be 32.
- There will be no negligible impact on traffic flows in the local area.
- The Planning Inspector in appeal ref. 245191 concluded that there would be no material traffic generation and any additional traffic would not result in a traffic hazard at this location.

Judicial Review 2016 / 34 JR

- The grounds of the JR included that the Board failed to give any reasons why they departed from previous decisions that the proposed development should

be refused permission having regard to a vehicular access across a public open space.

- There are adequate reasons for departing from previous decisions and these include;
 - The proposal will provide no negative impact on the functionality or amenity value of the Sidmonton Park public open space in question.
 - The TTA confirms that the proposed development would only cause limited / negligible interference with pedestrian flow traffic in Sidmonton Court.
 - The proposed access will provide no significant impact on vehicular traffic or safety.
 - The infill development is consistent with the Sustainable Residential Development in Urban Areas, 2009.
 - Failure to grant permission for the proposed development will result in an infill site becoming landlocked/undeveloped which is unsustainable having regard for the need for urban consolidation.

6.2. The following is the summary of a third-party appeal submitted by the **Residents of Sidmonton Court**.

- The proposal would materially contravene the open space provisions in Section 9.4.5 of the Bray Town Development Plan, 2011 – 2017.
- The proposal would result in a traffic hazard.
- The planning history in relation to vehicular access is relevant
- The proposed development materially contravenes the open space provisions in Section 9.4.5 of the County Development Plan.
- The proposal would be a serious traffic hazard.
- The proposal would seriously injure the residential amenities of the public amenity open space

- An Bord Pleanála have refused permission four times for residential development on the subject site.
- There is no material change in planning circumstances since the previous refusal reasons.
- The proposed public access would be located within the public amenity open space.
- Previous decisions refused permission as the proposal was considered a traffic hazard.
- It is contended that the entrance to the site from Meath Road would present a traffic hazard for traffic departing from Sidmonton Court.
- Previous planning history of the subject site has refused permission based on traffic hazard.
- There is a serious loss of public open space.
- The proposed development would significantly impinge on the local character of the area and the environmental quality, amenity and privacy enjoyed by existing residents.
- Appeal ref. 243186 is a precedent case.
- Having regard to the planning and legal history of the subject site the granting permission of 4 no. houses is a matter of RES Judicata

7.0 Observations

7.1. The Board received four observations from the following parties;

- Fergus and Bernadette Doyle
- Peter Oakes
- Michael Durand and Siobhan Enright
- Teresa Gantly

The following is a summary of the main issues raised;

- Height of the proposed development is 1.7m higher than existing bungalow properties.
- Overlooking is a concern given separation distances. Units are less than 22 metres away from existing properties.
- Existing bungalows with attic conversions / dormers have not risen their ridge heights.
- The proposed development is located on a private main sewer. There is inadequate information in relation to drainage.
- The floor level is 0.6m above ground level and given the 1.7m height above existing bungalows the proposal will be invasive.
- There is no indication or markings as to the intended positioning of foul pipes, rainwater or surface pipes on the drawing, either coming or going from the proposed dwelling.
- No information regarding street lighting, ESB mini pillars, NTL mini pillars or Eircom pillars.
- Sidmonton Park is a private lane.
- There are concerns that the rear boundary walls will facilitate rear entrances and as such car parking and bins will become a concern.
- The proposed vehicular entrance is located over a public right of way.
- It is recommended that the following conditions are adhered to;
 - Before any development takes place that the private sewage pipes are protected.
 - No access to the rear of no. 2, 3, & 4 Sidmonton Park
 - No access via Sidmonton Park for lorries / building materials
 - Written agreement is given to 8 properties for access to maintain and clear sewage pipes.
 - Security fencing shall be erected at the rear of the site at Sidmonton Park to ensure no unauthorised access to Sidmonton Park and no anti-social behaviour occurs

- The rear gardens for the proposed units 2, 3 & 4 is between 8.8m and 9.6m and therefore substandard and will therefore result in overlooking.
- The proposed driveway contravenes the Development Plan statements with regard to public open space. The legality of the access over a public right of way is questioned by Wicklow County Council Law Agent.
- An Bord Pleanála Planning Inspector concluded that a public access over a public amenity space would endanger public safety by reason of traffic hazard.
- The grant of permission in appeal ref. 240671 relates to one house which is very different in terms of traffic movements from the current proposal.
- It is submitted that the proposed house to the east / House Type C will cause substantial overshadowing to the private open space to the rear of two of the houses on Meath Road.
- The proposed development introduces overlooking from first floor level.
- The feasibility of obscure windows in bedrooms is questioned. Frosted windows can be opened therefore resulting in overlooking.
- The proposal is inconsistent with established scale and density of local area.
- It is submitted that given narrow dimension of the lane serving Sidmonton Park that there is no space for planting along the proposed boundary wall nor is there space to reduce the size of the rear gardens proposed.
- Flooding is a concern.
- The number of windows at the upper floor level facing onto Sidmonton Park is unnecessary and will cause overlooking.
- The proposed wall would reduce the amount of daylight available to the properties and gardens on Sidmonton Road.

8.0 Responses

The following is the summary of a **first** party response.

- An Bord Pleanála have refused permission for residential development 4 times.
- The removal of the hedgerow is unauthorised as this hedgerow is located outside the site boundary.
- Having regard to the planning and legal history of the subject site the granting permission of 4 no. houses is a matter of RES Judicata
- The public open space required for vehicular access is not in the ownership of the applicant.

9.0 Assessment

I would consider that the principle issues for consideration are as follows;

- Principle of Development
- Impact on Established Residential Amenities
- Residential Amenities of Future Occupants
- Access
- Impact on Public Open Space

9.1. Principle of Development

- 9.1.1. In accordance with the provisions of the Bray Town Development Plan, 2011 – 2017, the appeal site is zoned residential. The zoning objective of the appeal site is 'primary residential uses' and the objective is '*to protect existing residential amenity to provide for appropriate infill development, to provide for new and improved ancillary services*'.

- 9.1.2. As such the proposed development of 4 no. houses on the appeal site would be acceptable in principle having regard to the zoning objective of the appeal site. I would also note relevant objectives in the Wicklow County Development Plan, 2016 – 2022, and these include Section 5.4.3.1 ‘Sustainable Communities’ and Section 5.4.3.4 ‘Densities’.
- 9.1.3. The proposed development is effectively an infill development in a built up residential area and within reasonable walking distance of Bray dart station which is essentially a quality public transportation corridor.
- 9.1.4. It is national policy, (i.e. Sustainable Residential Development in Urban Areas, 2009) to promote residential densities in urban areas in close proximity to services and public transport. The appeal site offers an opportunity to fulfil these national objectives as the subject site is located within walking distance of established amenities. Furthermore, the recently published National Planning Framework (NPF), 2018 – 2040, recommends compact and sustainable towns / cities, brownfield development and densification of urban sites. Policy objective NPO 35 of the NPF recommends increasing residential density in settlements including infill development schemes and increasing building heights.
- 9.1.5. Overall, I would consider that the principle of a proposed residential development on the appeal site is acceptable given the zoning objectives pertaining to the site and national policy to promote higher densities on well-serviced infill sites however any development would need to have regard to established residential amenities and the planning history.

9.2. **Impact on Established Residential Amenities**

- 9.2.1. The relevant statutory plan for the appeal site is the Bray Town Development Plan (BTDP), 2011 – 2017. Section 12.3.1.1 of the Plan sets out general guidance for residential development in established residential areas and in summary this includes the following;

- Development will be permitted only where it does not significantly impinge on local amenities
- Infill housing should be compatible with existing densities
- Regard will be given to safeguarding privacy
- The design and layout shall have regard to amenities of adjoining properties
- The character and form of existing buildings shall be respected
- The Council will not permit developments that cause overlooking, overshadowing or overbearing effect

9.2.2. In relation to the previous development (appeal ref. 245191) on the appeal site which the Board granted permission for, I would note that this development is largely similar, but not identical to the current proposal before the Board. Overall the Planning Inspector concluded that the height and scale of the previously proposed development would be acceptable, the boundary treatment is acceptable and that the proposed development would not be inconsistent with the Section 12.3.7 'Backland Development' of the Bray Town Development Plan, 2011 – 2017. The Planning Inspector's assessment in relation to impact on residential amenities concluded that the proposed development would have adequate regard to residential amenities and would not have an overbearing impact or result in a loss of light or privacy. The Board concurred with the Planning Inspector and granted permission for that development.

9.2.3. I would consider that the most significant concern from the proposed development in terms of adjoining residential amenities is the impact that the proposal may have on 3 no. properties on Sidmonton Park. These are the 3 no. properties that currently face towards the appeal site and are situated to the north of the appeal site. However the submitted drawings indicate that the proposed development will allow for a set back distance of approximately 24m from the front elevations of the properties on Sidmonton Park. This is an acceptable set back distance. I would also note that the separation distance from the first-floor level of the Unit no. 4 to the

existing house to the immediate south of the appeal site is approximately 18 metres. This separation distance is again, in my view, acceptable as the proposed Unit no. 4 has no first-floor windows. Furthermore, I would consider that having regard to the south-west elevations of Unit no. 1 and Unit no. 2 that the set back distances from the proposed houses onto the established houses at Sidmonton Road is acceptable. Finally having regard, the side elevation of Unit no. 4, the separation distance with the rear elevations of the houses facing onto Meath Road would be acceptable.

9.2.4. Finally I would consider the proposed boundary treatment is acceptable for the proposed development.

9.3. **Residential Amenities of Future Occupants**

9.3.1. In terms of residential amenities for future occupants I would consider open space, both private and public, car parking provision and floor area of the housing units as relevant indicators of the residential amenities on offer.

9.3.2. I have referred to the private open space provision in Section 2.0 of this report and in general the private open space provision would significantly exceed minimum private open space requirements in accordance with Section 12.3.3.1 of the BTDP. The BTDP requires 60-75 sq. m. for 3/4/5-bedroom houses whereas the minimum private open space proposed is 124 sq. metres. The public open space provision is situated to the south of the site and would enhance the established public open space at Sidmonton Court.

9.3.3. The proposed development includes 2 no. car parking spaces per residential unit and the floor area of the proposed houses are generous and would offer a good standard of residential amenity to future occupants.

9.3.4. I would note that the Planning Inspector in the previous appeal (appeal ref. 245191) concluded that the proposed development would be compliant with the general

development standards of the Town Development Plan. Overall, I would consider that the proposal would offer a good standard of residential amenity for future occupants.

9.4. Access

- 9.4.1. In relation to access this is a significant issue given the planning history of the appeal site. The proposed vehicular access to the serve the proposed development is via the estate road of Sidmonton Court at a point where there is a curve in the road. I would note that there is currently no vehicular access from Sidmonton Court to the appeal site and that the proposal before the Board would involve a vehicular access road traversing an established pedestrian footpath, that provides direct access from Sidmonton Court to Sidmonton Road to the west and Meath Road to the east. The proposal would also transverse an established public open space which would offer both active amenity space and visual amenity space to existing residents.
- 9.4.2. In terms of the appeal site's planning history the Board have previously determined, in appeal case ref. 128210 and appeal case ref. 206357, that a vehicular access to serve residential development on the subject site would amount to a traffic hazard. Furthermore, the Board determined in the previous cases, appeal ref. 230185 and appeal ref. 236006, that a proposed vehicular access to serve a residential development on the appeal site would result in an obtrusive feature which would detract from the layout, character and visual amenities of the open space. In relation to appeal ref. 240671 I would note that the Board granted permission for the construction of a house on the subject site however condition no. 2 of this permission stated that any access from Sidmonton Court shall be pedestrian only and the reason for this condition was to '*preserve the integrity and the amenity of public open space*'.
- 9.4.3. I would note the assessment from the Local Authority in this case in relation to the vehicular access. There is no Engineers report on the file however the Area Planner's report states that a letter from the Corporate Services Section of the local authority has no objections to the proposed development. The Area Planner outlined

that the proposed vehicular access will be located over a right of way and concluded that the access would not be detrimental to the established public open space.

9.4.4. I would also note that the proposed development includes the provision of an area of public open space which is located to the south west of the proposed housing development. This area of public open space would replace the area of public open space lost by the proposed vehicular access.

9.4.5. I would note the submitted Traffic and Transport Assessment and the some of the main findings of this document include that the total traffic generation from the proposed development will be 32 daily traffic movements. The TTA also concluded that allowing for the proposed development that the junction capacity at Sidmonton Court and Meath Road will be within capacity in the years 2015, 2020 and 2030. I also note that the TTA outlines that the footpath over the proposed vehicular access would remain continuous and the design materials for the footpath would be concrete as opposed to cobblestone materials for the vehicular access and this would differentiate between the two. I also note that the TTA outlines that the vehicular travel speeds across the proposed access would be slow. Overall, I would conclude that the design as outlined above is a relevant consideration as this will ensure that vehicles travel slowly and the potential for conflict with pedestrians is reduced.

9.5. **Impact on Public Open Space**

The size and shape of the public open space are important considerations when considering the impact of the proposed development on the established public open space. The stretch of public open space adjacent to the southern boundary of the appeal site is narrow and its usability is restricted to pedestrian access. The proposed development will retain the pedestrian access and in my view, will not significantly impact on the established public open space, either in visual terms or in terms of function of the open space. The proposed development includes an additional parcel of public open space, which in my view will add to the overall visual amenity of the public open space.

9.6. **Conclusion**

Although I would acknowledge that planning permission was previously refused due to reasons of traffic hazard and visual impact on a public open space I would consider that the proposed infill development is consistent with contemporary national planning policy. In particular the National Planning Framework, 2018, redevelopment of brownfield sites, compact cities and increased residential density. NPO 35 is relevant to the proposed development as this policy objective recommends increasing residential density in settlements and infill development schemes. Furthermore Sustainable Residential Development in Urban Areas, (2009) promote residential densities in urban areas in close proximity to services and public transport. It is my view that the current national planning policy objectives would be sufficient to allow the Board to depart from previous planning refusal reasons relating to the subject site.

10.0 **Recommendation**

10.1. I have read the submissions on the file, visited the site, had due regard to the County Development Plan, the Town Development Plan and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

11.0 **Reasons and Considerations**

Having regard to the zoning of the site as set out in the Bray Town Development Plan, 2011 – 2017, and the extent of the development, it is considered that subject to compliance with conditions set out below, the development proposed to be carried out would not seriously injure the amenities of the area and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority,

these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 (as amended), and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the permitted houses, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

3. The site shall be landscaped in accordance with a scheme of landscaping, details of which, including details of trees to be retained, shall be submitted to the planning authority for agreement before development commences.

Reason: In the interest of visual amenity.

4. Prior to the commencement of development, the developer shall submit details of all boundary treatment for the agreement of the planning authority. This shall include boundaries between rear gardens and boundaries to the exterior of the site.

Reason: In the interest of residential privacy.

5. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

6. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

7. That all necessary measures be taken by the contractor to prevent spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

8. Full details of the vehicular access to serve the proposed development shall be submitted for written agreement of the Planning Authority prior to the commencement of development.

Reason: In the interest of traffic safety.

9. Water supply and all drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

10. The construction of the development shall be managed in accordance with a Construction Management Plan which shall be submitted to, and agreed in writing with the planning authority prior to the commencement of

development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of waste.

Reason: In the interest of amenities and public safety.

11. Prior to the commencement of development the developer shall submit, and obtain written agreement of the planning authority for the following (a) a plan containing details of the management of waste (and, in particular, recyclable materials) within the development including the provision of facilities for the separation and the collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for appropriate management of waste and in particular, recyclable materials, in the interest of protecting the environment and the amenities of the area.

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

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

Kenneth Moloney
Planning Inspector

1st June 2018