



An
Bord
Pleanála

Inspector's Report ABP-301577-18

Development

43 houses, extension to gate lodge, new curtilage for Kilbride House, 90 car parking spaces provided on-street and within curtilage, public open space, children's play area, pedestrian links to woodland and associated site works.

Location

Kilbride Hill House, Herbert Road, Bray, Co. Wicklow

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

17/1085

Applicant(s)

Balark Trading GP Ltd.

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party & First Party

Appellant(s)

Ashton Woods Residents Association,
Balark Trading GP Ltd.

Observer(s)

None

Date of Site Inspection

27th September 2018

Inspector

Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The appeal site is located on the western outskirts of Bray, Co. Wicklow, in close proximity to the M11. The vehicular access serving the subject site is off Herbert Road.
- 1.2. There is an established housing development, i.e. Pemberton, located to the immediate east of the appeal site. There are established housing developments located on the opposite side of Herbert Road from the appeal site.
- 1.3. The main house on the appeal site is a red-brick period property dating from approximately 1870 and is a protected structure. The gate lodge is located adjacent to the main vehicular entrance to the site.
- 1.4. The original house has many original external features including granite steps to the front, granite block walls supporting bay window, original doors, bay windows and windows at ground and first floor level. There are some external modern interventions to the main house and these include lighting, flag poles and alarm boxes.
- 1.5. The brickwork including the surrounding brickwork above the main door arch is original and is an attractive feature.
- 1.6. There are original gutters and downpipes in place although PVC replacements are also in place. The rear elevation includes many new windows but mainly original windows are in place.
- 1.7. The interior of the main residence includes many original features including fireplaces, ceilings, upper coving and pilasters.
- 1.8. The property also includes a number of outhouses located to its eastern side and these include a boiler room, a stables and a two-storey former coach house structure.
- 1.9. There is formal garden, i.e. landscape and terraced, located to the immediate west of the appeal site. There is also a walled garden with gated entrance located to the rear of the main residence.

- 1.10. The gate lodge is located adjoining the southern boundary of the appeal site. The original gates are located at the existing entrance. There is a curved driveway that connects the gate lodge to the main residence.
- 1.11. The overall size of the appeal site is 4.113 ha (10.16 acres) and the shape of the appeal site is irregular.
- 1.12. The appeal site is the former Danish ambassador's residence and the property is currently vacant.
- 1.13. The gradient of the appeal site slopes gradually upwards from the gate lodge to the rear of the main residence.
- 1.14. The site includes a selection of mature trees along the western and eastern site boundaries.

2.0 Proposed Development

- 2.1. The proposed development is for construction of 43 no. dwellings within the grounds of an existing house, i.e. Kilbride Hill House.
- 2.2. The proposed development also includes extending the existing gate lodge and also using Kilbride Hill House as a private residence.
- 2.3. The proposed extension to the gate lodge will have a floor area of 51 sq. metres. The existing modern extension has a floor area of 14 sq. metres. The gate lodge will provide for a 2-bed dwelling.
- 2.4. The 43 no. houses comprising of two-storey dwellings both detached and semi-detached units and some three-storey units. The proposal consists of;
 - 14 no. two-storey 4-bed detached dwellings
 - 1 no. two-storey 3-bed detached dwelling
 - 28 no. two-storey 3-bed semi-detached dwelling
- 2.5. All the proposed houses have rear gardens as private open space provision and off-street car parking to the front of the proposed house. Public open space will be provided to the centre of the site.
- 2.6. The woodlands to the perimeter of the site will be retained.

- 2.7. The proposal also includes the demolition of the log house, the greenhouse and the pump house.
- 2.8. The primary elevation of some of the proposed houses will be finished in selected brick and other houses will be finished in rendered blockwork.

Additional information sought for the following;

1. Revised plans sought that show the omission of units no. 32 – 43 or alternatively submit revised documentation that justifies the inclusion of the same.
2. (i) Address difference in levels between some houses to ensure amenities are not compromised, (ii) a greater separation distance of house 2 from the site boundary is required, (iii) (a) low walls should be provided on corner sites, (b) sufficient setback is provided to safeguard the amenity of future residents, (c) ensure unit no. 22 addresses both houses, (d) unit no. 28 shall address both roads, (iv) full details of retaining structures in respect of the proposed development at site no. 7 and house site no. 17.
3. Redesign of roads and footpaths.
4. Management and access in relation to the woodlands.
5. (i) a report from an ecologist that assesses the impact of the proposal on ecological corridors, (ii) clarification of the number of trees to be removed, (iii) a report that indicates the required ground works, (iv) details of the number of trees required for removal to achieve the appropriate sightline provision at the entrance to the site.
6. Design in relation to Kilbride Hill House.
7. Surface water drainage

3.0 Planning Authority Decision

3.1. Wicklow County Council decided to **grant** planning permission subject to 28 no. conditions. The conditions are standard for the nature of the development proposed.

3.2. Planning Authority Reports

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

Area Planner

- Principle of residential development accepted.
- Density equates to 12.75 per ha.
- Developable site would exclude tree areas and would give a density of 16.62 per ha.
- The density is below national guidance however given site constraints including protected structure and trees.
- Public open space equates to about 14%.
- Private open space exceeds the minimum development plan standards.
- Separation between opposing rear windows is acceptable.
- There are concerns in relation to the houses which are proposed to the rear of the main house. Recommended that these houses are omitted.
- The number of trees to be removed is generally acceptable however clarification required regarding the exact number of trees to be removed.
- The proposed mitigation measures for bats is generally acceptable.
- The proposed access was considered acceptable in the previous application.
- It is considered that Herbert Road can accommodate additional traffic.
- A pathway to the northwest of the site may be unacceptable as it would lead pedestrians to a hairpin bend.
- The road provision in front of Kilbride Hill House needs to be revised.

- The proposed water and wastewater arrangements are considered satisfactory.
- Site not identified as flood risk.
- Application accompanied by a slope stability assessment and ground investigation report. In the current application the houses along Herbert Road and northern embankment have been pushed further in towards the site.
- The findings of the noise report are accepted.
- The development will not adversely impact on protected views from the N11.
- It is considered that the proposal will not have an adverse impact on the residential amenities of Ashton Woods.
- Part V proposals acceptable.
- No AA issues arise.
- EIAR not required.

3.3. Internal Reports;

- Bray District Engineer; - There are foul sewer capacity issues. Recommended a €100,000 contribution.
- Transportation and Roads Infrastructure; - Design issues in relation to roads, car parking and pedestrian access.
- Water & Environmental Services; - Additional information sought.
- Housing Department; - Part V proposals are acceptable.

3.4. Third Party Observations

There were thirty-eight third party submissions and the issues raised have been noted and considered. Some of the issues raised include;

- Removal of trees will have a devastating impact on natural habitat and protected structure.
- Removal of trees will have an adverse impact on visual amenities.
- Increase in noise
- Implications for slope stability due to removal of trees
- Adverse impact on protected structure
- Local road infrastructure inadequate
- Unclear as to the number of trees to be removed.
- Services are inadequate to provide for the proposed development.
- Construction management plan required.
- Removal of trees will create a 15-20m gap opposite Ashton Wood.
- Adverse impact on bats
- Adverse impact on established residential amenities
- Poor sightline provision
- Lack of archaeological assessment
- Pressure on local community services

3.5. Submissions

There is a submission from the Department of Culture, Heritage and the Gaeltacht who recommended ecology mitigation measures. Irish Water outline in their submission that there are capacity issues with the wastewater network and additional information is sought.

4.0 Planning History

- L.A. Ref. 16/905 – Permission **refused** by Wicklow County Council for the construction of 46 no. houses, extension to gate lodge and retention of Kilbride Hill House as a private residence. The proposed houses were a mix of detached and semi-detached two-storey houses. The refusal reasons (full text is included in the attached pouch) in summary include;

1. Adverse impact on architectural heritage of Kilbride Hill House, unacceptable loss of trees, proximity of units no. 34-48 to protected structure. The development would be substandard due to (a) noise from N11, (b) slope stability in relation to units 11-18, (c) rear boundary walls of units no. 11 – 18 would be dominant, (d) amenity space of units no. 27 – 29 and no. 45 would be substandard, (e) unacceptable overlooking between units no. 37 – 41 and Kilbride Hill House, (f) the applicant failed to demonstrate that the proposal would not have an adverse impact on the residential amenities of Pemberton.
2. Inadequate capacity in the foul sewer network as such the proposal is premature.
3. The design of the drainage layout would be unacceptable from a maintenance perspective.
4. Failure to fulfil full requirements of Part V.

5.0 Policy Context

5.1. Development Plan

The operational Development Plan is the Wicklow County Development Plan, 2016 – 2022.

In accordance with the County Settlement Strategy Bray is identified as a Level 1 – Metropolitan Consolidation Town.

Relevant sections include;

- Section 5.4.3.4 – Densities
- Section 5.4.3.1 – Sustainable Communities

The following County Development Plan provisions are relevant;

- Section 4.3.4 advises that infill development shall generally be at a density that respects the established character of the area.
- Section 2 of Appendix 1 offers guidance on density. *'On greenfield type sites at the edge of the core, a suitable transitional density will be required between the built-up part of the town and its more rural hinterland'*.

Section 1 of Appendix 3 provides guidance on 'design and development standards' for housing developments.

5.2. Local Area Plan

The appeal site is zoned 'RE Existing Residential'. The objective of this land-use zoning is *'to protect, provide and improve residential amenities of existing residential areas'*.

Kilbride Hill House is a protected structure.

The following residential development policy is relevant;

- R2 – New residential development shall aim for the highest density indicated for the lands.

The following architectural heritage policy objectives are relevant;

- AH1 – Protection of all structures on RPS
- AH2 – Positively consider proposals to alter and change the use of structures on the RPS
- AH3 – Resist the demolition of protected structures

6.0 National Policy

6.1. National Planning Framework, 2018

The recently published National Planning Framework, 2018 – 2040, recommends compact and sustainable towns / cities, brownfield development and densification of urban sites. Policy objective NPO 35 recommends increasing residential density in settlements including infill development schemes and increasing building heights.

Some other relevant policies from the NPF include the following;

- NPO 6 – Regenerate / rejuvenate cities, towns and villages
- NOP 13 – Relax car parking / building heights to achieve well-designed high-quality outcomes

6.2. Sustainable Residential Development in Urban Areas, 2009

The Guidelines promote higher densities in appropriate locations. A series of urban design criteria is set out, for the consideration of planning applications and appeals. Quantitative and qualitative standards for public open space are recommended. In general, increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout. Chapter 6 sets out guidance for residential development in small towns and villages.

7.0 First Party Appeal

7.1. The following is the summary of a first party appeal;

Condition no. 2

- House no's 32 – 43 were modified to address Local Authority concerns in a further information request.
- The response to the Local Authority further information request included a more robust conservation commentary, included additional photomontages and a revised site layout reducing the number of dwellings from 12 no. units to 9 no. units.
- This revised layout will reduce the extent of the access road.
- The design of the 9 no. houses will use a buff coloured brick in place of the previous red brick which will reduce visibility.
- The Planning Authority outlines concerns that the proposed housing would not be subordinate to the main house and cites the contiguous street elevation as evidence.
- It is contended that the contiguous street elevation does not offer a realistic eye level view of the development and planting has been omitted to allow dimensions read easily.
- Many photomontages were submitted to present a realistic view.
- The submitted fig 3 and fig. 4 of the submission demonstrates that the proposed dwellings to the rear of Kilbride Hill House are not visible.
- It is submitted that there is no possibility of the proposed boundary treatment blocking views of Kilbride Hill House giving the topography of the site and the location of Kilbride Hill House on a prominent ridge.
- The Planning Authority considers that units no. 32 – 43 will reduce the curtilage of Kilbride Hill House to an inadequate level. The current proposal allows for a curtilage of 0.53 ha for Kilbride Hill House.
- The revised proposal includes the tree area / undevelopable area no. 2 and public open space no. 4 within an enlarged curtilage for Kilbride Hill House. The revised curtilage will amount to 0.82ha.
- There is a reduction in public open space that will amount to an overall provision of 12%.

- It is considered that the proposed development will respect the character and setting of Kilbride Hill House.
- Should An Bord Pleanála still have concerns regarding the 9 no. houses then it is requested that the ridge of the proposed dwellings (i.e. 9 no. houses to the rear of Kilbride Hill House is reduced by 500mm and a condition can be attached to this effect).

Condition no. 5

- The bond amounts to €22,812.50 per dwelling for the permitted 32 dwellings.
- It is understood that the bond amount is based on €1,500 per metre of proposed road (485m).
- Should the Board grant permission for the omitted 9 no. dwellings the road length would be 618m. Total bond required would be €927,000 or €22,609.70 per dwelling.
- It is contended that the bond figure is onerous and puts the viability of the proposed development in doubt.
- Recent bonds by Wicklow County Council for residential developments demonstrates that condition no. 5 is excessive. (The appeal submission outlines a table with recent permissions for residential developments and bonds payable).
- It is submitted that circular letter PL 11/2013 should be considered.
- It is submitted that €1,500 is more akin to a total construction cost rather than a completion cost as required by circular letter PL11/2013.
- The Irish House Builders Report (May 2012) noted that a standard 3-bed semi-detached house would have a shared public infrastructure cost of €15,000 per dwelling. The circular states the minimum provision is €7,000 per dwelling.
- It is submitted that €1,500 is a standard figure used by Wicklow County Council. But given the length of the road due to the topography of the site and

also the relative low density of the proposal due to the protected structure an excessive charge per unit has resulted.

- Appendix 3 of the Circular recommends a figure of €700 per linear metre of road. This is less than 50% of the rate provided.
- The revised bond would be as follows €339,500 (700 x 485) or €432,600 (700 x 618).

8.0 Third Party Appeal

8.1. The following is the summary of a third-party appeal submitted by Robert Sparkes on behalf of Ashton Woods Residents Association

Introduction

- It is submitted that the plans / drawings submitted to the Planning Authority were revised and represented a significant reworking of the original proposal.
- It is contended that the original application should have been refused permission and then revised drawings submitted should form part of a new application.

Sewage

- There is a history of capacity issues for existing foul and surface water systems along Herbert Road.
- The granting of permission will put significant pressure on already existing system.
- It is contended that the separation of the foul and surface water drainage will eventually join up with the existing combined system further downstream.

Loss of Privacy

- The removal of trees directly opposite the entrance into Ashton Woods will open up the site boundaries and result in an unacceptable loss of privacy.

- The designated car parking for the proposed unit no. 6 faces directly towards a cul-de-sac in Ashton Woods that backs onto Herbert Road. This will result in headlights shinning directly into houses.

Trees

- There is a discrepancy in relation to the number of trees to be removed on the site.
- The overall number of mature trees for removal is unclear.
- A previous application on the site (L.A. Ref. 16/905) was refused permission for several reasons including for the removal of trees.
- The proposed planting would take several years to establish whereas the images show mature trees.
- The proposal will result in a loss of visual amenity, increased noise, negative impact on drainage and negative impact on existing wildlife.

Visual Amenity

- Removal of trees will result in loss of visual amenity.
- The photographs included demonstrate the current visual amenity.
- A previous application (L.A. Ref. 151/94) for the construction of 2-detached houses was refused permission as it would be contrary to the County Development Plan objective for the preservation of trees and woodlands. This was further refused by An Bord Pleanala under appeal (appeal ref. 094990) due to loss of trees.

Noise

- The removal of trees previously on the site has increased noise levels from the N/M 11 for established residents.
- One of the refusal reasons by Wicklow County Council in the 2016 application was failure to include any analysis of potential impact of noise from N11.

- The applicants have accepted noise implications by providing triple glazed windows. However, the outside space will offer poor amenity for residents.
- The proposed noise attention has given no consideration for neighbouring residential amenities, Kilbride Hill House or the gate lodge.
- The appellant strongly objects to this due to noise.

Drainage / Flooding

- Removal of trees and replacement with hardcore will result in increased surface water runoff.
- The proposed attenuation tanks are situated at a higher level than the entrance to Ashton Woods. This is a concern.

Existing Wildlife

- The trees proposed for removal are home to many species of bats.
- Hedgerows provide important commuting routes.

Traffic Impact

- Traffic during construction and operational phase will have an adverse impact on Herbert Road.
- Sightline provision is difficult from the vehicular entrance particularly towards the N11.

Listed Property

- The listed property includes the curtilage of this property.
- The 2016 refusal reason on the site refers to the removal of trees.
- The proposed development is contrary to Section 13.5.2 of the Architectural Heritage

9.0 Assessment

- Principle of Development
- Architectural Heritage
- Impact on Established Residential Amenities
- Proposed Residential Amenities
- Residential Density
- Condition no. 2
- Condition no. 5
- Traffic / Access / Car Parking
- Landscaping / Trees
- EIAR Screening
- Appropriate Assessment Screening
- Other Issues

9.1. Principle of Development

The recently adopted National Planning Framework¹ (NPF) recommends compact and sustainable towns / cities, brownfield development and densification of urban sites. The themes of compact and sustainable development are reinforced by policy objective NPO 35 from the NPF as this policy objective recommends increasing residential density in settlements including infill development schemes and increasing building heights. 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 is located on the edge of Bray, Co. Wicklow, which has good public transportation connections and also good road access, i.e. N/M11.

¹ Adopted 16th February 2018

- 9.1.1. In the county settlement strategy as set out in the Wicklow County Development Plan, 2016 – 2022, Bray is designated as a Level 1 – Metropolitan Consolidation Town. This designation is the top settlement tier in the county and residential development in Bray is supported by the County Development Plan policies and objectives.
- 9.1.2. In accordance with the provisions of the Bray Municipal District Local Area Plan, 2018, the appeal site is zoned ‘RE Existing Residential’. The objective of this land-use zoning is ‘*to protect, provide and improve residential amenities of existing residential areas*’.
- 9.1.3. A significant policy measure that relates specifically to the appeal site is the conservation of the existing house on the appeal site, i.e. Kilbride Hill House. Kilbride Hill House is a protected structure and therefore having regard to the provisions of the Planning and Development Act, 2000 (as amended) the curtilage of this property is protected.
- 9.1.4. Having regard to national planning policy which supports the consolidation of existing towns / cities and built up areas and also given the county and local policy provisions that relate to the appeal site the principle of residential development on the appeal site is acceptable provided that the proposal has adequate residential amenity, adequately safeguards the amenities of the adjoining properties, would not result in a traffic hazard, protects the environment, architectural character of the area and would be in accordance with the provisions of the Wicklow County Development Plan, 2016 – 2022.

9.2. **Architectural Heritage**

- 9.2.1. Kilbride Hill House, including its curtilage, is a protected structure in accordance with the provisions of the Wicklow County Development Plan, 2016 – 2022.

- 9.2.2. Kilbride Hill House dates from approximately 1870 and was built as a Victorian villa. There is a single storey red-brick gate lodge located to the south of the site and this structure was built later than the main house.
- 9.2.3. There are a number of significant conservation features associated with Kilbride Hill House. The strong sylvan character is a feature of the site and in my view, based on a visual observation of area and the documentation on the file, contributes to the special architectural interest of the protected structure. Kilbride Hill House contains many external original features. The original features include granite steps to the front, granite columns, granite block walls supporting bay window, original doors, bay windows and windows at ground and first floor level. The house includes a terrace / balcony at first floor level to the front elevation. There are some modern external interventions to the main house and these include lighting, flag poles and alarm boxes. The brickwork including the surrounding brickwork above the main door arch is original and is an attractive feature. There are original gutters and downpipes in situ although PVC replacements are also in place. The rear elevation includes many new windows but mainly original windows are in place. These original features would also, in my view, contribute to the special interest of the protected structure.
- 9.2.4. A notable feature of the site is the topography. The site topography generally rises from the gate lodge to the south of the site to the northern boundary of the appeal site. This topography gives Kilbride Hill House prominence and therefore creates a setting which again, in my view, would contribute to the special interest of the protected structure.
- 9.2.5. I would consider that it is the setting of the protected structure which is most at risk from the proposed development particularly having regard to the houses proposed to the rear of Kilbride Hill House. I note the first party appeal submission argues that the submitted photomontage document is a more relevant guidance to assess the impact of the proposed houses to the rear of Kilbride Hill House. However, and notwithstanding the photomontage document, I would consider that the submitted drawing no. 840-05-004 'Street Contiguous Elevations' and drawing no. 840-05-001

'Street contiguous Elevations' both demonstrate that the proposed house no's 32 – 40 would detract from the setting and character of Kilbride Hill House as their scale, having regard to the proposed levels, would diminish the prominence and dominance of Kilbride Hill House and as such would detract from the special interest of the protected structure.

9.2.6. Policy objective BH9 of the Wicklow County Development Plan, 2016 – 2022, and policy objective AH1 of the Bray Municipal District Local Area Plan, 2018, ensures the protection of all structures contained on the RPS.

9.2.7. I would consider that the remainder of the proposed development is acceptable in terms of protecting the special interest of Kilbride Hill House. I would also acknowledge that the proposed development also includes the demolition of a log house, green house and boiler all of which I would consider acceptable.

9.3. **Impact on Established Residential Amenities**

9.3.1. In terms of established residential amenities and having regard to the proposed development I would consider that the relevant issues for consideration are overlooking, overshadowing / loss of daylight and visual overbearance.

9.3.2. Based on a visual observation of the local area I would note that the appeal site is effectively insular and the adjoining lands to the appeal site are generally not visible from within the appeal site owing to the presence of the mature trees that enclose the boundary of the site. I will review and assess the proposed landscaping and the loss of trees in paragraph 9.10 below.

9.3.3. In terms of adjoining residential developments, I note that Ashton Woods is located to the immediate east of the appeal site. On the opposite side of Herbert Road there is an established housing development, i.e. Richmond Park.

9.3.4. The southern gable elevation of proposed house no. 3 and house no. 6 are located closest to Richmond Park. I would note that house no. 3 is house type 2A and this proposed house is set back from the nearest established house in Richmond Park by approximately 37 metres. The south facing gable elevation of proposed house no. 3 has no significant glazing and allowing for the separation distance and the presence of mature trees between the two properties I would consider that no adverse impacts on residential amenities are anticipated. I would also note that the proposed house no. 6 is set back approximately 40 metres from the nearest house on the opposite side of Herbert Road, i.e. Ashton Wood, but allowing for the factors outlined above no significant adverse impact on established residential amenities is expected.

9.3.5. The neighbouring housing development to the immediate east of the appeal site is Pemberton. Pemberton comprises of single storey detached suburban type houses and the level of this neighbouring site is generally slightly higher than the appeal site. Accordingly, the finished floor levels of the established houses in Pemberton located adjacent to the boundary of the appeal site are slightly higher than the finished floor levels of the proposed houses on the opposite side of the boundary. The proposed gable elevations of house no. 31, 41, and 32 orientate towards Pemberton and the separation distance with the neighbouring gable elevations in Pemberton ranges from 25 – 30 metres. The boundary between the proposed housing development and Pemberton is also densely planted with mature trees. Overall, I would consider, having regard to the separation distances, orientation of the respective properties, the difference in levels and the densely planted boundary, that there would be no significant impact on the established residential amenities in Pemberton.

9.4. **Proposed Residential Amenity**

9.4.1. I would consider that the provision of private open space, public open space, quality of housing units, would be relevant considerations in assessing the residential amenities for future occupants of the proposed development.

9.4.2. Section 1 of Appendix 3 of the Wicklow County Development Plan, 2016 – 2022, sets out minimum standards on '*design and development standards*' for housing

developments. In relation to private open space the minimum private open space for a 3+ bedroom is 60 – 75 sq. metres. I would note from the submitted site layout plan and the 'Area and Level's Schedule' which accompanied the additional information response that the provision of private open space would exceed the minimum requirements. Furthermore, any back to back distances for proposed houses would exceed 22 metres.

9.4.3. In relation to public open space provision I would note that 4 no. areas of public open space were proposed throughout the site. These public open spaces are usable, given their individual sizes, and would also provide a visual amenity to future occupants of the proposed development. The overall provision of public open space represents approximately 18% of the site area. The Wicklow County Development Plan, 2016 – 2022, state that public open space will normally be required at a rate of 15% of the site area. Paragraph 4.20 of the Sustainable Residential Development in Urban Areas, 2009, recommends a public open space provision of 15% in green field developments.

9.4.4. In the first party appeal submission the applicant reduced the public open space provision in order to enlarge the curtilage of the protected structure and therefore improve the setting of Kilbride Hill House. The net effect of this revision is that public open space area no. 4 has been omitted from the overall public open space provision. This effectively reduces the public open space provision to 12% which is below the minimum required provision.

9.4.5. The total site includes areas that are undevelopable and will be retained as woodland areas. These woodland areas will provide an amenity to the future occupants of the proposed development and will also provide a sense of privacy for future residents. Overall, in my view, having regard to the nature of the site the overall public open space provision is acceptable.

9.4.6. The floor area of the units proposed is set out in the additional information response document 'Areas & Levels Schedule'. It is evident from this document that the

minimum floor area for a proposed 3-bed unit is 96.5 sq. metres and there are two units with this floor area. The next unit, in terms of floor area for a 3-bed unit, is 105.6 sq. metres and the proposed units range in size to a maximum floor area of 130 sq. metres. The floor areas of the proposed houses would offer a good standard of residential amenity.

- 9.4.7. In conclusion therefore, I would consider that the proposed development would offer a good standard of residential amenity for future occupants.

9.5. **Residential Density**

- 9.5.1. National Planning Policy in the National Planning Framework, 2018, and the Sustainable Residential Development in Urban Areas, 2009, recommends increasing residential density in towns and cities. National Policy Objective 35 of the NPF recommends increasing density and paragraph 5.11 of the Sustainable Residential Development in Urban Areas, 2009, recommends a density of 35-50 dwellings per ha in outer suburban / greenfield sites.
- 9.5.2. Section 4.3.4 'Densities' of the Wicklow County Development Plan, 2016 – 2022, advises that *'in existing residential areas, infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties'*.
- 9.5.3. The proposed development includes the provision of 43 dwellings (41 no. dwellings proposed and the main residence and gate lodge). The density of the proposed development is approximately 15 units per ha. This is a density that falls well below that recommended by national policy and national guidelines. However, it is important to note that Section 4.3.4 of the County Development Plan states that maximum densities will be achieved except where insurmountable impediments arise.

9.5.4. I would consider that paragraph 5.11 of the national guidelines would refer specially to sites which would effectively have a blank canvass. In the current development before the Board the retention of Kilbride Hill House and its curtilage is a very significant impediment to the proposed development achieving the recommended residential density in accordance with the national guidance. I would consider, having regard to the importance of the architectural heritage on the appeal site that the proposed residential densities are acceptable.

9.6. **Condition no. 2**

This condition omitted the proposed houses to the rear of Kilbride Hill House. I have outlined my reasons and considerations for supporting this local authority condition in paragraph 9.2 above. I would recommend to the Board that condition no. 2 is retained, should the Board favour granting permission.

9.7. **Condition no. 5**

9.7.1. Condition no. 5 of the Local Authority permission requires the applicant to provide a cash bond to ensure the satisfactory completion of the proposed development. I would note that both the Development Management Guidelines, 2007, and Circular Letter PL 11/2013 recommend bonds for the satisfactory completion of housing developments.

9.7.2. The first party appeal argues that the bond which amounts to €730,000 (€1,500 x 485) is excessive. I would note that the bond amount relates to the length of the road within the development, i.e. 485m. The appellant argues that this is onerous given the nature of the appeal site, which includes a protected structure and also having regard to the topography of the site in which particularly long access road relative to the number of housing units is necessary. The appellant provides details of the amount of bond required for other housing developments granted permission by Wicklow County Council. These permissions demonstrate that the required bond per housing unit is less than that required in the current development.

- 9.7.3. As such the issue at the crux of this particular appeal is the method of calculation of the bond. I have reviewed the Wicklow County Council Development Contribution Scheme, 2015, and there is no reference to bond payments. I have also reviewed the Wicklow County Development Plan, 2016 – 2022, and the Bray Municipal District Local Area Plan, 2018, and in both documents there is no reference to bonds.
- 9.7.4. The Local Authority have not responded to the third-party appeal, as such there is no justification for the amount of the bond required in Condition no. 5. Although I would acknowledge the Development Management Guidelines, 2007, and Circular Letter PL 11/2013, recommend the provision of bonds for the completion of infrastructure for which a Local Authority may eventually take in charge. As such I would therefore recommend to the Board, should they favour granting permission, that a condition is attached requiring that the access road for the proposed development is completed prior to the construction of the houses and that a bond is agreed between the Local Authority and the applicant for the satisfactory completion of the remainder of infrastructure provision. In relation to the remainder of the bond I would recommend that a bond is agreed between the Local Authority and the applicant.

9.8. **EIAR Screening**

- 9.8.1. Section 10 (b) (iv) of Schedule 5, Part 2 of the Planning and Development, 2001 (as amended) states that 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 ha elsewhere is development that requires an EIS. The appeal site is not located within a business district however the appeal site is located within a built-up suburban area on a zoned site in accordance with the provisions of the County Development Plan.
- 9.8.2. The size of the site in the current application is 4.113 ha and this therefore falls below the 10-ha threshold and therefore an EIS is not required having regard to Section 10 (b) (iv) of Schedule 5, Part 2 of the Planning and Development Regulations, 2001 (as amended).

- 9.8.3. I would conclude that having regard to the characteristics of the proposed development, the location of the proposed development and the characteristics of the potential impacts, that the proposal is not likely to give rise to significant effects on the environment and that an EIS would not be warranted in this instance.
- 9.8.4. Based on the information on the file, which I consider adequate to issue a screening determination, it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.

9.9. **Traffic / Access / Car Parking**

- 9.9.1. It is proposed to utilise the existing vehicular access onto Herbert Road to serve the proposed development. The sightline provision for the proposed development is 45m in either direction I would note from the Local Authority's planners report that there is no objections to the proposed sightline provision. The Local Authority report from the Transportation and Roads Infrastructure Section, dated 20 October 2017, also records no objections to the sightlines proposed.
- 9.9.2. The planning application was accompanied by an Engineering Services Report and this included a section on Traffic and Transportation. In relation to road capacity this report concluded that having regard to the scale of the proposed development no major impact is anticipated on current traffic volumes on the local road capacity. The planner's report also concludes that Herbert Road would have sufficient capacity to accommodate the proposed development.
- 9.9.3. The proposed car parking provision amounts to 2 no. spaces per dwelling and is proposed as off-street car parking.

9.9.4. I would conclude that the proposed development would not give rise to a traffic hazard and that there would be sufficient capacity to accommodate the proposed development.

9.10. **Landscaping / Tress**

9.10.1. I noted from my site inspection that a significant character feature of the appeal site is the presence of mature trees onsite. These trees, both evergreen and deciduous are mature in age and contribute significantly to the sylvan character of the site and in my view the special interest of the site in heritage terms. The Arboricultural Report submitted with the application notes that the trees are considered an important element of the existing site and their retention where possible are considered an important part of the design process.

9.10.2. I would note from the submitted drawing entitled 'Kilbride Hill House-TCP-08-17' that the trees are generally located along the perimeter of the site and along the avenue that provides access to the main house. There is also a collection of trees located around the main house. I would also note that the tree survey has identified different categories of trees and in general terms it is proposed to retain the trees in a number of distinct belts. The trees for retention are illustrated on the drawing 'Tree Protection Plan' and it is evident from this drawing that there is a belt of trees to be retained along the southern boundary, the eastern and western boundary, to the north of the appeal site, surrounding the main house and also a collection of trees along the original avenue to the main house.

9.10.3. I would note from the information available that there are 486 trees identified in the categories A, B and C. Of these trees it is proposed to remove 120 (25%) trees therefore this amounts to a retention rate of 75%. The landscaping proposal recommends that to mitigate the removal of trees it is proposed to undertake significant planting. The proposed replanting plan includes 203 no. trees to open space, 140 no. trees to front gardens, and no. 417 no. trees to woodland planting. This will amount to 1,126 trees of the A, B and C category.

9.10.4. Overall, I would conclude that the having regard to the overall retention rate of trees and to the proposed replanting that the proposed landscaping proposals are acceptable.

9.11. **Appropriate Assessment Screening**

9.11.1. The Board will note that activities, plans and projects can only be permitted where it has been ascertained that there would be no adverse effect on the integrity of a Natura 2000 site, apart from in exceptional circumstances.

9.11.2. The Department of Environment, Heritage and Local Government Guidelines on 'Appropriate Assessment of Plans and Projects in Ireland, 2009,' recommend that the first step in assessing the likely impact of a plan or project is to conduct an Appropriate Assessment Screening to determine, on the basis of a preliminary assessment and objective criteria, whether a plan or project, alone or in combination with other plans or projects, could have significant effects on a Natura 2000 site in view of the site's conservation objectives. The Guidelines recommend that if the effects of the screening process are 'significant, potentially significant, or uncertain' then an appropriate assessment must be undertaken.

9.11.3. I would note the following designated Natura 2000 sites are located within a 5km radius of the appeal site.

- Ballyman Glen SAC (site code 000713)
- Bray Head SAC (site code 000714)
- Knocksink Wood SAC (site code 000725)

Ballyman Glen SAC (site code 000713)

9.11.4. Ballyman Glen SAC is located approximately 2km to the north west of the appeal site. The qualifying interests for this SAC include;

- Petrifying springs with tufa formation (Cratoneurion) [7220]
- Alkaline fens [7230]

Knocksink Wood SAC (site code 000725)

9.11.5. Knocksink Wood SAC is located approximately 2km west of the appeal site. The qualifying interests for this SAC include;

- Petrifying springs with tufa formation (Cratoneurion) [7220]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, Alnion incanae, Salicion albae) [91E0]

9.11.6. In relation to the above two designated sites I would note that there is no hydrological connection from the appeal site to either of these designated sites. I also would note that both of these sites are located at a higher elevation than the appeal site and on the opposite side of the N / M11 to the appeal site. I would consider that the only possible impact from the proposed development on these two designated sites would be during the construction phase where the removal of soil and potential discharges may have a run-off impact however given the lack of any hydrological connection and the separation distance the proposed development would not be likely to have a significant effect on either of these designated sites.

Bray Head SAC (site code 000714)

9.11.7. Bray Head SAC is located approximately 3km from the appeal site. The qualifying interests for this SAC include;

- Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
- European dry heaths [4030]

9.11.8. There is no hydrological connection from the appeal site to the Bray Head SAC. Bray Head is effectively an elevated headland above the sea level and as such is separated topographically from the appeal site. Overall, I would conclude, having

regard to the separation distance and the lack of any hydrological connection, that the proposed development would not be likely to have a significant effect on this designated site.

9.11.9. I would note that both the applicant and the Planning Authority conclude that a Stage 2 Appropriate Assessment is not required and I would concur with these conclusions.

9.11.10. I would consider that it is reasonable to conclude that based on the information on the file, which I consider adequate to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European Sites, i.e. site code 000713, 000714 and site code 000725, in view of the sites conservation objectives and a stage 2 AA is therefore not required.

9.12. **Other Issues**

9.12.1. I note from the submitted ecology report that bats were not identified in the field survey. The proposed development will retain potential foraging habitat for bats. I would consider that the impact of the proposed development on ecology is not significant.

9.12.2. I have reviewed the submitted noise report and also had regard to the third party concerns in relation to noise. I would consider that there are established residential amenities in the vicinity of the proposed development and noise arising from the N/M 11 would not seriously injure the amenities of the proposed development.

10.0 **Recommendation**

10.1. I have read the submissions on the file, visited the site, had due regard to the County 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 objective for the site as set out in the Bray Municipal District Local Area Plan, 2018, the Wicklow County Development Plan, 2016 – 2022, the National Planning Framework, 2018 – 2040, the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009) and the overall scale, design and height of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and would be acceptable in terms of architectural heritage and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and as amended by plans and particulars submitted to Wicklow County Council on 21st March 2018, and except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be modified as follows:
 - a. All proposed housing units located to the rear (north) of Kilbride Hill House and associated estate road and footpaths, including revised proposals, shall be omitted.

Revised drawings showing compliance with the above requirements shall be submitted to the planning authority for written agreement prior to the commencement of development.

Reason: In the interest of protecting architectural heritage.

3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

5. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

6. Water supply and 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.

7. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

8. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

Reason: In the interest of urban legibility.

9. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

10. Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the

construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of 3 years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To secure the protection of the fine trees on the site

11. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

12. 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 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 construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management

14. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

15. (a) Details of the design of the new pedestrian link to the Dargle River Woodland shall be agreed in writing with the planning authority prior to the commencement of development. (b) Final details for the upgrade of the existing pedestrian path adjacent to Ashton Wood shall be agreed in writing with the Planning Authority prior to the commencement of development.

The works shall be completed to the satisfaction of the planning authority prior to the occupation of the houses.

Reason; In the interests of providing for the amenity and recreational needs of the residents of the estate.

16. The boundary treatment and access gate arrangements to the revised curtilage of Kilbride Hill House shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development. The gate, gate piers and railings of the existing entrance to Herbert Road shall be re-located to the new entrance to Kilbride Hill House, unless otherwise agreed in writing.

Reason: In the interest of protecting architectural heritage

17. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

18. (a) The internal road to serve the proposed houses shall be completed to the satisfaction of the Local Authority prior to commencing construction of the hereby permitted houses. (b) Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of footpaths, watermains, drains and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

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

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

Kenneth Moloney

Planning Inspector

19 October 2018