



An  
Bord  
Pleanála

**Inspector's Report**  
**ABP 302238-18**

<b>Development</b>	House, new entrance adjacent to entrance at Heatherton off Killarney Road and associated site works.
<b>Location</b>	Kincumber Lodge, Killarney Road, Bray, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council.
<b>Planning Authority Reg. Ref.</b>	18/323.
<b>Applicant</b>	Aubrey & Theresa Leggett.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party.
<b>Appellants</b>	Aubrey & Theresa Leggett.
<b>Observers</b>	1. Eamon Fox. 2. Anthony Cunningham & Colleen Cummins.
<b>Date of Site Inspection</b>	17 <sup>th</sup> October 2018.
<b>Inspector</b>	Dáire McDevitt.

## **1.0 Site Location and Description**

- 1.1 The appeal site comprises part of the existing curtilage of a large detached dwelling 'Kincumber Lodge'. Located on the western side Killarney Road (R767) to the southwest of Bray town centre in County Wicklow.
  
- 1.2 Kincumber Lodge is a detached storey and a half gable fronted dwelling set in a large rectangular shaped site. The application site with a stated area of c.0.05 hectares is the side garden to the south of Kincumber Lodge. The first named Observer's house, Cherry Lawn Cottage, is located to the northwest of the site and occupies what was originally the rear garden of Kincumber Lodge.
  
- 1.3 The site is bounded to the west by the second named observer's house, a two storey dwelling which forms part of a small housing scheme of 6 houses, Heatherton, separated from the site by a block wall. To the north there is no defined boundary currently separating the site from Kincumber Lodge. Further north along the Killarney Road is Colledoe, three recently constructed contemporary style three storey houses with advertisement signage erected along the roadside boundary. The southern boundary consists of a wall which bounds the access road to Heatherton and further south are the rear gardens of Kilbride Grove houses. The existing roadside boundary is a stone capped wall within no views into the site from the Killarney Road. There is a footpath and cycle lane along the frontage of the site.

## **2.0 Proposed Development:**

The proposed development comprises of the following:

- A two storey detached house with attic conversion.

- New entrance off Killarney Road, adjoining the entrance to Heatherton housing scheme.
- Associated site works.

### **3.0 Planning Authority Decision**

#### **3.1 Decision**

Refuse Permission for the following 2 reasons:

1. *It is considered that the proposed development, by virtue of its design, scale and bulk, would form a visually prominent and obtrusive feature, would have an overpowering and dominating impact on the streetscape and would set an undesirable precedent for future inappropriate haphazard development in the vicinity of the site. The proposed development would, therefore, be contrary to the visual amenities and proper planning and sustainable development of the area.*
2. *Having regard to the inadequate information and drawings supplied in relation to the proposed entrance to the site, it is considered that insufficient information has been provided to fully establish the availability of adequate sightlines to access the site. It is considered that to permit planning permission in the absence of this information could result in a traffic hazard and would be contrary to the proper planning and sustainable development of the area.*

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

##### **3.2.1 Planning Report**

Permission was refused following the submission of further information. The Planning Authority was not satisfied that the response addressed the concerns relating to the design, scale and bulk of the proposed house. In addition it was considered that the proposed entrance would constitute a traffic hazard as the applicants had not clearly demonstrated that the

required sightlines could be achieved. These issues are reflected in the reasons for refusal.

### **3.2.2 Other Technical Reports**

**Irish Water.** No objection subject to condition.

### **3.3 Third Party Observations**

Four submissions were received by the Planning Authority. Two of whom have made Observations on the current appeal. The issues raised in the submissions are largely in line with those raised in the Observations to this appeal and shall be dealt with in more detail in the relevant section of this Report. The main points can be summarised as:

- Overshadowing and loss of light.
- Overlooking.
- Overbearing impact on adjoining properties due to the height, scale and design of the proposed development.
- Loss of views.
- Design is not in keeping with the character of the area.
- The proposed entrance is too close to that of Heatherton, potential impact on pedestrian, cyclist and cars.

### **3.4 Applicants response to the submissions**

This is mainly in the form of a rebuttal. Points of note include:

- The height of the proposed dwelling would be lower than those at Heatherton and the new development to the front of Cherry Lawn cottage.
- The height and set back complies with the requirements of Wicklow County Council.

- There will be no loss in light due to the relationship and setback of the proposed house with adjoining properties.
- The entrance does not constitute a traffic hazard but, if required, they are willing to move the entrance c.5m northwards.
- The area has a multitude of designs, the proposal is in keeping with the local built environment.
- The attic window will be removed and a skylight installed in its place. Opaque glass is proposed to bathroom windows. The long window serves a landing and there is no overlooking from this window as it is set above head height.

## 4.0 Planning History

**Planning Authority Reference No. 99/630192** refers to a grant of permission for a dormer house (Kincumber Lodge).

### **Adjacent sites:**

#### **To the north (Colledoe)**

**Planning Authority Reference No. 17/1297** refers to a 2017 grant of permission for 3 contemporary style houses to the front of 'Cherrylawn'.

#### **To the west (rear) (Heatherton):**

**Planning Authority Reference No. 15/981, 15/457 and 14/1606** refer to applications for houses. Total of 6 no. two storey houses.

## 5.0 Policy Context

### 5.1 Bray Municipal District Local Area Plan 2018-2024

#### **Land Use Zoning:**

**RE: Existing Residential** *To protect, provide and improve residential amenities of existing residential areas.*

To provide appropriate infill development in accordance with principles of good design and protection of existing residential amenity.

## **5.2 Wicklow County Development Plan 2016-2022**

The policies and objectives are generally reflective of what is included in the Local Area Plan.

### **Appendix 1 General Development and Design Standards:**

#### **Infill Development:**

Where opportunities arise for infill or backland type development a range of standards apply which include:

- The site / plot must be capable of being developed in accordance with the density limit set for that area in the local area or town plan, or in any case in keeping with the prevailing density of the immediate area.
- The design of a new house should complement the area. Where an area has an established unique or valuable character worthy of preservation, particular care should be taken to match the style and materials of the area, however, where an area is a 'mixed-bag' of styles and periods, more flexibility can be applied.
- The re-design of access and car parking arrangements for the existing dwelling on the plot must be clearly detailed, and permission included for same where required; developments accessed from a long narrow driveway must provide for the turning of vehicles within the site.

## **Residential development**

### **Separation Distances:**

A separation of 22m will normally be required above ground level between opposing windows serving private living areas (particularly bedrooms and living rooms). The degree of 'overlooking' afforded by different windows types shall be considered appropriate.

### **Private Open Space:**

3+ bedrooms require 60-75 sq.m of private open space.

## **5.3 Natural Heritage Designations**

There are a number of European designated sites within 5km of the application site:

- Bray Head SAC (site code 000714) c.2km to the east
- Ballyman Glen SAC (site code 000713) c.1.6km to the northwest.
- Knocksink Wood SAC (site code 000725) c.3km to the west.

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

The first party appeal seeks to address the reasons for refusal of permission and is summarised as follows:

- The scale and height of the proposed house is less than the recently permitted houses at Heatherton and Colledoe adjoining the site.
- A response to the concerns raised by the Area Planner relating to glazing and windows.
- The style of the proposed entrance off the road is in keeping with the adjoining entrances built by Wicklow County Council in 2003.

- Errors in scaling in the drawings have been addressed.
- No objection to using a rendered external finish if required.
- The proposal complies with the requirements and guidance of Wicklow County Council.
- Photographs of developments in the vicinity that illustrates the existing variety of design, styles and heights.
- Computer generated images included to illustrate the proposed house in the context of adjoining developments.

## **6.2 Planning Authority Response**

None.

## **6.3 Observations**

Two Observations have been received from:

- Eamon Fox, Cherry Lawn Cottage, Killarney Road, Bray, Co. Wicklow.
- Anthony Cunningham & Colleen Cummins, No. 6 Heatherton, Killarney Road, Bray, Co. Wicklow.

The main issues raised are largely in line with the original submissions and are summarised as follows:

- No objection in principle to the development of the site, the main concerns relate to the inappropriateness of a three storey structure at this location.
- The proposal does not comply with the requirements for Infill development as set out in the Bray Development Plan.
- It would have a negative impact on adjoining properties arising from overlooking and loss of privacy,



- The development, due to its height and scale would result in overshadowing and loss of light from adjoining properties. No shadow study submitted with the application.
- The proposed entrance would result be a traffic hazard. The applicants have not demonstrated that adequate sightlines can be achieved.
- The design and scale of the house would be visually obtrusive and not in keeping with the existing built environment.

#### **6.4 Prescribed Bodies**

None.

### **7.0 Assessment**

The appeal included revised plans showing minor modifications to include an increase in the internal floor to ceiling height of the attic room by 1cm. Given the nature of the modifications I do not consider that revised public notices are required. The main issues in this appeal are those raised in the grounds of appeal which seeks to address the Planning Authority's reasons for refusal. The issue of appropriate assessment and environmental impact assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Design & Residential Amenity.
- Access.
- Appropriate Assessment.
- Environmental Impact Assessment.

## **7.1 Design & Residential Amenity.**

7.1.1 Permission is sought for a two storey dwelling, with attic conversion. The design is similar to Kincumber Lodge, albeit with a different external finish. The Council's policy for infill developments sets out that the design of a new house should complement the area. And that, where an area is a 'mixed-bag' of styles and periods, more flexibility can be applied.

7.1.2 The Planning Authority's first reason for refusal was on the premise that the design, scale, height and bulk of the proposed dwelling would result in a visually prominent and obtrusive feature which would have an overpowering and dominating impact on the streetscape and set an undesirable precedent.

7.1.3 The predominant built form in the area ranges from dormer style houses to two and three storey houses, varying from traditional suburban semi-detached to contemporary designs. I am satisfied that the current proposal reflects the height of the adjoining houses and, in my view, the overall design and scale of the proposed development respects the predominant pattern of development in this area. It would not form a discordant feature on the streetscape at this location and would not detract from the architectural grain of the area.

7.1.4 The observers raised concerns regarding the potential for the development to be overbearing when viewed from the adjoining property to the west (No. 6 Heatherton) and Cherry Lawn Cottage to the northwest of the site, to the rear of Kincumber Lodge. I note that the distance from the rear elevation of the house and the closest dwellings to the west, which has first floor windows facing the site, is c.18.7m and c. 25 to 26m from the rear elevation of the houses to the south. Cherry Lawn Cottage is sited at an angle and setback c. 13.8m from the northwest corner of the proposed house. Taking into account the set back of the house from the site boundaries, the boundary treatment

and screening along the boundaries, the proposal would not be visually overbearing or obtrusive when viewed from the adjacent Killarney Road or adjoining properties.

- 7.1.5 I consider that the overall height (c.9.25m) of the house is acceptable having regard to the context of the site and the relationship of the house with adjoining properties along Killarney Road and to the rear. The scale of the development is acceptable, as illustrated by the images submitted, the scale is less than the permitted development at Colledoe. In my view the perceived overpowering impact of the house stems from the proposed finishes (brick), this can be addressed by conditioning the use of a rendered finish, in line with Kincumber Lodge.
- 7.1.6 In terms of overlooking, no windows are proposed to habitable rooms above ground floor level to the western elevation facing Heatherton or the northern elevation facing Kincumber Lodge. A bathroom window on the western elevation has obscured glazing. A High level window is proposed to the northern elevation to address potential overlooking of the first floor dormer windows to Kincumber Lodge. The first floor windows to the southern elevation are set back c. 25 to 26m from the opposing first floor windows of the houses of Kilbride Grove. Overlooking is not considered an issue.
- 7.1.7 Regarding ground floor windows, it is commonly understood that overlooking between properties does not usually occur at ground floor level. This is because in most urban cases a two metre solid boundary from the front building line back, either a wall or fence, is erected to screen views and in rural areas landscaping along site boundaries is conditioned to screen sites. In this instance, I am satisfied that adequate boundary treatment (walls) are in place along the southern, western and eastern boundaries, boundary treatment along the northern boundary with Kincumber Lodge can be addressed by condition.

7.1.8 The observers also highlighted overshadowing arising from the scale of the proposed house and its proximity to the boundaries. The proposed house would be sited to the east of the rear garden of No. 6 at a setback of c.8.5m. The Development Plan refers to garden depth of 11m, this is to facilitate back to back distances of 22m from first floor opposing windows serving habitable rooms. In this instance the private amenity space wraps around the house and I consider the proposed garden depth acceptable as there are no opposing first floor windows to habitable rooms. I acknowledge that the proposals would lead to some overshadowing of the private amenity space of No. 6. However, this area already experiences a degree of overshadowing due the current boundary treatment and planting along the boundary within the application site. I am of the view that while there would be a degree of overshadowing it is not of an extent that would detract from the residential amenities of adjoining properties and warrant a reason for refusal. I am satisfied that the scale and setback of the proposal is such that it would not detract from the residential amenities of adjoining properties taking into account the orientation of the site and the relationship of the properties to each other.

7.1.9 The proposed house has adequate private amenity space and sufficient private amenity space is retained by Kincumber Lodge in accordance with the standards set out in the current Wicklow County Development Plan.

7.1.10 I consider the proposed development, in terms of design, scale, height, provision and location of open space, boundary treatment would not form a discordant feature on the streetscape. The proposed house would not have an overbearing impact when viewed from adjoining properties or the public road. The set back of the development from the site boundaries is sufficient to address the concerns raised in relation to the overshadowing impact on and would not detract from the residential amenities of adjoining properties, in particular, No. 6 Heatherton or Cherry Lawn Cottage.

## **7.2 Access:**

7.2.1 Access is proposed off a straight stretch of Killarney Road at a point where there is a footpath and cycle path bounding the site. The Planning Authority's second reason for refusal was on the basis that the applicants had not clearly demonstrated that they could achieve the required sightlines at the proposed entrance off Killarney Road. Concerns were also raised by the observers that the entrance would result in a traffic hazard due to its proximity to the gated access into Heatherton.

7.2.2 The applicant's in the ground of appeal have set out that the access proposal mirrors those built by the Council in 2003 for Kincumber Lodge and Cherry Lawn.

7.2.4 In my opinion, the proposed entrance would generally accord with the provisions of the County Development Plan. I have examined the site layout plans submitted and inspected the site. The site is located on a section of the Killarney Road where adequate sight lines can be achieved. Taking into account the low level of traffic associated with a single house and the speed of the adjoining road within a town I do not consider that the additional traffic movement associated with the development would result in a traffic hazard due to increased traffic movements. Accurate drawings showing sightlines can be required by condition if the Board considers granting permission.

## **7.3 Appropriate Assessment**

7.3.1 Having regard to the nature of the proposed development and the location of the site in a fully serviced built up suburban area, no appropriate assessment issues arise and it is not considered that the proposed development would

be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **7.4 Environmental Impact Assessment**

7.4.1 Having regard to the nature and scale the development which consists of single dwelling in a built up suburban location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **8.0 Recommendation**

I recommend that permission be granted for the reasons and considerations and subject to the conditions set out below.

## 9.0 Reasons and Considerations

Having regard to the scale and design of the proposed dwelling and the provision of the Bray Municipal Local Area Plan 2018-2024 and the Wicklow County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed dwelling would not be considered overbearing, would integrate in a satisfactory manner with the existing built development in the area, would not form a discordant feature on the streetscape, would not constitute a traffic hazard and would adequately protect the residential amenity of adjacent property. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10. Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by details received by An Bord Pleanála on the 2<sup>nd</sup> day of August 2018, 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 house shall have an external rendered finish. Details including samples of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwelling house without a prior grant of planning permission.

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

4. Water supply and drainage arrangements, including the attenuation and 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.

5. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

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

6. Prior to the commencement of development the applicant shall submit revised plans to be agreed in writing with Planning Authority as follows:

- a) Revised plans and specifications for the entrance off Killarney Road clearly showing the required sightlines.

**Reason:** In the interest of traffic safety and visual amenities.

- 7.



A 1.8m high block wall shall be provided and continued for the entire length of the rear garden along the side boundaries with Kincumber Lodge. Details to be submitted to and agreed in writing with the planning authority, prior to commencement of development.

8. **Reason:** In the interest of residential amenity.

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

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

9. The 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.

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Dáire McDevitt  
Planning Inspector

9<sup>th</sup> November 2018