



An
Bord
Pleanála

Inspector's Report ABP 305402-19

Development	4 no. 3 bedroom 3 storey terraced houses.
Location	Kearney's Lane, Blackrock, Co Louth.
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	18/984
Applicant	Briege Tuite
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Caroline McDonald and others
Observers	None
Date of Site Inspection	31 st January 2020
Inspector	Brendan Coyne

1.0 Site Location and Description

- 1.1. The site (0.06 Ha) is located on the southern side of Kearney's Lane, which is a narrow laneway leading off Main Street in Blackrock. Kearney's Lane provides access to 7 no. dwellings located along the laneway and access to the rear of 2 no. businesses located at the corner of the laneway fronting onto Main Street. These businesses comprise a bakery known as 'The Home Baker' (No. 10 Main St.) and a hairdresser known as 'Karen's Home Salon' (No. 11 Main St.). The laneway also provides pedestrian linkage between Main Street and the Beech Park residential area, located to the north-east.
- 1.2. The site contains a single storey 4-bedroom dwelling and a detached single storey garage to its western side. An unrestricted parking area, with the capacity for c. 4 vehicles, adjoins the northern boundary along Kearney's Lane. A single storey garage fronts onto the parking area at its western end, located outside the application site as outlined.
- 1.2.1. Lands adjoining the site to the east contain the rear gardens / yards of No. 11 Main St. (a.k.a. The Village House) and a two-storey dwelling known as 'Mayville'. Lands adjoining the site to the south contain 2 no. detached single storey dwellings. A detached 2 storey dwelling known as 'Strand View' is located on lands adjoining the site to the west and 4 no. 2-storey dwellings are located opposite the site, on the northern side of Kearney's Lane. These dwellings are named as 'Cedar Lodge' (most eastern), 'Rock View' (most western), 'Bay View' (which is set back from the laneway) and 'Sea View'. The northern boundary of the site is defined with a c. 1m high rendered block-built wall with tall coniferous hedging planted behind it. The western boundary of the site is defined with a low masonry wall with metal railing over and tall hedging. The southern boundary of the site is defined with a plastered wall and open mesh fencing in poor condition and the eastern boundary of the site is defined with a plastered block-built wall. The ground level of the site rises by approx. 0.5m from east to west. A utility pole is located at the north-western corner of the site.

2.0 Proposed Development

2.1.1. Application as lodged on the 03rd December 2019 - Permission sought for the following;

- Demolition of the existing single storey house and garage.
- Construction of 4 no. 3 storey 3-bedroom terraced houses.
- The floor areas of the proposed dwellings are stated as follows;
 - Unit No. 1 - most eastern dwelling: Floor area - 120 sq.m.
 - Unit No. 2: Floor area - 133 sq.m.
 - Unit No. 3: Floor area - 140 sq.m.
 - Unit No. 4 - most western dwelling: Floor area - 113 sq.m.
- Provision of 4 no. new vehicular and pedestrian access gates from Kearney's Lane, and the provision 1 no. car parking space and bicycle space for each dwelling,

2.1.2. Revised Proposal as submitted by way of Further Information on the 23rd July 2019:

- Revisions to the layout and design of the proposal. The floor areas of the revised proposed dwellings are as follows;
 - Unit No. 1 - most eastern site: Floor area – 141.3 sq.m.
 - Unit No. 2: Floor area - 146 sq.m.
 - Unit No. 3: Floor area – 142.3 sq.m.
 - Unit No. 4 - most western site: Floor area – 125.1 sq.m.
- Design Revisions include the following;
 - Revisions to the treatment and position of window opes on the northern elevations of the proposed dwellings, facing Kearney's Lane.
 - Provision of obscured glazing to the southern elevation of proposed Unit No. 2 at first floor level.
- Boundary Treatment comprising the following;

- Provision of a 2m high timber screen attached to existing boundary wall along parts of the eastern and southern boundary.
- Provision of a new 2m high painted blockwork wall, with timber screen attached, along part of the southern boundary.
- Provision of 2m high timber screens attached to the western stone boundary wall and along the common boundaries between the proposed dwellings.
- Provision of a 1.5m wide concrete path along the northern boundary.
- Revised elevation treatment providing render finish, replacing originally proposed pebble dash finish.
- Revisions to the ground floor northern façade, replacing the originally proposed timber cladding with rubble stone wall cladding.

2.1.3. Documentation submitted includes;

- Revised Floor Plans, Elevations and Section Drawings
- Topographical Survey Drawing
- Swept Path Analysis illustrating vehicle manoeuvring to and from car parking spaces
- Floor plan detailing gates and way of operation
- Surface Water Drainage detail.
- Report prepared by Duffy Chartered Engineers addressing surface water drainage, SUDS, traffic movements and parking.
- Shadow Diagram Analysis, including sun study for 21st December
- Typical Baffle Screen Detail Drawing
- Typical Boundary Detail Drawing
- Declaration of Identity.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Louth County Council granted permission for the proposed development subject to 8 no. standard Conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports (6th December 2018 and 19th July 2019)

Basis for Planning Authority's Decision. Includes:

- The revised proposal provides measures which will prevent overlooking of neighbouring property to the north and south.
- The revised shadow analysis submitted demonstrates that the proposal will not adversely impact neighbouring property by way of overshadowing or loss of light.
- The internal floor areas and private amenity space of the proposed dwellings comply with Development Plan minimum standards.
- The 4 no. car parking spaces provided for the proposed development complies with Development Plan standards.

3.2.2. Other Technical Reports

3.2.3. *Infrastructure Planning Report.*

No objection subject to Conditions

3.2.4. *Irish Water:*

No objection subject to Conditions.

4.0 Planning History

Subject Site

None relevant for subject site.

Adjacent site to the north

P.A. Ref. 01511 Permission granted for a change of use of part of the ground floor of existing dwelling 'Seaview' to a nursery school and associated works. The approved development included the provision of 2 no. parking spaces in the parking bay to the front of the application site. Permission approved on the 2nd July 2001.

5.0 Policy and Context

Louth County Development Plan 2015-2022

Section 2.16.4 of the Louth County Development Plan states that the statutory plan for the urban and surrounding environs area of Dundalk is currently the Dundalk & Environs Development Plan 2009-2015, and that the Louth County Development Plan 2015-2022 will be an overarching plan for the entire county including Dundalk. The policies and provisions of the Dundalk and Environs Development Plan, 2009-2015, are applicable to Blackrock.

Dundalk and Environs Development Plan 2009-2015 (as varied and extended)

Zoning: The site is zoned objective 'BRV' (Blackrock Village Centre) which seeks 'To provide for mixed use development to support its role as a local service and seaside resort'.

Section 6.7.5 Privacy and Spacing between buildings

The design and layout of a development should ensure sufficient privacy for its intended residents both inside and outside the dwelling.

A distance of at least 22 metres is recommended between the windows of habitable rooms which face those of another dwelling. In the case of windows of non-habitable rooms within 22 metres of another facing window, obscure glazing may be acceptable.

Roof terraces and balconies are not acceptable where they would directly overlook neighbouring habitable rooms or rear gardens.

Where new dwellings are located very close to adjoining dwellings, the planning authority may require that daylight and shadow projection diagrams are submitted.

The recommendations of 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (B.R.E.1991) or B.S. 8206 'Lighting for Buildings, Part 2 1992: Code of Practice for Day lighting' should be followed.

Section 6.6.7 Design and Scale

The design and scale of the proposed development should be in keeping with the surrounding character of the area. The proposed design, orientation and massing shall not cause any unacceptable overbearing or overshadowing on existing dwellings and the applicant will be required to demonstrate that there are no adverse effects on the existing buildings. The following design principles should be considered:

- *Acceptable building heights, tapering downwards towards the boundary where taller building are proposed within an established residential area*
- *Avoidance of overlooking*
- *Provision of adequate private and public open space, including landscaping where appropriate*
- *Suitable parking provision close to dwellings*
- *Provision of ancillary facilities and linked effectively with local neighbourhood centres.*

Table 6.7: Residential Car Parking Standards - requires 1 space per dwelling unit in Town Centre sites.

5.1. Other Relevant Government Guidelines

Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009).

5.2. Natural Heritage Designations

The site is located 0.1km to the west of the Dundalk Bay SPA (Site Code: 004026) and SAC (Site Code: 000455).

6.0 Environmental Impact Assessment - Preliminary Examination

- 6.1.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive 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.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. An appeal was received from Environmental Heritage Planning Services, representing the residents of Kearney's Lane and Caroline McDonald of 'The Home Bakery', No.10 Main St., against the decision made by the Planning Authority to grant permission for the proposed development. The following is a summary of the grounds of appeal.

7.1.2. *Re. Overlooking*

- The proposal does not comply with the Development Plan and the *Sustainable Residential Development in Urban Areas Guidelines* which requires a separation distance of 22m between opposing windows of habitable rooms.
- The revised design of the windows on the front / northern elevation of the proposal would not prevent overlooking of neighbouring property along Kearney's Lane.
- The first-floor bedroom windows of Units 1 & 2 would be only 5.6m from Cedar Lodge and have a direct line of sight into its ground and first floor bedrooms and private side garden space.

- Unit 1's second floor gallery windows would have elevated views into the first-floor bedrooms of Cedar Lodge.
- Unit 1's second floor east facing Gallery window would be 9.2m from the eastern boundary, providing unrestricted views of the rear yard of Village House (No. 11) Main St. and the rear (north facing) bedroom windows of Mayville.
- Units 2's east facing Gallery window would be un-obscured by the proposed timber baffles, positioned only 10.6m from the boundary wall and would directly overlook the private patio area of Mayville.
- The first floor north-facing window opes of Unit No.'s 3 and 4 would overlook Bay View, Sea View and Rock View.
- The 2nd floor galleries of Units 3 & 4 would overlook the dwelling to the rear (south).
- No large-scale drawings, details or illustrations of the proposed timber baffles have been submitted with the application, negating a comprehensive assessment of their design.
- The baffles on the south facing windows, as illustrated on Dwg. PA/009/B, are at right angles to the windows, thereby allowing future residents a direct line of sight onto neighbouring dwellings to the south from an elevated position. The illustrative field of view is taken from a single point perspective that does not illustrate the full field of view or provide 180° views over neighbouring dwellings to the south.
- The 'typical screen' detail drawing submitted is unreliable and does not represent the proposed development's true impact on neighbouring property in terms of overlooking and loss of privacy.
- The revised design detail of the window opes at second floor level would likely create dark and dimly lit rooms, which would be contrary to the recommendations of the *Sustainable Residential Development in Urban Areas Guidelines*.

7.1.3. **Re. Overshadowing**

- The shadow diagram analysis submitted does not show the extent of overshadowing and loss of daylight that the proposal would create on the south facing elevations of Cedar Lodge, Bay View, Sea View and Rock View.

7.1.4. Re. Overbearing and Visual Impact

- The scale, height and massing of the proposal and its proximity to adjacent dwellings would be incongruous, visually oppressive and give rise to excessive and unacceptable overbearing impact.
- The proposal would detract from the character and visual amenity of Kearney's Lane.
- The proposed development represents inappropriate, insensitive and unacceptable over development of the site.

7.1.5. Re. Vehicular Access and Pedestrian Safety

- The proposed development would give rise to unsustainable volumes of construction traffic that cannot safely negotiate the narrow width of Kearney's Lane.
- Construction and domestic traffic generated by the proposal would create congestion within the laneway, present a danger to other road users along Main St. in particular pedestrians and cyclists and create a traffic hazard for pedestrian users using the laneway.
- The extent of on-site parking proposed requires adjacent dwellings along Kearney's Lane to abandon long established parking spaces in front of their dwellings. Louth County Council failed to take into account this long-established parking area in its assessment of pedestrian and vehicular access serving the proposed development.
- The new vehicular access for Unit 4 cannot be implemented and will be of no functional use or benefit for future residents.
- The proposed 1.5m footpath in front of Unit No.'s 3 & 4 extends outside the red line of the application site into the parking area owned by the occupants of 'Sea View' and 'Rock View'. The implementation of the 1.5m wide footpath would push parked vehicles out onto Kearney's lane, thereby creating an obstruction of the

lane. The requirement for this footpath is redundant by reason that it does not extend along the remainder of Kearney's Lane.

- The proposal provides a lack of detailed information on traffic generation and this issue was not thoroughly assessed by the Council.

Re. Drainage

- No assessment has been carried out of drains along Kearney's Lane and their capacity to accommodate the increased load from the proposed development. It is submitted that existing drains along Kearney's Lane are old and incapable of handling the additional volume generated by the proposed development.

7.2. Applicant Response

David Mulcahy Planning Consultants Ltd, has responded on behalf of the applicant to the third-party grounds of appeal, addressed under the headings below;

7.2.1. *Re. Overlooking*

- The site is located in a town centre location, where dwellings are located close together. It is generally accepted in such circumstances that the expectations for what can be achieved in terms of overlooking, overshadowing and overbearing impact are not as high as would be the case in a suburban context, where more space is available and therefore some flexibility should be applied.
- Any views from the proposal will be of the front façade of 'Cedar Lodge', 'Bay View' and 'Sea View'. Concerns regarding overlooking are normally only confined to potential views of the private facades of a dwelling.
- The windows of Cedar Lodge contain curtains to ensure privacy.
- The provision of baffle screens will prevent overlooking from north facing window opes at first and second floor level.
- Any oblique views of the private amenity space to the side of Cedar Lodge would be blocked by the proposed baffles and restricted by its tall boundary wall along the laneway. The proposed development is not located directly opposite this private yard.
- There are no east facing window opes in Unit No. 1 overlooking 'Mayville'.

- Regarding overlooking of the dwelling to the rear /south, the applicant has no objections to a Condition requiring a taller boundary wall to the rear / south of the site. The window in Unit No. 3 faces the blank side gable of the dwelling to the rear / south, therefore, there is no risk of overlooking.
- Baffle screening has been used successfully by the applicant's architect in other schemes to prevent overlooking - photos of examples submitted.
- No evidence has been submitted to support the statement that the baffle screening is likely to create dark and dim living space within the proposed dwellings.

7.2.2. **Re. Overshadowing**

- The shadow diagram analysis drawings submitted have been prepared in accordance with the BRE Guidelines 2009. It is submitted that any additional overshadowing caused would be minimal and immaterial.
- Kearney's Lane is 0.7m wider than the recommended width for shared surfaces in the *Design Manual for Urban Streets and Roads (2013)*, with opposing two storey dwellings being commonplace in such shared surface environments.
- The proposal presents a two-storey façade to Kearney's Lane which is considered a reasonable form of development.
- The shadow diagram analysis submitted is the standard norm for planning applications and includes 3D images showing the impact of the facades of the proposed development on dwellings on the northern side of Kearney's Lane.
- The shadow diagram at the Equinox (March / September) indicates that the level of impact on the front / southern facades of dwelling to the north is minimal throughout the course of the day.

7.2.3. **Re. Overbearing and Visual Impact**

- The proposal would not have an overbearing impact on dwellings to the north by reason that the second-floor level of the proposal is set back from the street edge and its separation distance from these dwellings. The width of Kearney's Lane exceeds that for a shared surface street (4.8m).

- The second-floor element of Unit No. 1 is not in line with 'Mayville' and the second-floor element of Unit 2 is setback a considerable distance from 'Mayville'.
- The use of different materials on the eastern façade of the proposal reduce its visual impact.
- The proposal would not have an overbearing impact on the dwellings to the south of the site.
- The proposed development is contemporary in style which does not try to mimic the architecture of the area and sets out to represent an architectural statement in its own right.
- The 2nd floor level of the proposed development is set back to reduce its visual impact.
- 3D images submitted provide a better understanding of the proposed development in terms of its massing, materiality and interaction with the surrounding context.

7.2.4. Re. Vehicular Access and Pedestrian Safety

- Kearney's Lane is the equivalent of a shared surface or home zone, with traffic, pedestrians and cyclists all using the same surface. It measures 5.5m wide at its narrowest point between Units 1 and 2 and Cedar Lodge. This is significantly wider than that recommended by the *Design Manual for Urban Streets and Roads (2013)* which recommends that shared surfaces should not exceed 4.8m wide.
- The proposed development will not have any material impact on the use of the lane and any damage arising from construction traffic will be made good.
- It is accepted that the construction phase will not be straightforward but there are many examples of infill development on backland sites which are challenging and require innovative solutions. It is submitted that a Construction Management Plan will have to be submitted for the agreement of the Planning Authority prior to commencement of development.
- The applicant agrees with the appellants point that requirement for the 1.5m wide footpath is redundant by reason that it does not extend along the remainder of

Kearney's Lane. The applicant would have no objection to the omission of this footpath.

- The parking area to the front/ north of the site is not a formal car parking area and no planning permission has ever been obtained for this.
- The proposed development does not prevent access to the adjoining garage.

7.2.5. **Re. Drainage**

- The appellants claim that the existing drains are old and incapable of handling the additional volume generated by the proposed development is without any foundation. The Council's Infrastructure Dept. did not raise any concerns with this regard.

7.2.6. Documentation submitted with the Applicants response includes the following;

- 3D images of the proposal as viewed along Kearney's Lane.
- Image examples of Baffle screening used successfully by the applicant's architect in other schemes.
- Floor Plans showing the angle of views from window opes at first and second floor level.

7.3. **Further Responses**

7.3.1. Further to the applicant's submission, the Appellants Agent, Environmental Heritage Planning Services submitted a letter, addressing the applicant's response and elaborating on the issues raised in their grounds of appeal. No new material issues arise. Key points made include the following;

- The Applicant's suggestion that Kearney's Lane is a shared surface or home zone is inaccurate. The lane was never designed as a home zone and does not include any of the standard features of a home zone including tactile paving, planting, traffic calming measures etc.
- The image examples of baffle screens submitted by the applicant clearly show that the window opes of the proposal at first and second floor level will overlook dwellings to the north, south and east.

- The applicant's suggestion that a taller wall be built along the rear / southern boundary would create a more overbearing impact on the neighbouring dwellings to the south.
- The extent of overshadowing throughout the year, particularly during the summer and winter solstices will give rise to an unacceptable level of overshadowing on neighbouring properties.
- Permission was granted under P.A. Ref. 01/511 for a change of use of part of the existing dwelling 'Seaview' to a nursery school and associated works. The approved development included the provision of 2 no. parking spaces in the parking bay to the front of the application site that remain in use. Copy of approved layout drawing and approved parking spaces submitted. The continued use of this formally approved parking area in front of proposed Units 3 & 4 remains a substantial obstacle to vehicles associated with Unit 4 gaining access.
- The 3 no. 3D images submitted of the proposal as viewed along Kearney's Lane have been carefully selected to present a limited aspect of the proposed development.

7.4. **Planning Authority Response**

The Planning Authority confirms that it has no further comment to make.

8.0 **Assessment**

8.1. The main issues in this appeal can be considered under the following headings;

- Overlooking
- Overshadowing
- Overbearing and Visual Impact
- Access / Parking Issues
- Drainage
- Appropriate Assessment

These are addressed under the headings below.

8.2. Overlooking

- 8.2.1. The appellants express concern that the proposed development would adversely impact on the residential amenity of neighbouring dwellings by way of overlooking.
- 8.2.2. The window opes on the elevations of the proposed units are designed in such a manner whereby most are either recessed behind their respective front building line with either a green roof space or water feature area and timber baffle screens to their front or face internal lightwell courts. The position and orientation of the windows of each unit and their separation distance from adjoining sites and neighbouring dwellings are as follows;

Unit No. 1: At first floor level the proposal provides 1 no. narrow window ope serving a bedroom, facing in a northerly direction - setback 7m from the 'Cedar Lodge'. It is considered that this window ope has the potential to cause overlooking of the private amenity space to the side and habitable rooms to the front of 'Cedar Lodge'. The proposal provides 1 no. window ope serving a bedroom, facing in an easterly direction - setback 7.6m from the eastern boundary. Given its recessed position, restricted line of view and the shed in the garden of No. 11 Main Street, it is considered that this window would not cause direct overlooking of No. 11 Main Street. At second floor level the proposal provides 1 no. 3.5m wide window ope serving the gallery, facing in a northerly direction - set back 8.6m from 'Cedar Lodge'. It is considered that this window ope has the potential to cause overlooking of 'Cedar Lodge', particularly its attic rooms with rooflights on its front roof space. Other window opes at second floor level would not cause overlooking by reason of their position and restricted views.

Unit No. 2: No window opes face in a northerly or southerly direction. The window ope at second floor level, facing in an easterly direction would not cause overlooking by reason of its recessed position and 11m setback from the eastern boundary.

Unit No. 3: At first floor level, the proposal provides 1 no. 'L' shaped window ope serving 'double bedroom II', facing in a northerly direction - setback 13m at an angle from 'Sea View'. This window opes is not recessed or screened with a timber baffle screen. It is considered that this window ope would cause overlooking of habitable rooms to the front of 'Sea View'. The window ope serving the stairwell, facing in a

northerly direction would not cause overlooking by reason that it is recessed and setback 20m from 'Bay View'. The window ope on the rear elevation serving a landing, facing in a southerly direction is setback 8.2m from the southern boundary. This window would not cause overlooking reason that is recessed 2.4m behind the southern rear building line of the unit and faces the side gable wall of the dwelling immediately to its south. At second floor level, the proposal provides 1 no. window ope facing in a southerly direction - set back 8.5m from the southern boundary. It is considered that this window ope would not cause overlooking by reason of its setback from the rear southern building line and would face the side gable wall of the dwelling immediately to its south.

Unit No. 4: At first floor level, the proposal provides a recessed window ope serving a stairwell, facing in a northerly direction - setback 10.3m at an angle from both 'Sea View' and 'Rock View'. While not serving a habitable room, it is considered that this window ope has the potential to cause overlooking of habitable rooms to the front of 'Sea View' and 'Rock View'. The proposal also provides a recessed window ope serving a stairwell, facing in a southerly direction – setback 7.5m from the southern boundary. It is considered that this window ope would not cause overlooking by reason of its setback 1.8m behind the rear building line of the dwelling. At second floor level, the proposal provides 1 no. window ope facing in a southerly direction - set back 7m from the southern boundary. It is considered that this window ope would not cause overlooking by reason of its recessed position and would face the side gable wall of the dwelling immediately to its south.

8.2.3. In order to prevent overlooking of neighbouring dwellings to the north and south, the proposal provides 'timber baffle screens' to the front of windows facing in such direction. Dwg. No. PA/009/B details that the timber baffle screens would be 2.6m high and would be positioned / orientated to prevent overlooking. Window opes served by timber baffle screens would be floor to ceiling height. The applicant has submitted photo examples of timber baffle screens used by the applicant's architect in other schemes, to prevent overlooking. The applicant has also submitted Floor Plans showing the angle of views from window opes at first and second floor level.

8.2.4. Notwithstanding the provision of angled timber baffle screens, it is my view that the position and size of the window opes at first and second floor level, coupled with their proximity to the northern boundary, would result in perceived overlooking and

loss of privacy of the garden to the side and habitable rooms to the front of 'Cedar Lodge', and the habitable rooms to the front of 'Sea View' and 'Rock View'. Such perceived overlooking and loss of privacy would adversely impact the residential amenity of the occupants of these dwellings. Such development would be contrary to Section 6.6.7 of the Dundalk and Environs Development Plan which requires that the design and orientation of residential development not cause any unacceptable overlooking on existing dwellings. Furthermore, the window opening on the front northern elevation of Unit No. 3 at first floor level would enable unrestricted overlooking of 'Sea View' to the north. Such development would be contrary to Section 6.7.5 of the Dundalk and Environs Development Plan which requires a distance of at least 22 metres between the windows of habitable rooms of dwellings which face each other. For this reason, I recommend that the proposed development be refused permission.

8.3. Overshadowing

- 8.3.1. The appellants express concern that the proposed development would adversely impact the residential amenity of 'Cedar Lodge', 'Sea View', 'Bay View' and 'Rock View' by way of overshadowing.
- 8.3.2. Kearney's Lane has a width of 4m - 4.2m between the northern boundary of the site and 'Cedar Lodge', located opposite. The front / northern building line of proposed Unit No.'s 1 and 2 would maintain a setback of 5.6m from the front elevation of 'Cedar Lodge', located opposite. Unit No. 3 would maintain a setback of 10.3m from the front elevation of 'Sea View' and Unit No. 4 would maintain a setback of 8m from the front elevation of 'Rock View'. The front / northern elevation of the second floor of each unit is setback behind the front building line of each dwelling.
- 8.3.3. The proposed units have a first-floor parapet height of 6.1m, which rises higher than the eave height of the dwellings located opposite, on the northern side of Kearney's Lane. The roof ridge height of the proposed development is 8.5m above ground level along Kearney's Lane.
- 8.3.4. The applicant has submitted a shadow diagram analysis, outlining the impact of the shadow cast by the existing dwelling and the proposed development on adjoining lands and neighbouring dwellings on the 21st June, 21st March & September and the 21st December for the hours of 9am, 12 noon and 4pm. The drawings submitted

include a 3D shadow analysis for the 21st December. Based on the shadow diagrams submitted, it is apparent that the proposed development would overshadow the side garden private amenity space of 'Cedar Lodge' and would overshadow the front elevation window openings of 'Cedar Lodge' and 'Sea View' on the 21st December at 12 midday, whereas the existing dwelling does not at this time.

- 8.3.5. Section 6.7.5 of the Dundalk and Environs Development Plan states that where new dwellings are located very close to adjoining dwellings, the recommendations of '*Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice*' (BRE 2011) should be followed. Having regard to Section 2.2 of the Guidelines, the application of the 25° approach as recommended, and the separation distance between the proposed development and neighbouring dwelling 'Cedar Lodge', it is considered that height of the proposed development would result in a significant loss of daylight to 'Cedar Lodge'. It is my view that the proposed development would seriously injure the residential amenity of the residents of 'Cedar Lodge' and 'Sea View'. The proposed development would, therefore, be contrary to Section 6.6.7 of the Dundalk and Environs Development Plan which requires that the design and orientation of residential development not cause any unacceptable overshadowing on existing dwellings. For this reason, I recommend that the proposed development be refused permission.

8.4. **Overbearing and Visual Impact**

- 8.4.1. The appellants express concern that the scale, height and massing of the proposed development and its proximity to adjacent dwellings would have an overbearing impact on these dwellings.
- 8.4.2. The height of the proposed development and its setback from dwellings on the northern side of Kearney's Lane is detailed in Sections 8.3 above. The proposal would have an entire front elevation width of c. 31m. The western side elevation of Unit No. 4 would maintain a setback of 10m from the front elevation of 'Strand View' at first floor level. The eastern side elevation of Unit No. 1 would maintain a setback of 11.6m from the rear elevation of 'Mayville' at first floor level.
- 8.4.3. Having regard to the height and width of the proposed development and its proximity to 'Cedar Lodge', 'Rock View' and 'Sea View' it is my view that the proposed

development would adversely impact the residential amenity of these dwellings by way of overbearing impact and loss of outlook. Such development would be contrary to Section 6.6.7 of the Development Plan which requires that the design and orientation of residential development not cause any unacceptable overbearing on existing dwellings. For this reason, I recommend that the proposed development be refused permission.

8.5. Access / Parking Issues

- 8.5.1. The appellants express concern that the narrow width of Kearney's Lane and the construction and domestic traffic generated by the proposal would create traffic congestion along the laneway and create a traffic hazard for pedestrians and cyclists. The appellants also express concern that the proposal would impact on car parking spaces to the front of the site which serve adjacent dwellings along Kearney's Lane.
- 8.5.2. An unrestricted parking area with the capacity for 4 no. vehicles, adjoins the northern boundary of site along Kearney's Lane. The front building line of proposed Unit's 3 and 4 would extend up to the northern boundary of the site, adjoining the unrestricted parking area.
- 8.5.3. The layout plan and swept path analysis submitted do not detail the unrestricted parking area to the front / north of the site. In response to the Grounds of Appeal, the Applicant puts forward that this parking area is not a formal car parking area and that no planning permission has been obtained for same. The Appellants contest this, referring to P.A. Ref. 01/511, whereby permission was granted in 2001 for a change of use of part of 'Seaview' to a nursery school which included the provision of 2 no. parking spaces in the parking bay to the front of the application site.
- 8.5.4. The proposed development provides a 1.5m wide footpath along its front/northern building line. I note that the footpath to the front of Units 3 and 4 is outside the application site as outlined and encroaches onto the unrestricted parking area. I have concerns that the provision of this footpath could lead to parked vehicles overhanging the laneway to the detriment of other road users. This issue could be dealt with by way of Condition, requiring the omission of the footpath to the front of

Units 3 and 4. Such Condition would maintain the footprint of the existing unrestricted parking area to the front of Units No. 3 and 4.

8.5.5. The layout of the proposed development would maintain 3 no. parking spaces in the unrestricted car parking area to the front of Units 3 and 4 while providing access to the car parking space serving Unit No. 4 and the existing garage fronting onto the parking area. Given that each proposed unit would have its own on-site parking space, that 'Bay View' has a forecourt / parking space to its front and that the existing garage fronting onto the parking area serves an adjacent dwelling, it is my view that the number of parking spaces maintained in the unrestricted parking area would not adversely impact on car parking provision serving adjacent dwellings along Kearney's Lane. There is extensive parking available along Main Street in Blackrock.

8.5.6. The swept path analysis submitted details that vehicles would be able to access and egress on-site car parking bays, serving each proposed dwelling, efficiently and safely. The Planning Authority Infrastructure Report outlines no objections to the proposed development, subject to standard Conditions. Given that the proposed development would result in an increase of only 3 no. additional dwelling units along Kearney's Lane, it is my view that the proposed development would not result in traffic congestion along this laneway. Given the narrow width of the laneway, it is considered that vehicles using the laneway are required to drive at a very slow speed and thereby additional traffic serving the proposed development would not create a traffic hazard along the laneway. With regard construction traffic and its impact on traffic and pedestrian safety, it is considered that this issue could be dealt with by way of Condition, requiring the submission of a Construction Management Plan for the written agreement of the Planning Authority, prior to commencement of development. I recommend, therefore, that this ground of appeal should not be upheld.

8.6. **Drainage**

8.6.1. The appellants express concern that the foul and surface water drains along Kearney's Lane do not have the capacity to accommodate the increased load from the proposed development. The applicant has submitted a report prepared by Duffy

Chartered Engineers addressing surface water drainage and SUDS serving the proposed development. This report sets out how the proposed development is designed in accordance with the principles of Sustainable Urban Drainage Systems (SUDS) as contained in the recommendations of the Greater Dublin Strategic Drainage Study. Proposed SUDS include the provision of a green roof system, permeable surfacing to driveways and the provision of water butts for each unit, as a water harvesting measure.

- 8.6.2. The Planning Authority Infrastructure Report outlines no objections to the proposed development, subject to Conditions regarding surface water drainage and SUDS. Irish Water outline no objections to the proposed development subject to a standard Condition requiring the applicant to sign a connection agreement with Irish Water prior to commencement of development. In the absence of documentary evidence demonstrating that the foul and surface water drains along Kearney's Lane do not have the capacity to handle the additional volume generated by the proposed development, it is my view that the appellants claim cannot be supported. For this reason, I recommend that the appeal should not be upheld in relation to this issue.

8.7. **Appropriate Assessment**

- 8.7.1. Having regard to nature and scale of the proposed development to provide four new dwelling units in a fully serviced and zoned area in Blackrock Village Centre and the nature of the receiving environment and the lack of connections to the nearest European sites: Dundalk Bay SPA (Site Code: 004026) and SAC (Site Code: 000455), 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.

9.0 **Recommendation**

- 9.1. I recommend that permission be refused for the reasons and considerations below.

10.0 Reasons and Considerations

1. The proposed development, by reason of its size, width, height, massing and its proximity to the northern boundary, would adversely impact the visual and residential amenity of neighbouring dwellings on the northern side of Kearney's Lane by way of overshadowing and overbearing impact. Such development would be contrary to Section 6.6.7 of the Development Plan, which requires that the design, orientation and massing of proposed development not cause any unacceptable overshadowing or overbearing impact on existing dwellings. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Notwithstanding the provision of timber baffle screens, the position, size and design of the window opes on the front northern elevation of the proposed development at first and second floor level, coupled with their proximity to the northern boundary, would result in perceived overlooking and loss of privacy of dwellings on the northern side of Kearney's Lane. Such perceived overlooking and loss of privacy would adversely impact the residential amenity of the occupants of these dwellings. The proposed development would, therefore, be contrary to Section 6.6.7 of the Dundalk and Environs Development Plan which requires that the design and orientation of residential development not cause any unacceptable overlooking on existing dwellings. Furthermore, a window ope on the front elevation of Unit No. 3 at first floor level would enable unrestricted overlooking of a residential dwelling located opposite. Such development would be contrary Section 6.7.5 of the Development Plan which requires a distance of at least 22 metres between the windows of habitable rooms of dwellings which face each other. The proposed development would, therefore, adversely impact the privacy and residential amenity of these neighbouring dwellings and would be contrary to the proper planning and sustainable development of the area.

Brendan Coyne

Planning Inspector
18th February 2020