



An  
Bord  
Pleanála

## **S. 6(7) of Planning and Development (Housing) and Residential Tenancies Act 2016**

### **Inspector's Report on Recommended Opinion ABP-307479-20**

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<b>Strategic Housing Development</b>	1161 no. residential units (496 no. houses, 662 no. apartments), creche and associated site works.
<b>Location</b>	Fassaroe and Monastery, Bray, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council
<b>Prospective Applicant</b>	Cosgrave Property Group
<b>Date of Consultation Meeting</b>	11/09/2020 21/05/2021
<b>Date of Site Inspection</b>	29/08/2020
<b>Inspector</b>	Conor McGrath

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## 1.0 Introduction

Having regard to the consultation that has taken place in relation to the proposed development and to the submissions from the planning authority, the purpose of this report is to form a recommended opinion as to whether the documentation submitted with the consultation request under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016 - (i) constitutes a reasonable basis for an application under section 4, or (ii) requires further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

## 2.0 Site Location and Description

- 2.1. This pre-application consultation request relates to an area of 76.7ha located in the townlands of Fassaroe and Monastery, to the west of the M11 / N11 and the urban area of Bray, Co. Wicklow. The application lands are irregularly shaped and comprise part of the wider Fassaroe - Monastery area. The lands are generally elevated, rising to the west from the N11, initially steeply then more gradually. The N11 comprises a significant physical barrier between the lands and the contiguous urban area.
- 2.2. The eastern edge of the lands are accessed from the N11 Junction 6 interchange, via a high capacity distributor road and a series of roundabouts, provided as part of previous commercial development proposals which were not constructed. Berryfield lane currently traverses the lands and provides an east - west route between the N11 interchange and Ballyman Road to the west, which road is partly private but is otherwise generally accessible. Predominant landuses are agricultural, with some active recreational uses. There are a number of one-off houses and small commercial operations along Berryfield Lane and a large ESB sub-station located relatively centrally within the lands, and associated overhead lines. Adjoining land uses include quarrying and associated production facilities to the south and a Greenstar recycling facility to the northeast.
- 2.3. Ballyman Glen SAC runs along the northern edge of the lands, following the County Brook Stream which forms the boundary between the administrative areas of County Wicklow and Dun Laoghaire-Rathdown. Ground levels on each side of the glen fall

steeply toward the stream. To the north of the SAC are the lands of Dun Laoghaire Golf Club. There are a number of historic landfill sites within the Fassaroe lands, previously operated by Wicklow Co. Co. It is understood that remediation of these historic sites is to be undertaken in accordance with EPA authorisations issued in 2019. The lands are within the area of the Bray and Environs Municipal District LAP and are subject to an Action Area Plan objective.

### **3.0 Proposed Strategic Housing Development**

3.1. The proposed development is stated to comprise Phase 1 of the overall development of lands at Fassaroe. The development described in initial correspondence comprised a total of 1,161 no. residential units (496 no. houses and 665 no. apartments.) Following the first consultation meeting on 11/09/2020 revisions were made to the proposed development to provide 697 no. residential units and a neighbourhood centre providing 1,385m<sup>2</sup> of retail / commercial space. A summary of the revised development proposal is as follows:

- 697 residential units (409 no. apartments and 289 no. houses)
- Neighbourhood Centre (part of) providing 1,385m<sup>2</sup> retail / commercial space.
- 1 no. Creche of 733m<sup>2</sup>
- 18.5 ha of District Park / Active Open Space
- Retail unit / kiosk (108sq.m.) in the District Park
- A new link road (2.4km) through the lands connecting the N11 to Ballyman Road to the west.
- Pedestrian / cycle bridge over N11, connecting to Upper Dargle Road to the east and to a proposed Wicklow County Council Greenway.
- Remediation of 5 no. historic landfill areas in line with EPA Certificates of Authorisation issued to Wicklow County Council in 2019
- Demolition of an existing dwelling at Berryfield Lane
- Rerouting and undergrounding of overhead ESB lines (110kV and 38kV) within new roadways.
- Provision for public bus services within the proposed layout and provision of interim bus service by the developer.

- All associated development works, substations, bin stores and landscaping required.
- Site development / ground works on future development areas.
- Water supply, foul and surface water drainage proposals.
- Provision for future school sites.

<b>Site area</b>		76.7 ha	<b>Total residential units</b>		697
<b>Developable site</b>		12.6 ha	<b>Density</b>		55.3 / ha
<b>Apt Type</b>	<b>No. Units</b>	<b>% of total</b>	<b>House Type</b>	<b>No. Units</b>	<b>% of total</b>
1 Bed	98	14%	3 Bed (+ study)	63	9%
2 Bed	289	41%	4 Bed	113	16%
3 Bed	22	3%	5 Bed	112	16%
Total Apts	409	58.6%	Total Houses	288	41.3%

The prospective applicant's overall masterplan for the Fassaroe lands is divided into a number of Character Areas, and the proposed development comprises the following:

<b>Area</b>	<b>Description</b>	<b>Location</b>
1	314 Apartments in 3 blocks	Higher density development at the eastern extent of applicant lands.
1 - NHC	63 no. apartments and 1,385-sq.m. of retail / commercial space	Located off the new link road at the eastern end of the lands, bounded by school lands to the west.
2	184 units - 32 no. apartments and 152 terraced and semi-detached houses, Creche	Located in northeastern part of site, north of neighbourhood centre and schools
4 (part of)	101 no. 3 to 5-bed terraced houses	Located in the northwestern part of the site, north of existing ESB substation.

5 (part of)	35 no. 3 to 5-bed terraced and semi-detached houses	Located to the west of the central active open space and east of the existing ESB substation.
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#### 4.0 Relevant Planning History

**PA ref. 16/999 ABP ref. PL27.248705:** Permission refused on appeal for a mixed-use development comprising 658 no. residential units, neighbourhood centre (2,963-sq.m.), offices (9,177-sq.m.) creche, district park, link road to Ballyman Road, relocation of powerlines, ped/cycle bridge, landfill remediation works. Permission was refused for four reasons as follows:

1. Having regard to:

- (a) remoteness from existing high-capacity public transport services and necessary community, social and educational facilities, which would lead to an excessively car-dependant development,
- (b) the lack of integration between land use and sustainable forms of transport on the overall lands, and
- (c) the fact that high-capacity public transport services are not currently planned notwithstanding the zoning of these lands;

the proposed development would represent an unsustainable form of development which would be contrary to National Policy, as set out in “Smarter Travel – A Sustainable Transport Future, A New Transport Policy for Ireland”.

2. Having regard to:

- (a) the scale of the development proposed,
- (b) the car-based nature of the development, resulting from the lack of high-capacity public transport serving the site or plans for such service,
- (c) the volume of traffic likely to be generated and the percentage of that traffic likely to use the existing N11/M11 route, and
- (d) the existing congested nature of this route and the trend of increasing traffic volumes, and the anticipated timescale within which such capacity issues will be resolved,

the proposed development would have a significant adverse impact on the carrying capacity and strategic function of the N11/M11, contrary to the “Spatial Planning and National Roads Guidelines for Planning Authorities” and would be premature pending necessary improvements to this route.

3. The scale and location of the retail component, based on a catchment area beyond the boundaries of the lands and in excess of the needs of the proposed local residents, would be excessive and would have a potentially significant negative impact on established retail centres contrary to the provisions of the Retail Planning Guidelines.
4. Having regard to the uncertainty with regard to the final requirements of the EPA in relation to the historic landfills on the site, and their location in close proximity to proposed residential development and within amenity and service areas of the site, the Board cannot determine that the proposed development would not have an adverse effect on the integrity of the Ballyman Glen Special Area of Conservation. The development would therefore be premature and could seriously injure the amenities of future residents and affect the conservation objectives of the European Site.

**PA ref. 17/15**      **ABP ref. PL27.248914:**      Permission granted on appeal for 12 houses and an access road from Ballyman Road. This access road comprises the western end of the link road between the N11 and Ballyman Road proposed as part of the current pre-application consultation request. This road has been constructed but is not yet operational. Condition no. 2 required the following:

- (a) The detailed design of the proposed 280 metres access road (including footpaths and cycle track) and junction with the Ballyman Road shall be agreed with the planning authority.
- (b) The proposed new access road from Ballyman Road and associated junctions shall be constructed prior to the occupation of the proposed houses.

**PA Ref. 02/6564**      **ABP Ref. PL27.201368** – Permission granted on appeal for the development of 20 no. warehousing units on lands adjoining the N11 interchange.

PA Ref. 03/9812 – Permission granted for revisions to the warehousing layout permitted under Ref. 02/6564.

PA Ref.04/1710 ABP Ref. PL27.211321 – Permission refused on appeal for further revisions to warehousing development permitted under Ref. 02/6564.

PA Ref.08/801 – Extension of duration of permission of Ref. 02/6564 granted. This development was not constructed.

**PA Ref. 99/366 ABP Ref. PL27.120646** – Permission refused on appeal for the development of a business park on a site of 78.6 ha. on the basis of contravention of the principles of sustainable development and accessibility, impact on the visual and scenic amenity of the area, proximity to Enniskerry and the potential to result in the coalescence of Bray and Enniskerry areas, and the impact of the development on the carrying capacity of the N11.

## 5.0 Section 247 Consultation(s) with Planning Authority

Prospective applicant and planning authority submission describe consultations held on 5<sup>th</sup> March 2020. Issues raised in those discussions included:

- Phasing of development and transport and road infrastructure in the area, and the requirement for an Implementation Plan for any development greater than the 650 units modelled in the Bray Environs Transport Study.
- The form and delivery of open space.
- Landfill remediation works.
- Drainage implications for the adjoining SAC.
- Part V and childcare provision.
- Design and layout of residential areas.
- Level of retail provision on the site.
- Agreement of Action Area Plan for the lands.



## 6.0 Planning Policy Context

### 6.1. National and Regional Policy

#### 6.1.1. Project Ireland 2040 - National Planning Framework

National Policy Objective 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

National Policy Objective 3c: Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints.

Chapter 3, Effective Regional Development notes that managing the challenges of future growth is critical to the Mid-East region. A more balanced and sustainable pattern of development must be prioritised. This means that housing development should be primarily based on employment growth, accessibility by sustainable transport modes and quality of life, rather than unsustainable commuting patterns.

#### 6.1.2. Regional Spatial and Economic Strategy for the Eastern and Midland Region (2019)

Bray is identified as a Metropolitan Key Town - large economically active service towns located within the Dublin Metropolitan Area, with high quality transport links and capacity for increased residential and employment densities at strategic transport nodes. They have the capacity and future growth potential to accommodate above average growth in the Region, with the requisite investment in employment creation, services, amenities and sustainable transport.

Residential Development:

Population growth in Bray has been modest as expansion of the town is constrained. In order for Bray to fulfil its growth potential, lands at Fassaroe to the west of the N/M11 are targeted for new housing, employment and major community and sports facilities, along with development of lands at Old Connaught (Conna)-Fassaroe, within Dún Laoghaire-Rathdown.

The development of a new centre at Fassaroe is largely dependent on the delivery of transportation infrastructure including upgrades to the N/M11 and high-quality public transport connections to Bray.

Bray Key Town - Regional Policy Objectives:

RPO 4.37: Support the continued development of Bray including the enhancement of town centre functions, development of major schemes ..... and co-ordination between Wicklow Co. Co., Dún Laoghaire-Rathdown Co. Co., and the transport agencies to facilitate the delivery of key infrastructure required for the westward extension of the town, including Bray-Fassaroe public transport links and road improvements.

RPO 4.40: To support ongoing investment in public transport infrastructure, including the LUAS extension to Bray. The development of Bray-Fassaroe should be undertaken in collaboration between Wicklow County Council, Dún Laoghaire-Rathdown County Council and the transport agencies to ensure the delivery of enabling transportation infrastructure and services.

RPO 4.41: Encourage transition towards sustainable and low carbon transport modes through the promotion of alternative modes of transport and 'walkable communities' whereby a range of facilities and services will be accessible within short walking or cycling distance.

## 6.2. Ministerial Guidelines

Having considered the nature of the proposal, the receiving environment, the documentation submitted, including the submissions from the planning authority, I consider that the directly relevant section 28 Ministerial Guidelines are:

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities
- Urban Development and Building Heights, Guidelines for Planning Authorities
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), and the accompanying Urban Design Manual
- Delivering Homes, Sustaining Communities (2008) and the accompanying Best Practice Guidelines- Quality Housing for Sustainable Communities

- Circular Letter: NRUP 02/2021 in respect of Residential Densities in Towns and Villages, as set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)
- Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities (May 2021)
- The Retail Planning Guidelines, and the companion document, the Retail Design Manual (2012).
- Design Manual for Urban Roads and Streets (2013)
- National Cycle Manual.
- Spatial Planning and National Roads Guidelines for Planning Authorities (2012)
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated 'Technical Appendices').
- Childcare Facilities – Guidelines for Planning Authorities.
- Smarter Travel – A New Transport Policy for Ireland (2009- 2020)
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment.

### 6.3. Local Policy

#### 6.3.1. Wicklow County Development Plan, 2016-2022

Chapter 3 identifies Bray as a level 1 settlement and a metropolitan consolidation town. In order to achieve growth to 40,000 by 2028, lands at Fassaroe are targeted for new housing and other facilities. The development of a new centre at Fassaroe is largely dependent on the delivery of infrastructure including upgrades to the N/M11 and high-quality public transport connections to Bray Town Centre and to Dublin City Centre.

Section 2.4.6 notes that the RPGs identify the extension of the Luas light rail system to Bray as a critical strategic transport project. The majority of the population growth for Bray is allocated to Fassaroe which will require to be served by Luas or other mass transit. This will reinforce the role of Bray as the primary settlement in the County and provide an option for removing car traffic from the N11/M11 north of Bray with the provision of park-and-ride facilities.

Chapter 9 Infrastructure, objectives include:

TR2 To promote the development of transport interchanges and 'nodes' where a number of transport types can interchange with ease. In particular (including):

- to promote the linkage of the LUAS extension or other mass transit to Bray town centre, Bray train station and Fassaroe;
- to improve existing and provide new footpath / footway linkages to existing / future transport interchange locations;

TR5: To facilitate, through both the zoning of land and the tie-in of new facilities with the development of land and the application of supplementary development contributions, the extension of the LUAS or other mass transit to Bray town centre, Bray train station and Fassaroe.

TR7: To promote the delivery of improved and new bus services both in and out of the County but also within the County by: (including)

- requiring developers of large-scale new employment and residential development in the designated metropolitan and large growth towns, that are distant (more than 2km) from train / LUAS stations to fund / provide feeder bus services for an initial period of at least 3 years;
- promoting the growth of designated settlements to a critical mass to make bus services viable and more likely to continue.

### 6.3.2. **Bray Municipal District Local Area Plan 2018**

Chapter 2, *Overall Vision & Development Strategy*, notes that in order for Bray to achieve its targeted population lands at Fassaroe are targeted for new housing and other facilities. Such development is largely dependent on the delivery of infrastructure including upgrades to the N/M11 and high-quality public transport connections to Bray Town Centre and to Dublin City Centre.

Bray forms part of the 'Bray/Cherrywood/Greystones Core Economic Area' (RPG's for the GDA 2010-2022). There is scope for new facilities at Fassaroe.

The residential development strategy includes promoting and facilitating the rapid delivery of the maximum number of housing units in key development areas,

including Fassaroe. The Economic Development and Employment Strategy identifies Fassaroe as the key location for new employment development.

Bray Specific Housing Objectives: R5 - Designated housing lands at Fassaroe (Action Area 1) shall only be developed as part of comprehensive (not piecemeal) integrated schemes, in accordance with the objectives for this Action Area.

The key factor influencing the future development of the Bray MD is the adequacy and improvement of the roads and transportation infrastructure and key investment priorities are:

- Upgrade of the N11, in particular the M50 / M11 merge, and all interchanges serving Bray;
- Improvements to the Dublin-Rosslare rail line, the extension of Luas or other mass transit to Bray town centre, Bray Station and Fassaroe, the provision of car and bus park-and-ride facilities and improved penetration of local bus services;
- The retention and improvement of local bus services.

Key priorities for road connections within and between settlements include:

- To secure the development of a significantly improved or alternative route to Enniskerry, via the new development zone at Fassaroe;
- To enhance pedestrian and cycling infrastructure within and between settlements where possible, including the development of 'green routes.'

#### Public Transport Objectives

PT1: To cooperate with NTA and other relevant transport planning bodies in the delivery of a high quality, integrated transport system in the Bray MD area.

PT2: To support and facilitate measures to improve accessibility, public transport and walking / cycling opportunities identified in the Bray Environs Transport Study.

PT3: To promote the development of transport interchanges and 'nodes' in the Bray MD where a number of transport types can interchange with ease. In particular:

- to facilitate park and ride facilities at appropriate locations along strategic transport corridors .....
- to support the improvement of bus links to the train station in Bray;

- to promote Luas extension or other mass transit to Bray town centre, Bray train station and Fassaroe; with respect to the major development area of Fassaroe, west of the N11, the development of this area shall make provision for mass transit such as Luas or BRT, including necessary infrastructure such as stabling;
- to encourage improved bicycle parking facilities at all transport interchanges;

PT5: To facilitate, through the zoning of land, the tie-in of new facilities with the development of land and the application of supplementary development contributions, the extension of the LUAS or other mass transit to Bray town centre, Bray train station and Fassaroe.

PT6: To improve the capacity of the N11 / M11 to facilitate greater free flow of public transport and reducing congestion at junctions serving Bray.

PT7: To promote the delivery of improved and new bus services .....by:

- facilitating bus priority where identified by the NTA;
- requiring developers of large-scale new employment and residential developments in Bray that are distant from train / LUAS stations to fund / provide feeder bus services until public bus services have been extended.

#### Road Objectives

RO3: To significantly improve existing or provide alternative road links between Bray / the N11 and Enniskerry.

RO4: With respect to the major development area of Fassaroe (Action Area 1):

- (a) The development shall include an access road from the N11 to Ballyman Road; the scale of such route shall reflect its primary function as a service road for a new neighbourhood, rather than a 'by-pass' .....
- (b) Provision shall be made (unless ruled out by the transport agencies) for a north – south link route from the new distributor road to cross Ballyman Glen and continue into County Dublin and link up with old Conna Avenue.

#### Key Development Areas:

Action Areas are to be the subject of comprehensive (not piecemeal) integrated schemes of development that allow for the sustainable, phased and managed development of the area during the plan period. Separate applications for sections

of each Action Area Plan area will not be considered until an overall Action Area Plan has been agreed unless it can be shown that any application will not undermine the achievement of the overall objectives for that Action Area and would contribute its 'pro rata' share of the public infrastructure and facilities for that specific area.

#### Action Area Plan 1: Fassaroe

The growth of the settlement in accordance with regional plan targets is contingent on the delivery of the major residential and community services development at this location, there being no other suitable lands in the environs of Bray for such large-scale development. Objectives include:

1. Development shall be carried out in phases in the following manner
  - Phase 1:
    - Road link from N11 to Ballyman Road
    - Passive park (minimum of 8ha)
    - Active Open Space / Sports Zone (minimum of 14 ha)
    - Site identified and reserved for school campus
    - Neighbourhood Centre
    - Up to 2,000 residential units
  - Phase 2
    - Identification and reservation of site for additional primary school
    - Remainder of residential units
2. The development shall include an access road from the N11 to Ballyman Road;
3. Provision shall be made for a north – south link route to cross Ballyman Glen and continue in County Dublin and link up with old Conna Avenue.
4. The development shall make provision for Luas or other mass transit public transport services, and any necessary infrastructure such as depots / stabling.
5. All new development shall be accompanied by appropriate transport services, in accordance with the Bray and Environs Local Transport Study.
6. The scale of the neighbourhood centre shall be in accordance with the retail floorspace objectives of the County Retail Strategy.
7. Lands west of the neighbourhood centre shall be reserved for a multi school campus.
8. The neighbourhood centre zone and major park shall be accessible to all areas by high quality, direct and safe pedestrian and cycle routes.
9. Lands > 22ha shall be laid out and dedicated to parks and active / sports uses.

10. All development shall take cognisance of the requirement to maintain the rate, quality and general areas where groundwater recharge occurs in order to maintain or enhance the recharge supplying the groundwater-dependent habitats of Ballyman Glen SAC.

The land use zonings on the AAP are as follows:

- R-HD: New Residential – High Density: To protect, provide and improve residential amenities in a high-density format.
- NC Neighbourhood Centre: To protect, provide for, and improve a mix of neighbourhood centre services and facilities, which provide for the day-to-day needs of the local community.
- E1 Employment: To provide for the development of enterprise and employment
- AOS Active Open Space: To protect and enhance existing and provide for new active open space
- OS1 Open Space: To protect and enhance existing and provide for recreational open space
- OS2 Open Space: To protect and enhance existing open, undeveloped lands

Chapter 11 notes that it is an objective that development is undertaken in an orderly and sustainable manner and phased in accordance with the sequential approach.

### 6.3.3. **Bray and Environs Transport Study (NTA 2019)**

Section 2.3 Local Details, identifies the following requirements to serve the full build-out of Fassaroe:

- Fassaroe development roads;
- N11 Cycle and Pedestrian Bridge;
- N11/M11 Junction 4 to 14 Improvement Scheme
- N11 capacity and safety upgrades, at Kilmacanogue; (WCC Part 8)
- Busway from Fassaroe to Old Connaught over County Brook at Ballyman Glen;
- Traffic Management Measures at Fassaroe Interchange to protect strategic function of the N/M11; and



- Commitment to the phased introduction of bus and enhanced rail services in line with increased demand.

At a more detailed level, the development of Fassaroe may commence on a tightly phased basis when certainty on the need for and delivery of the above is fully determined. (see sections 3.2 and 3.3).

### 3.2 First Growth Area – Phase 1 (a) Fassaroe

Phase 1(a) of the development of Fassaroe would comprise c.650 residential units and appropriate residential support facilities. The measures required to deliver this development are set out in Table 3.1.

Given potential impacts on the existing congested national road network, it would be necessary for Wicklow County Council, in agreement with TII, to prepare a framework for a Traffic Management System to facilitate phase 1(a) development.

Table 3.1 – Transport Requirements for Phase 1 of Fassaroe

<b>Infrastructure or Service</b>	<b>Delivery Process</b>	<b>Work Commenced</b>	<b>Completed to a Standard to be Taken in Charge</b>
Fassaroe Development Roads	Part of Planning Application	Prior to Occupation of any dwellings	Prior to Occupation of any dwellings
N11 Cycle and Pedestrian Bridge	Part of Planning Application	Prior to Occupation of any dwellings	Prior to Occupation of any dwellings
Traffic Management Measures at Fassaroe Interchange arising from the development	WCC Traffic Management System Framework to be agreed with TII within 2 months of the agreement of the Bray Study.	Prior to Occupation of any dwellings	Prior to Occupation of any dwellings

New bus services in line with demand	Part of Planning Application with agreement of NTA	Phased as dwellings are completed	n/a
Bus Priority on Upper Dargle Road including approach to Sunnybank Junction	In conjunction with Phase 1(a) development	Prior to occupation of any dwellings	n/a – WCC Scheme
Bus priority on Dublin Road – Castle Street	Prior to occupation of 50% of Development	Prior to 100% occupation of development	n/a – WCC / NTA Scheme

In addition to above, any application for the Fassaroe lands should demonstrate:

- a) That the development provides fully for walking and cycling trips to all local services within Fassaroe;
- b) That the applicant will provide a bus service to Bray DART station in advance of demand justifying public investment as part of the expansion of the bus network under BusConnects;
- c) That the applicant has fully assessed a requirement for a bus service to Bride’s Glen or Cherrywood Luas and provides same if demand is deemed sufficient in advance of demand justifying public investment as part of the expansion of the bus network under Bus Connects;
- d) That the applicant demonstrates how demand for travel to schools from Fassaroe can be accommodated without undue recourse to the private car;

If the above elements are delivered and demonstrated, the development of Phase 1 of Fassaroe would be regarded by TII and the NTA as a development which:

- (i) Is sufficiently served by public transport, walking and cycling;
- (ii) Would not be excessively car-dependent;
- (iii) Would not adversely impact on the safe and efficient operation of the national road network;
- (iv) Would not adversely impact on the carrying capacity and strategic function of the national road network; and

(v) Demonstrates close integration between transport and land use planning.

As such, the development of c.650 residential units and appropriate residential support facilities on the lands at Fassaroe on this basis could be considered to be consistent with the *Transport Strategy for the Greater Dublin Area* and DHPLG's *Spatial Planning and National Roads Guidelines for Planning Authorities*.

3.3 Further phases of the build out of these lands are to be governed by a separate implementation and monitoring plan to be developed by Wicklow County Council with input from the NTA and TII.

#### 6.3.4. **Dun Laoghaire Rathdown County Development Plan, 2016-2022**

The Dun Laoghaire Rathdown County Development Plan includes lands zoned for residential development to the northeast, at Old Connaught. The intervening lands along the county boundary are zoned as Greenbelt. An LAP in respect of unserviced lands at Old Conna is to be prepared, with an identified potential residential yield of 2,000 units.

Specific Local Objective 63: To co-operate with the NTA, the RPA and Wicklow County Council in the establishment of a combined road/Luas bridge across the County Brook Valley to provide connections between the proposed development areas of Old Conna and Fassaroe (Wicklow County).

The plan identifies protected views south from Ballyman Road toward the subject site.

#### 6.4. **Natural Heritage Designations**

The Ballyman Glen SAC (site code 000731) is located to the north of the site and runs along the boundary between the Wicklow and Dun Laoghaire Rathdown administrative areas. The conservation objectives for the site are to maintain or restore to favourable conservation status the Annex I habitats and or Annex II species for which the SAC has been selected, comprising Petrifying springs with tufa formation and Alkaline fens.

## 7.0 Submissions Received

7.1. **Irish Water:** The applicant was issued with a confirmation of Feasibility in 2019.

In respect of a water connection, upgrade works to increase the capacity are required. The Ballyman High Level Reservoir & associated trunk mains project is in the current investment plan scheduled for completion by 2022. The public water network will also have to be extended by approximately 600 metres to connect to the development. The applicant will be required to fund these upgrade works.

A modelling assessment of the wastewater network is underway to ascertain any constraints downstream of this development. Pending completion of this modelling, for any upgrades identified the applicant will be required to engage with Irish Water to deliver a solution to downstream constraints and will be required to fund any solution.

## 8.0 Forming the Opinion

Pursuant to section 6(7) of the Act of 2016, regard is had in the forming of the opinion to the documentation submitted by the prospective applicant; the planning authority submission and that of Irish Water, and the discussions which took place during the tripartite consultation meeting.

### 8.1. Documentation Submitted

8.1.1. The prospective applicant is required to submit certain information pursuant to section 5(5)(a) of the Planning & Development (Housing) and Residential Tenancies Act 2016 and Regulation No. 285 of the Planning and Development (Strategic Housing Development) Regulations 2017. The documentation received on 06/07/2020 comprised the following:

- Cover letter
- Completed application form.
- Architectural Drawings - MCORM
- Engineering Drawings - Atkins

- Landscape Masterplan - Mitchel and Associates
- Lighting Layout Drawings – McElligot Engineers
- Fassaroe ITM Site Location
- Planning Report
- Statement of Consistency
- Social Infrastructure Audit
- Fassaroe design statement
- Proposed Fassaroe Action Area Plan
- EIA Scoping Report
- Fassaroe Character Area A3 Booklet
- Housing Quality Assessment and Schedule
- Fassaroe Kiosk Design Booklet
- Infrastructure Statement
- Transport Statement
- DMURS Statement
- Flood Risk Assessment and Flood Risk Guidelines Statement of Consistency
- Landscape Planning Report
- Fassaroe Public lighting - Homezone areas
- Fassaroe Public lighting - Spine Road
- IW Confirmation of Feasibility
- Letter of consent from WCC and from adjoining landowner (Fisher)

Section 5(5)(b) of the Act of 2016 requires the submission of a statement that, in the prospective applicant's opinion, the proposal is consistent with both the relevant objectives of the development plan or local area plan concerned, and the relevant guidelines issued by the Minister under section 28 of the Act of 2000. Such a statement was submitted.

8.1.2. On 15/02/2021, further documentation was received, comprising:

- SHD Pre-Application Consultation – Response To Request For Clarification
- Revised and additional architectural
- Revised landscaping drawings

- A3 document ‘Bray’s New Sustainable Community at Fassaroe’
- Revised Housing Quality Assessment
- Pre-Planning Submission Architects Design Report
- 3D Perspective Views of Proposed Neighbourhood Centre
- A3 Kiosk Design Booklet
- A3 Fassaroe Character Area Booklet – 3D images
- A3 Fassaroe Character Area Booklet – Context Elevations
- Landscape Design Rationale
- Atkins Public Transport Access Strategy
- Atkins Response to Request for Clarification.

I have considered all of the documentation submitted by the prospective applicant, relating to this case.

## 8.2. Planning Authority Submission

8.2.1. A submission was received by An Bord Pleanála on the 30th day of July 2020. The report of the planning authority notes the following points:

- Pre-planning meetings were held with the prospective applicants on 05/03/2020.
- The development would ensure that the targeted growth for Bray to 2025 can be achieved in accordance with the Core Strategy.
- No Action Area Plan for the lands has been agreed to date.
- Development can be considered in advance of agreement where it would not undermine the overall objectives of the LAP and would contribute on a pro-rata basis to the shared infrastructure required.
- The submitted details are acceptable to progress an application on the lands.
- The development complies with the zoning objectives for the lands and the inclusion of OS2 zoned lands within landscaped areas is acceptable.
- The density of 57 / ha is acceptable having regard to the parameters for the AAP, the extent of developable lands and the significant parkland areas.
- Higher densities should be achieved where Character area 2 meets retail and transport notes.
- A full Visual Impact Assessment will be required.

- Development of these strategic lands for Bray will alter the rural character of the area but should not dominate other key landscape elements.
- A materially different house type may be appropriate in Character Area 4.
- Internal road layouts appear straight and to encourage speeding traffic.
- The approach to open space is acceptable.
- Provision of some single storey units would provide for future adaptability.
- The mix and design of houses is acceptable and in accordance with the apartment design guidelines.
- Finishes are appropriate.
- Given topography, any retaining features should be clearly identified.
- Details of the design and management of rear / mews lanes should be provided.
- Communal open space should be provided for apartment blocks 4 and 7, notwithstanding their location adjoining the district park.
- Active and passive open space accords with the provisions of the Action Area Plan and is proportional to the development proposed.
- Final design details for all open space areas including management and operation should be provided.
- The Active open space could incorporate Sports Village proposals identified in the Sports Audit for the Region.
- The application should identify all boundary treatments.
- The proposed retail kiosk should be capable of use as a café or local shop.
- The capacity of the creche exceeds development standards for a single unit but may be acceptable subject to liaison with the Wicklow Childcare Committee.
- The crèche should be provided in the early phases of development.
- Phasing plans should include all required supporting infrastructure.
- Development in excess of the 650-no. unit threshold identified in the Bray Environs Transport Study will require a separate implementation and monitoring plan, which has not yet been agreed. Such development is therefore premature.
- Phasing proposals should include infrastructure for Phase 1(a) of 650 units and beyond (650+ units).
- Final agreement with TII on measures to allow Phase 1(a) (650 no. units) to proceed has not yet been reached.

- Occupation of dwellings in Phase 1(a) is also dependent on other measures identified in the transport study.
- Works have commenced on Bus priority measures on Upper Dargle Road.
- Bus priority on Castle St. / Dublin Road, as part of BusConnects, is at design stage and subject to approval by An Bord Pleanála. Commencement of works is required prior to occupation of Phase 1(a).
- A full transport assessment and Road Safety Audit is required.
- Drainage, landscaping and open space should be considered as part of the NIS.
- Part V and Public lighting should accord with planning authority requirements.
- An EIAR is required.
- Proposals are not in accordance with WCC Part V policy and indicative costs proposals have not been included.
- The Waste Management Section note that EPA Certificates of Authorisation in respect of four landfills were obtained in 2019.
- Investigations indicate that the gas management systems for the historic landfill sites on the lands should incorporate gas flaring.

Conclusion:

- The principle of development in the absence of an agreed AAP is acceptable.
- The density and overall layout is acceptable.
- 650 no. units can be progressed subject to an agreed traffic management plan and the provisions of the Bray Environs Transport Study.
- Additional units will require further infrastructure, which should be accounted for in the phasing plan.

Internal reports were attached from the following departments.

- Housing and Capital Projects
- Transportation, Water and Emergency Services
- Municipal District Engineer (Bray)
- Waste Management Section



8.2.2. Subsequent to the prospective applicant's submission of 15/02/2021, a further submission was received from the planning authority on 22/03/2021 which raised the following points:

- The proposed neighbourhood centre is in accordance with the zoning objectives for the lands.
- Concerns are expressed with the design and layout of the centre including provision for pedestrians and cyclists, the dominance of road and car parking, provision of active frontage and adherence to the objectives of the Action Area Plan for the centre.
- Clarity on the extent of community facilities is required.
- The scale of the centre appears acceptable, but an RIA should be undertaken.
- Outline agreement has been reached with NTA and TII in respect of the Junction 6 Traffic Management Measures.
- Works at the junction will be subject to a consent process and completed prior to occupation of dwellings.
- Works will be completed by WCC with a contribution from the developer and will not impact on capacity for bus services through the junction.
- A separate implementation and monitoring plan will be undertaken in respect of the development of the remainder of the Fassaroe lands.
- Bus priority measures on Upper Dargle Road are at design stage and are targeted for completion in Q3 2023.
- Improvement works at the Dublin Road / Main Street Bridge are targeted for completion by Q2 2022.
- Commitments to the provision of a developer operated bus service pending public bus services serving the site may be required.
- Further design work is required regarding linkages to the proposed Greenway.
- Design and procurement work in respect of the Greenway is being progressed by WCC.

### 8.3. **The Consultation Meetings**

#### 8.3.1. **Meeting no. 1 – 11/09/2020**

A Section 5 Consultation meeting took place via Microsoft Teams on the 11/09/2020. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting and I refer to the ABP record of the consultation meeting.

The main topics raised for discussion at the tripartite meeting were as follows:

1. Fassaroe Action Area Plan and sequential approach to phasing of development.
2. Densities – sustainable densities having regard to infrastructure and public transport requirements.
3. Transport – phasing of development and alignment with published plans and studies.
4. Transport Assessment – Assumptions of modal split; Demonstrated capacity and sustainability of public transport provision.
5. Accessibility and connectivity.
6. Ballyman Glen SAC – impacts on groundwater.
7. Landfill remediation – responsibility and scope of works.
8. Residential amenity and community facilities.
9. Scope of application and alignment with the objectives of Strategic Housing legislation.
10. AOB

In relation to the Fassaroe Action Area Plan and the phasing of development, An Bord Pleanála sought further discussion / elaboration on the following:

- The status of any agreed Action Area Plan for the overall Fassaroe Lands in accordance with the provisions of the Bray Municipal District LAP.
- The approach to the sequential development of the lands.

In relation to Sustainable Densities, An Bord Pleanála sought further discussion / elaboration on the following:

- Clarity on the proposed residential densities and the basis for their calculation.
- Breakdown of densities across each phase / character area.

In relation to Transport and the phasing of development, An Bord Pleanála sought further discussion / elaboration on the following:

- The basis for the development threshold for Fassaroe cited in the Bray Environs Transport Study (BETS).
- The status of agreement with NTA and TII in respect of development on the lands and the Traffic Management requirements of BETS.
- Clarity on the nature and extent of the traffic management measures required.
- The status of the Phasing and Implementation Plan required for further phases of development (650+), as identified in BETS.
- Potential barriers to bus access to the lands.
- Potential impact on the national road network of development on the lands.
- The status of implementation of bus priority measures to improve access to the lands.

In relation to the Transport Assessment, An Bord Pleanála sought further discussion / elaboration on the following:

- The assumptions informing the transport assessment, including the modal split targets for the development and the basis therefor.
- The status of bus priority works planned to serve the development.

In relation to Accessibility and Connectivity, An Bord Pleanála sought further discussion / elaboration on the following:

- Measures to overcome current deficiencies in pedestrian and cycle connectivity to Bray town centre.
- Details of school connectivity.
- The requirement for a Quality Audit in accordance with DMURS Advice Note 4, including audits of the pedestrian and cycle environment given the gradients of roads accessing the lands.

In relation to the Ballyman Glen SAC, An Bord Pleanála sought further information on the following:

- Constraints on the site including groundwater recharge and status of groundwater modelling work undertaken.

In relation to Landfill Remediation, An Bord Pleanála sought further detail on the following:

- Responsibility for the management and remediation of former landfill sites.
- The potential impact of gas management measures on residential amenity.

In relation to Residential Amenity and Community Facilities, An Bord Pleanála sought further discussion on the following:

- The absence of community and services provision to serve this new community and the provisions of the LAP in this regard.
- The design of dual aspect apartment units.

In relation to the Scope of the prospective application, An Bord Pleanála sought further discussion on the following:

- The nature and extent of works arising in respect of the proposed development and how this can be achieved under SHD legislation.

### 8.3.2. **Meeting no. 2 – 21/05/2021**

Following a notice to the prospective applicants and receipt of further documentation, a second Section 5 Consultation meeting took place via Microsoft Teams on 21/05/2021. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting and I refer to the ABP record of the meeting. The main topics raised for discussion at the tripartite meeting were as follows:

1. Summary of revisions to the development the subject of the consultation.

2. Junction 6 / M11 interchange
3. Public Transport
4. Pedestrian and Cycle connectivity
5. Internal Design and Layout

In relation to the revisions to the development, the prospective applicants identified the key revisions to the documentation since the first consultation meeting and the rationale therefor.

In relation to the Junction 6 / M11 interchange, An Bord Pleanála sought clarification / further discussion on the following:

- The nature of traffic management measures at Junction 6 and the status of agreement with NTA and TII in this regard.
- The status of other measures identified by the planning authority which improve connectivity and sustainable transport capacity in the area.

In relation to Public Transport, An Bord Pleanála sought clarification / further discussion on the following:

- The status of proposed bus services to Fassaroe, including details of responsibility for the operation of new services and for any rerouting of existing services.
- The position of the NTA in respect of the public transport service requirements of the development, including provision of bus priority measures.
- The status of identified bus priority measures and alignment with the provisions of the BETS.

In relation to Pedestrian and Cycle Connectivity, An Bord Pleanála sought further discussion / clarification on the following:

- The status of measures to improve cycle connectivity to Bray town centre.

In relation to the Internal Design and Layout, An Bord Pleanála sought clarification / further discussion on the following:

- The need to confirm DMURS compliance having regard to the differing function of proposed roads, including capacity to accommodate public transport services.
- The requirement for a Quality Audit in accordance with DMURS Advice Note 4.
- The design and layout of the Neighbourhood Centre, having regard to the provisions of the Bray Municipal District LAP – Action Area Plan 1 (Fassaroe) and the comments of the planning authority in this regard.
- The extent of car parking provision and the layout of residential cycle parking within the Neighbourhood centre and Apartment Blocks 1 - 3.
- The approach to the phasing of development and linkages with transportation requirements.

In relation to Any Other Business, An Bord Pleanála advised of the need to ensure that a robust analysis of Daylight and Sunlight was undertaken having regard to the provisions of relevant S.28 Guidelines.

## 9.0 Conclusion and Recommendation

Based on the entirety of the information before me, it would appear that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

I have examined all of the information and submissions before me including the documentation submitted by the prospective applicant, the submissions of the planning authority and Irish Water, and the discussions which took place at the tripartite meetings. I have had regard to both national policy, including relevant s.28 Ministerial Guidelines, and local policy, via the statutory plans for the area.

Having regard to all of the above, I conclude that further consideration and / or possible amendment of the documents submitted are required at application stage in respect of the following elements:

- The need to clearly demonstrate alignment with the provisions of the Bray Environs Transport Study 2019, particularly in relation to the scale of

development, proposed Traffic Management measures at junction 6 and agreement with TII and NTA in respect thereof, details of the transport assessment undertaken, proposals for the provision of public transport services in line with the requirements of the NTA.

- Revised design proposals for the Neighbourhood Centre in line with the provisions of the objectives of the LAP Action Area Plan and the comments of the planning authority.
- Further detail and section drawings demonstrating the treatment of ground levels across the site.
- Full details of measures for the remediation of the former landfill sites with the Fassaroe lands.
- Full details of the proposed new pedestrian / cycle bridge over the M11 / N11 and connectivity to existing networks to the east.

Details in respect of these matters are set out in the Recommended Opinion below.

Having regard to the above I recommend that the Board serve a notice on the prospective applicant, pursuant to Section 6(7)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016, stating that it is of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act **requires further consideration and amendment** in order to constitute a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## 10.0 Recommended Opinion

The Board refers to your request pursuant to section 5 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Section 6(7)(a) of the Act provides that the Board shall form an opinion as to whether the documents submitted with the consultation request (i) constitute a reasonable basis for an application under section 4 of the Act, or (ii) require further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

Following consideration of the issues raised during the consultation process and having regard to the opinion of the planning authority, An Bord Pleanála is of the opinion that the documentation submitted **requires further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.**

In the opinion of An Bord Pleanála, the following issues need to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could result in them constituting a reasonable basis for an application for strategic housing development:

1. Documentation should clearly demonstrate how the development is aligned with the provisions of the Bray Environs Transport Study 2019 and the requirements of Section 3.2 *First Growth Area – Phase 1(a) Fassaroe*. In particular, the following matters should be addressed:
  - a) Demonstrate how the development is aligned with the development threshold identified for Phase 1(a) in the study of 650 no. residential units.
  - b) Provide details of the Traffic Management System Framework to be implemented at junction 6 with the agreement of TII, including details of responsibility, and a timeframe, for implementation.
  - c) Details of the traffic modelling assessment undertaken, including the assumed modal split informing the assessment.
  - d) Clear proposals are required for the provision and operation of new bus services to meet predicted demand, as identified in the Public Transport Access Strategy. Evidence of the agreement of the NTA to the proposed rerouting of existing services should be provided.  
  
In advance of the extension of public bus services to meet identified demand, clear commitments should be provided with regard to the operation of such bus services in the intervening period.
  
2. A review of the design and layout of Character Area 1 - Neighbourhood Centre should be undertaken. A specific design statement should be provided having regard to the objectives of the Bray Municipal District LAP – *Action Area Plan 1* –



*Fassaroe*, in respect such facilities and in particular the provision of outdoor spaces within the centre. The extent of car parking provision within this local centre should also be justified and regard should be had to the comments of Wicklow County Council in their submission of 22/03/2021.

The relocation of proposed childcare uses to within or adjacent to the neighbourhood centre as part of the community service offering should also be examined.

3. Having regard to the varying topography in this area, further detailed section drawings should be provided demonstrating the treatment of ground levels across the site. Particular regard should be had to existing and proposed levels within / adjoining the neighbourhood centre, and to the relationship between Character Area 1 (Apartment Blocks 1, 2 and 3) and the adjoining industrial lands to the north. Any requirement for retaining walls across the site should be identified and suitably described in the application.
4. Full details of measures for the remediation of the former landfill sites within the *Fassaroe* lands should be included in any application, to include confirmation of ownership of these sites and responsibility for implementation of the remediation works. Details of gas management measures including odour management, should be provided and an assessment of potential impacts on residential amenity should be undertaken.
5. Full details of the proposed new pedestrian / cycle bridge over the M11 / N11 and connectivity to existing networks to the east should be provided. The design proposals should consider public safety and security along route, including supervision of the route from *La Vallee*.

Pursuant to article 285(5)(b)(i) and (ii) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby

notified that the following specific information should be submitted with any application for permission:

1. A phasing plan for the development proposed as part of this application, which comprises Phase 1 of the overall development of lands at Fassaroe.
2. Address the requirements of the Bray Municipal District Local Area Plan 2018, and Housing Objective R5, that development at Fassaroe should be undertaken in accordance with an agreed Action Area Plan that allows for the sustainable, phased and managed development of the overall area.
3. The application should clearly identify all areas proposed to be taken in charge by the local authority on satisfactory completion of development.
4. A comprehensive landscaping scheme for the entire site to include:
  - (i) a detailed survey of existing trees and hedgerows and an assessment of any specimens to be removed, along with measures to protect any trees and hedgerows to be retained during construction;
  - (ii) detailed landscaping proposals, including details of hard and soft landscaping, play equipment, boundary treatments, the delineation of public and communal open space provision and consideration of biodiversity enhancement measures;
  - (iii) proposals for the treatment of external boundaries of proposed public open spaces having regard to the varying quality, character and use of adjoining lands.
5. A management and operation plan for the proposed District Park and Active Open Space / Sports Zone. Any proposed role for the local authority as part of the management plan should be clearly identified.
6. A Quality Audit Report in accordance with Advice Note 4 of the Design Manual for Urban Roads and Streets (DMURS), which should include in particular pedestrian and cycling audits and a Community Street Audit. Regard should be had to the topography of the area and gradient of roads and streets accessing the lands.

Road safety audits should include the junction of the proposed link road with Ballyman Road, having regard to the additional traffic loading which will arise at this junction as a result of the proposed development, and the comments of the Bray Municipal District Engineer.

7. The architectural design statement should consider the relationship between proposed housing and the Link Road and how an appropriate sense of place will be achieved within the development in terms of connectivity, enclosure, active edge and pedestrian activity as described in the Design Manual for Urban Roads and Streets.
8. A landscape and visual impact assessment prepared by a suitably qualified practitioner.
9. An assessment of the Daylight and Sunlight characteristics of the proposed development, having regard to the provisions of relevant S.28 Ministerial Guidelines.

Proposed dual aspect apartments should be clearly identified in the application drawings / floor plans.

10. A report that specifically addresses the proposed materials and finishes to the scheme, including specific detailing of external finishes, landscaped areas, pathways, entrances and boundary treatments, public lighting, car and cycle parking areas and refuse storage areas. Particular regard should be had to the requirement to provide high quality and sustainable finishes and details which create a distinctive character for the development.
11. A life cycle report in accordance with section 6.3 of the Sustainable Urban housing: Design Standards for New Apartments (2018). The report should have regard to the long-term management and maintenance of the proposed development.
12. Proposals under Part V of the Act of 2000.

Pursuant to article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is informed that the following authorities should be notified in the event of the making of an application

arising from this notification in accordance with section 8(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016:

- NTA
- TII
- Dun Laoghaire-Rathdown County Council
- Minister for Housing, Local Government & Heritage
- EPA
- Heritage Council
- An Taisce
- Fáilte Ireland
- Inland Fisheries Ireland
- Commission for Energy Regulation
- Irish Water
- Wicklow Childcare Committee

**PLEASE NOTE:**

Under section 6(9) of the Planning and Development (Housing) and Residential Tenancies Act 2016, neither the holding of a consultation under section 6, nor the forming of an opinion under that section, shall prejudice the performance by the Board, or the planning authority or authorities in whose area the proposed strategic housing development would be situated, of any other of their respective functions under the Planning and Development Acts 2000 to 2016 or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

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Conor McGrath

Senior Planning Inspector

28/05/2021