



An
Bord
Pleanála

Inspector's Report ABP-309881-20

Development	Construction of 2 No. dwellings, new vehicular entrance and all associated site works.
Location	Bridge House, The Grove, Greystones, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	20552
Applicant(s)	T. & C. Horan
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party v. Decision
Appellant(s)	Pat Doyle R. Lee
Observer(s)	None.
Date of Site Inspection	8 th July, 2021
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located on the northern outskirts of Greystones, Co. Wicklow, approximately 2.1km northwest of the train station, in an outer suburban area known as 'The Grove' which extends west from the Rathdown Road / R761 Regional Road towards the Dublin / Wexford railway line further east. The wider area is generally characterised by the gradual transition from the built-up area of the town through to the surrounding rural / agricultural hinterland with 'The Grove' comprising a number of lower density housing developments and a variety of individual dwelling houses.
- 1.2. The site itself occupies a position at the junction of the local roadway serving 'The Grove' with the regional road, although its irregular configuration is such that the development lands envelope the two neighbouring dwelling houses of 'Bridge House' and 'Bridge Cottage' to the southwest. It has a stated site area of 0.12 hectares and presently forms part of the wider curtilage and private garden (including the existing entrance arrangement and associated parking area) of Bridge House with frontage onto both the local and regional roads. In addition to the adjacent housing, the site adjoins an undeveloped open field to the immediate north while the lands to the east are occupied by a single storey shed with the Redford (The Grove) Cemetery further east / northeast. The site topography generally rises over 'The Grove' roadway (where there is a pronounced dip in the carriageway) with the northern site boundary defined by a prominent mature tree line set atop an embankment.

2.0 Proposed Development

- 2.1. The proposed development consists of the subdivision of an existing housing plot and the construction of 2 No. detached, two-storey, dormer-style dwelling houses (each with a floor area of 178m²) with access via an upgraded entrance arrangement shared with the neighbouring property (Bridge House) onto the local roadway to the south serving 'The Grove'. The overall design and layout of the scheme is conventional with the proposed dwellings backing onto the R761 Regional Road to the west and stepped along the contours of the site with each unit to be provided with front and rear garden areas and dedicated off-street car parking. Water and

sewerage services are available via connection to the public mains (although foul water will be pumped to the public sewer via a new rising main).

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Following the receipt of a response to a request for further information, on 8th March, 2021 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 10 No. conditions. These conditions are generally of a standardised format and relate to issues including infrastructural / servicing works, surface water drainage, construction management, external finishes, boundary treatment, and development contributions, although the following conditions are of note:

Condition No. 6 – Requires the following works to be completed prior to the occupation of the dwelling houses:

- a) The closure of the existing vehicular access serving Bridge House from 'The Grove'.
- b) The closure of the existing vehicular access to the site from the R761 Regional Road.
- c) The upgrading works to the junction of 'The Grove' / R761 Regional Road.

Condition No. 8 – Requires the finished floor levels to accord with those shown on Drg. No. P-01 REV D (received by the Planning Authority on 25th January, 2021) with certification of same to be provided following the laying of the floor slab and in advance of any further development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

An initial report details the site context, planning history, and the applicable policy considerations, before stating that the overall principle of the proposed development

is acceptable. It subsequently analyses the proposal and recommends that further information be sought in respect of a number of items, including the full extent of the applicants' landholding, the planning status of 'Bridge House' & 'Bridge Cottage' and their associated access arrangements (in light of the possibly unauthorised subdivision of the original property), the demolition works, the relationship of the proposed housing with adjacent properties and the public road, details of any retaining walls / structures, the surface water drainage arrangements, and road safety / traffic considerations (including the adequacy of the proposed entrance design).

Following the receipt of a response to a request for further information, a final report was prepared which recommended a grant of permission, subject to conditions.

3.2.2. *Other Technical Reports*

Greystones Municipal District Engineer. An initial report made a series of recommendations with respect to various road safety and / or traffic considerations in addition to the foul and surface water drainage arrangements. It was also noted that while the location of the proposed housing had never flooded (and is unlikely to flood given its siting relative to the public road), floodwaters were previously recorded on the roadway serving 'The Grove' at a level proximate to the ground floor window cills of Bridge House (although mitigation measures have been implemented as to prevent the recurrence of any such flooding to the same extent).

Following the receipt of a response to a request for further information, a subsequent report made the following comments:

- The amended plans show sightlines for a 30kph speed limit in accordance with the Design Manual for Urban Roads and Streets, however, the roadway in question is subject to a speed limit of 50kph. Nevertheless, the proposed layout is considered to represent a significant improvement in terms of road safety along both 'The Grove' and the R761 Greystones Road. In addition, due to the topography and alignment of 'The Grove' road, and the close proximity of the junction, it is considered that the design speeds are closer to a 30kph speed limit and thus the proposed road layout is acceptable.

- Although the foul water drainage plans refer to an emergency overflow storage tank, the location and extent of this tank are not shown on the submitted drawings.
- The surface water drainage arrangements are lacking in detail and should be submitted for approval prior to the commencement of development. The use of 'green' drainage solutions should also be explored as opposed to the use of the hard engineering proposals provided in response to the request for further information.

3.3. Prescribed Bodies

- 3.3.1. *Irish Water:* An initial report recommended that the applicant be required to engage with Irish Water through the submission of a pre-connection enquiry to determine the feasibility of connection to the public watermain / wastewater infrastructure.

Following the receipt of a response to a request for further information, a subsequent report stated that there was no objection to the proposal, subject to conditions.

3.4. Third Party Observations

- 3.4.1. A total of 5 No. submissions were received from interested third parties, the contents of which can be derived from my summation of the grounds of appeal, although the following additional areas of concern were also raised:

- The adequacy of the development description in failing to refer to the demolition of outbuildings.
- The failure to provide a screening exercise for the purposes of appropriate assessment.
- Clarity as regards the wastewater drainage arrangements and the need to avoid interfering with the foul water connection serving a neighbouring property (Rivergrove).
- The new footpath will expose the gable of Bridge Cottage to elevated levels of traffic and will also result in complications as regards future maintenance.

4.0 Planning History

4.1. On Site:

PA Ref. No. 014740. Was refused on 1st August, 2001 refusing Thomas & Catherine Horan permission for the construction of a two-storey dwelling, associated site works & alterations to entrance gates.

4.2. On Adjacent Sites:

None.

4.3. On Sites in the Immediate Vicinity:

4.3.1. *(to the immediate south at River Grove, The Grove, Greystones):*

PA Ref. No. 08972. Was granted on 15th September, 2008 permitting Adrienne & Bernard Donnelly permission for the retention of the raising of an existing boundary wall to 2m high, including the removal of a railing along the northern boundary of the site (58m in length) together with the amendment of Condition No. 3 of ABP Ref. No. PL27.112861.

PA Ref. No. 04246 / ABP Ref. No. PL27.207117. Was determined on appeal on 9th September, 2004 whereby a split decision was issued to Adrienne and Bernard Donnelly as follows:

- To **GRANT** permission for the enlargement of a bay window, including raising the height on the southern elevation of the existing house.
- To **REFUSE** permission for the raising of an existing boundary wall to 2m, including the removal of the existing railings along the northern roadside boundary of the site.
 - It is considered that the proposed raising of the existing boundary wall to 2m including the removal of existing railings along the northern roadside boundary of the site would result in an unduly high and severe form of development at this prominent location and would seriously injure the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. No. 989574 / ABP Ref. No. PL27.112861. Was granted on 1st March, 2000 permitting Adrienne and Bernard Donnelly permission for the demolition of the existing house and its replacement with a new house, garage, septic tank and Puraflo sewage treatment unit (with treated effluent pumped to the existing foul sewer).

5.0 Policy and Context

5.1. National and Regional Policy

- 5.1.1. The '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' note that, in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development, potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.

5.2. Development Plan

- 5.2.1. ***Wicklow County Development Plan, 2016-2022:***

Chapter 3: Settlement Strategy:

*Section 3.2: County Wicklow Settlement Strategy: Level 3 – Large Growth Town II:
(2) Metropolitan Area: Greystones-Delgany*

Chapter 4: Housing:

Section 4.4: Housing Objectives: Existing Residential Areas:

HD2: New housing development, above all other criteria, shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.

HD3: All new housing developments (including single and rural houses) shall achieve the highest quality of layout and design, in accordance with the standards set out in the Development and Design Standards document appended to this plan, which includes a Wicklow Single Rural Houses Design Guide.

HD9: In areas zoned / designated 'existing residential', house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space, see Objective HD11 below). While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.

HD10: In existing residential areas, infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties. However, where previously unserved, low density housing areas become served by mains water services, consideration will be given to densities above the prevailing density, subject to adherence to normal siting and design criteria.

Appendix 1: Development and Design Standards

Section 1: Mixed Use and Housing Developments in Urban Areas

5.2.2. **Greystones-Delgany & Kilcoole Local Area Plan, 2013-2019:**

Land Use Zoning:

The proposed development site is zoned as '*RE: Existing Residential*' with the stated land use zoning objective '*To protect, provide for and improve residential amenities of adjoining properties and areas while allowing for infill residential development that reflects the established character of the area in which it is located*'.

Other Relevant Policies / Sections:

Section 3: Population and Housing

Section 3.4: Objectives:

RES5: On undeveloped residentially zoned land, it is an objective of the Council to provide for the development of sustainable residential communities up to a maximum density, as prescribed by the land use zoning objectives indicated on Map A and described in 'Table 11.1: Zoning Matrix'.

In existing residential areas, infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties. However, where previously unsewered, low density housing areas become served by mains sewers, consideration will be given to densities above the prevailing density, (up to 10 / ha, depending on local circumstances), subject to adherence to normal siting and design criteria.

Within existing residential areas, regard shall be paid at all times to the overriding objective of the Council to protect the residential amenity of these areas and to only allow infill residential development where this reflects the character of the existing residential area.

RES7: Notwithstanding the zoning objectives set out within this plan, lower density residential developments may be required at certain locations; where by virtue of environmental, topographical and service constraints, including lack of public mains infrastructure, poor road access, steep gradients, flooding issues and significant coverage of natural biodiversity; a lower density of development is preferable. This objective applies to all land zonings within the plan area.

5.3. Natural Heritage Designations

5.3.1. The following natural heritage designations are in the general vicinity of the proposed development site:

- The Bray Head Special Area of Conservation (Site Code: 000714), approximately 570m east of the application site.
- The Bray Head Proposed Natural Heritage Area (Site Code: 000714), approximately 580m east of the application site.
- The Glen of the Downs Special Area of Conservation (Site Code: 000719), approximately 3km southwest of the site.
- The Glen of the Downs Proposed Natural Heritage Area (Site Code: 000719), approximately 3km southwest of the site.
- The Kilmacanoge Marsh Proposed Natural Heritage Area (Site Code: 000724), approximately 3km west of the site.
- The Great Sugar Loaf Proposed Natural Heritage Area (Site Code: 001769), approximately 3.1km west of the site.

5.4. EIA Screening

5.4.1. An Environmental Impact Assessment Screening report was not submitted with the application.

5.4.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations, 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.4.3. It is proposed to construct 2 No. dwellings, a new vehicular entrance and associated site works at Bridge House, The Grove, Greystones, Co. Wicklow. The number of

dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.12 hectares and is located within an existing built-up area but not in a business district. The site area is therefore well below the applicable threshold of 10 hectares. The site is located within an established residential area on the northern outskirts of Greystones town which is characterised by the gradual transition from the built-up confines of the town through to the surrounding rural / agricultural hinterland. The introduction of infill residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site (as discussed later in this report) and there is no hydrological connection present such as would give rise to significant impact on nearby watercourses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Wicklow County Council, upon which its effects would be marginal.

5.4.4. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations, 2001 (as amended),
- The location of the site on lands that are zoned for residential development under the provisions of the Greystones-Delgany & Kilcoole Local Area Plan, 2013-2019 and the Wicklow County Development Plan, 2016-2022, and the results of the strategic environmental assessments of the Greystones-Delgany & Kilcoole Local Area Plan, 2013-2019 and the Wicklow County Development Plan, 2016-2022, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,

- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations, 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

5.4.5. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Pat Doyle:

- There are a number of discrepancies in the submitted plans and particulars to the effect that the application as lodged fails to satisfy the requirements of Articles 22 – 25 of the Planning and Development Regulations, 2001, as amended:
 - The mature trees within the site, particularly those along the northern boundary, qualify as ‘*significant tree stands*’ and have not been shown pursuant to Article 23(1)(a) of the Regulations.
 - Grove cemetery and the lands attached to same (which adjoin the site boundary) have not been detailed on the site layout or location plans despite the requirement to show ‘*other features on, adjoining or in the vicinity of the land or structure to which the applications relates*’.

- Site location maps must be of a scale *'not less than 1,250 in all other areas . . . and the map must be coloured so as to identify clearly the land or structure to which the application relates and the boundaries thereof'*. The site location map is at a scale of 1:10,560 and the site boundaries are not demarcated.
 - The name of the person responsible for various plans submitted by the architectural agents does not appear.
 - Neither the original nor the revised site layout plans appear to have shown a blue 'ownership' line as required by Article 22(2)(b)(ii) of the Regulations.
- It is unclear if the proposed traffic safety 'improvements', including the ceding of lands at the junction of Grove Road / R761 Regional Road in order to improve the available sightlines and the junction radii, are contingent on a successful planning outcome.
 - Data from the Road Safety Authority indicates that multiple road traffic accidents (including one fatality) have occurred at the junctions of Grove Road and Lower Windgate Road with the R761 Regional Road. This is a dangerous stretch of the regional road carriageway.
 - Despite the extant traffic calming measures and speed limits, both northbound and southbound traffic on the regional road approaches the junction with Grove Road at elevated speeds. When coupled with the staggered junction arrangement shared with Lower Windgate Road, there are multiple traffic hazards at this location.
 - Notwithstanding the heavy traffic volumes along the R761 and the substandard nature of the Grove Road junction, the key concerns are the increased number of traffic movements onto Grove Road as a result of the proposed development.
 - Westbound traffic along Grove Road will have no view of the reworked entrance (and the increased vehicle numbers using same) until such time as it crests the hill to the immediate east of the site access. Furthermore, the 50kph speed limit is located just east of the new site entrance and, therefore,

westbound traffic will be travelling from a 30kph speed limit into a 50kph zone immediately before the proposed access. In this regard, it appears that the consulting engineers have based their road safety conclusions on the proposed access being within a 30kph speed limit. Similarly, traffic attempting to turn onto Grove Road from the site will have insufficient sight distance, particularly in an easterly direction, due to the entrance location at a dip in the roadway.

- The sightlines shown on Drg. No. NRB-SK-001 (as received by the Planning Authority on 25th January, 2021) may require the removal of hedging from within the appellant's property. No consent has been given for any such works nor will it be forthcoming.
- Neither a traffic impact assessment nor a road safety audit has been submitted.
- The proposed development will create additional traffic hazards along a substandard section of Grove Road and will also result in an increased number of hazardous turning movements at the junction with the R761 Regional Road.
- The revised site layout plan (Drg. No. P-01 Rev. D) submitted in response to the request for clarification appears to show the extent of the applicants' purported land ownership as overlapping with part of the appellant's property. In addition, it has not been clarified as to why the full extent of the applicants' landholding was not outlined in blue as required by the Planning and Development Regulations, 2001, as amended.
- The overall design and massing etc. of the proposed dwellings is out of character with this semi-rural setting and unsympathetic to neighbouring properties.
- The proposal will have a detrimental impact on the residential amenity of the appellant's property by reason of overlooking / loss of privacy, proximity, and visual intrusion.
- The appellant has not been consulted as regards the removal of mature hedging along the boundary shared with his property.

- Due to its design and siting, the proposed development contravenes Objective CZ3 (Cell 3 Bray Head to Greystones (Rathdown)) of the County Development Plan as it does not accord with the stated policy to *‘strictly regulate and manage development in this cell to protect its function as a green break between the built-up area of Bray and Greystones’*.
- The linear siting of the proposed dwellings and their location backing onto the regional road represents speculative, urban-generated, linear development in contravention of the Development Plan.
- Contrary to the application form, significant flooding has occurred in the area with the most recent flood events resulting in severe damage to the appellant’s (and neighbouring) properties.

6.1.2. R. Lee:

- The proposed access does not comply with road safety design standards. It is located at a pronounced dip in the roadway while the vertical and horizontal alignment at the entrance is also significantly substandard.
- Considerable ground works will be required close to an adjacent cemetery, however, no details have been submitted to show how these works will be carried out or what measures will be put in place to address the potential leakage of pollutants (e.g. embalming chemicals, wood preservatives, heavy metals etc.) from the graveyard. A technical report is required to review these issues to ensure that the proposal does not result in ground slippage or the contamination of surface or ground waters.
- It has not been established that the existing shared wastewater treatment system has the capacity to accommodate the additional loadings consequent on the proposed development.
- The suitability of the site for the disposal of stormwater runoff has not been verified by way of investigative trial pits pursuant to BRE 365.
- Data from the Office of Public Works and the CFRAM mapping indicates that the site and the immediately adjacent road network have previously flooded, however, the proposal would not appear to have taken account of flood design. This is of particular concern given the site location in a natural

drainage basin, the proximity of the Redford Stream, and increasingly frequent & extreme rainfall events.

- A high level of biodiversity on site will be removed to facilitate the development. The Planning Authority has not attempted to assess the ecological status of the site or the consequent loss of biodiversity value.
- The application site represents a significant local biosphere with mature gardens, specimen trees, shrubbery and hedgerows etc. indicative of a high biodiversity value.
- The area is noted for bat and avifauna activity with the mature trees and shrubbery close to the Redford Stream providing an ideal habitat for certain species.
- No reference has been made to the requirement to obtain a tree felling permit / licence as part of the development works.
- A thorough ecological survey is required to evaluate the biodiversity value of the site and to ensure that the application does not warrant screening for the purposes of appropriate assessment.
- The construction of 2 No. two-storey houses backing onto the R761 Regional Road would set a very undesirable precedent and would encourage further speculate linear development along this 'greenbelt' section of the Bray – Greystones road.

6.2. Applicant's Response

- The bona fides of the appeal lodged by 'R. Lee', including the identity of that party, are questioned with respect to the validity of the appeal in the first instance. Moreover, it is considered that the appeal of R. Lee should be dismissed on the grounds that it is of a vexatious and disingenuous nature.
- Neither of the third party appeals have been accompanied by any evidence to support the claims made by the appellants with the grounds of appeal simply amounting to a multitude of unsubstantiated allegations. In the absence of any supporting material / evidence, the necessary legal requirements have not been satisfied and both appeals should be declared invalid.

- No qualifications or reports etc. of any relevant nature have been provided by the appellants to qualify the grounds of appeal.
- Against the background of a lack of identity, qualifications, and supporting evidence, there are serious concerns as to the appellants' motives. It is further considered that the recent judgment in *An Taisce v. An Bord Pleanála [2020 No. 566 JR]* would support declaring both appeals invalid.
- The appeals seek to raise issues that were not previously raised during the Planning Authority's assessment of the application. This must be viewed as vexatious and an abuse of process and, therefore, the Board is invited to reject all new material introduced by the appellants.
- The decision to grant permission was informed by internal reports which stated that the proposal would provide for significant improvements in road safety along 'The Grove' and the R761 Regional Road while the access arrangements would not result in a traffic hazard.
- The Board is referred to the report compiled by NRB Consulting Engineers included at Appendix 'D' of this response which rebuts the appellant's traffic safety concerns as follows:
 - From a review of the RSA's database of road accidents, there has been only one minor car accident at The Grove junction while the fatality referenced in the grounds of appeal concerns a single vehicle accident that occurred in 2005 at the Lower Windgate junction due to driver fatigue (extensive improvements have been made to the junction since).
 - Given the low number of accidents occurring over a 16-year period, it is not considered that this stretch of regional road gives rise to concern as regards the frequency, severity, or type of accident.
 - The existing junction arrangement along the R761 is appropriately designed in accordance with the Design Guidelines to reflect the pertaining conditions as reflected by the low number of accidents recorded.

- The closure of a substandard access onto the regional road represents a significant improvement to the existing traffic conditions.
 - The Grove is a very lightly trafficked residential street with flows that are practically negligible in volume terms. The opening of the proposed access will have zero consequences in terms of traffic progression or safety on The Grove.
 - The design of the access is consistent with the Design Manual for Urban Roads and Streets and is cognisant of the lightly trafficked conditions.
 - The sightlines as proposed are deliverable (it is the duty of the Local Authority to ensure that hedging & trees etc. do not overhang the highway or cause a traffic hazard). In the event the adjacent hedge is a matter of dispute, the access could be moved westwards by way of condition.
 - The provision of 2 No. dwelling houses is far below the threshold for the preparation of a Transportation Assessment.
 - The proposal does not warrant a Road Safety Audit, however, if necessary, this could be provided by way of condition.
- The Planning Authority has determined that the proposal does not require appropriate assessment or environmental impact assessment. It has no ecological concerns with respect to the development.
 - The Board is referred to the report compiled by Altemar included at Appendix 'E' of this response which rebuts the appellant's ecological concerns. In this regard, it is of particular note that the site is a conventional suburban garden of no particular biodiversity significance and that there will be no significant loss of biodiversity as a result of the proposed development. A bat survey has also established that there are no trees with roosting potential on site while those trees on the adjacent sites with roosting potential will not be impacted by the development.
 - It was not possible to undertake on-site infiltration tests in response to the request for further information due to the COVID-19 regulations and,

therefore, the submitted design calculations were labelled as being '*subject to final site percolation test*'. A condition was thus included in the grant of permission requiring detailed proposals for the collection and disposal of surface water to be agreed with the Planning Authority. This condition provides adequate safeguarding as regards the surface water drainage arrangements (including the need to avoid surface water flow onto the public roadway).

- Infiltration tests pursuant to BRE 365 have since been carried out on site (please refer to Appendix 'G') which have established that there is adequate space available to accommodate a soakaway for each dwelling.
- Irish Water has no objection to the proposal and the Board is requested to note the environmental benefits in terms of foul water disposal which is a significant improvement on the existing system.
- There is no flood risk on site as evidenced by the OPW's CFRAM mapping.
- The lowest part of The Grove is outside the site at a level of 31.16m (please refer to Drg, No. P-01 Rv. D) where there are two road gullies. The finished floor level for House 'B' will be 32.56m i.e. 1.4m over the lowest road level (House 'A' will have a floor level 2.4m over the lowest point of The Grove).
- With respect to past flooding of the roadway in The Grove, the Planning Authority has noted that '*mitigation measures have been implemented to prevent this from occurring to such an extent again*'. In this respect, the following drainage improvement works have been carried out since August, 2008:
 - The camber of the R761 has been improved so that the carriageway drains to the west away from Bridge Cottage and The Grove.
 - A new kerb drainage system has been constructed on the western side of the R761 which catches any overflow from the L5028 / Templecarrig Road to the west.
 - 2 No. surface water gullies and 3 No. drain holes have been inserted in the boundary wall at River Grove which drain across that property to the stream.

- There has been no major flooding at the junction of The Grove / R761 since 16th August, 2008.
- The site is not within 'Cell 3 Rathdown' and therefore Objective CZ3 of the County Development Plan does not apply.
- The appellants acknowledge the southern boundary of Cell 3 as the 'settlement boundary for Greystones – Delgany' and, therefore, they are fully aware that the site is not within Cell 3 or any 'green break'.
- The proposal fully accords with the wider policy provisions of the County Development Plan, with particular reference to those relating to infill development on residentially zoned lands.
- The suggestion that the proposed housing is out of keeping with the area and / or unsympathetic to neighbouring development is rejected given the palette of materials / external finishes and the stepping of the construction to respect the contours of the site.
- The absence of any windows in the southern gable of either of the proposed dwellings avoids any overlooking of the appellant's property to the south.
- The provision of suitable boundary treatment will preserve the residential and visual amenity of neighbouring property.
- None of the neighbouring dwellings along this stretch of the R761 face onto the regional road and, therefore, no precedent will be set by the proposed development.
- The issue of groundworks has already been considered by the Planning Authority which accepted the details provided.
- Concerns with regard to the adjacent graveyard should be dismissed as the closest grave will be c. 42m from the proposed houses.
- The ecological report commissioned by the applicants sees no threat of any contamination as described by the appellants although it is recommended that measures be put in place to protect the Redford Stream from any silt that may arise during ground works.

- The appellants comments with respect to the adequacy of the submitted plans and particulars and adherence to regulatory requirements should be dismissed out of hand. The application was accepted as valid and substantial further information was also provided which allowed the Planning Authority to issue a decision to grant permission.

6.3. Planning Authority Response

None.

6.4. Observations

None.

6.5. Further Responses

6.5.1. *Response of Pat Doyle to the Third Party Appeal of R. Lee:*

- Concurs with the assessment as regards the appropriateness of the development vis-à-vis traffic exiting onto Grove Road and notes that the traffic impact assessment would appear to be grounded on incorrect speed limits.
- It is reiterated that the appellant will not permit any trimming or removal of hedging on his property to facilitate the proposed development.
- The Board's attention is drawn to its determination of ABP Ref. Nos. PL27.112861 & PL27.120067 wherein it had reservations as regards traffic safety at the junction of Grove Road with the R761 Regional Road.

ABP Ref. No. PL27.120067 was granted permission on the understanding that a deceleration lane would be provided on the R761 at the junction with Grove Road, however, the hard shoulder as constructed hardly qualifies as a deceleration lane. Furthermore, Condition Nos. 1, 2 & 3 required agreed upgrading works to be carried out prior to the commencement of development and thus it is difficult to understand why the deceleration lane was not constructed.
- The proposal will exacerbate the traffic hazard at the existing junction and does not meet the necessary safety standards.

- The sightlines to the east on exiting the site are seriously deficient due to the vertical alignment of Grove Road.
- Inadequate detail has been provided of the excavation and ground stabilisation works.
- In the absence of a water status for the nearby Redford Stream as required under the Water Framework Directive, it is unclear how the Planning Authority was able to conclude that the proposal would not impact on local watercourse quality.
- Insufficient information has been provided to evaluate the absorptive capacity of the site to attenuate stormwater and any linkages between the groundwater and surface water regimes.
- Given the site location in a natural depression and the increasing frequency & intensity of storm events, the proposal does not accord with best practice flood risk management.
- The site and its immediate surround represent a '*local biodiversity area*' as per the guidelines included in the Local Area Plan, however, the Planning Authority has failed to take this into account.
- Consideration should be given to the ecological impacts of the development, particularly as the mature trees on site host numerous bird (and possibly bat) species.
- Given the scale of habitat destruction and the demolition of old sheds, a bat survey may be warranted.
- The Greystones – Delgany & Kilcoole Local Area Plan, 2013-2019 appears to have expired thereby casting doubt on any reliance placed on same.
- A new County Development Plan and a revised Local Area Plan may be in place prior to the determination of this appeal thereby necessitating the setting aside of the Local Authority's decision.

6.5.2. *Response of R. Lee to the Third Party Appeal of Pat Doyle:*

- Given the proximity of the proposed development, elements of the works would appear to impact on the northern, southern & eastern boundaries of Mr. Doyle's property.
- The assessment of the proposal has failed to take adequate cognisance of the unique characteristics and semi-rural nature of the area in question.
- The overall design, height, layout and finished floor levels of the proposed houses would significantly detract from the residential amenity of Mr. Doyle's property.
- The linear format of the proposed development along the regional road would materially contravene the Development Plan which aims to maintain a 'green' break between the built-up areas of Bray and Greystones. The proposal would set an undesirable precedent within this exclusion zone.
- The screening potential of the existing trees has been exaggerated.
- In light of the numerous technical inaccuracies identified by Mr. Doyle, it is questionable whether the application is valid.
- Notwithstanding the traffic safety inaccuracies, it would appear that the applicant was given the 'benefit of the doubt' as the Council felt that the application would result in improvements to the junction of Grove Road with the R761.
- No cognisance should be taken of the 'planning gains' offered by the development. If the Council were minded to carrying out junction improvement works, it should serve a Compulsory Purchase Order with respect to the lands concerned rather than trying to negotiate same through the planning process.
- The Roads Dept. noted that the proposal did not meet the requirements of the Design Manual for Urban Roads and Streets, however, it was seemingly assuaged by 'bigger picture' planning outcomes. The proposal as submitted does not comply with DMURS standards.
- Mr. Doyle is not minded to allow any removal or trimming of his hedging to facilitate sightlines for the development.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- The nature of the third party appeal by R. Lee
- The principle of the proposed development
- Overall design and layout
- Impact on residential amenity
- Traffic implications
- Flooding implications
- Servicing / infrastructural works
- Impact on biodiversity / wildlife considerations
- Other issues
- Appropriate assessment

These are assessed as follows:

7.2. The Nature of the Third Party Appeal of R. Lee:

7.2.1. Concerns have been raised as regards the legitimacy / validity of the third party appeal lodged by 'R. Lee' and the bona fides of the appellant given the limited information and credentials provided with respect to the identification of that party e.g. the absence of any identifying prefix / title, the use of an initial as opposed to a first name, the lack of any contact phone number or email address, the use of money orders to pay fees, and as their postal address has changed during the course of the planning application. It has also been submitted that the motives of the appellant should be questioned, particularly as a limited investigation has identified 'R. Lee' as having lodged multiple objections / appeals to various developments throughout the country (primarily in Co. Cavan). In this regard, the applicant has requested the Board to declare the appeal of 'R. Lee' to be of a disingenuous and vexatious nature and to dismiss it accordingly.

- 7.2.2. Having reviewed the available information, I am aware of several instances when an individual known as 'R. Lee' (with the same address(es) as the subject appellant) was a party to an appeal lodged with the Board and that concerns were raised in some of those cases as to the identity of 'R. Lee' (please refer to ABP Ref. Nos. 300190, 306084 & 307890). However, in each of those appeals the Board accepted the submissions of 'R. Lee' and proceeded to determine the file (i.e. it did not dismiss the appeals).
- 7.2.3. While I would acknowledge the concerns raised by the applicant in seeking to verify the appellant's identity with a view to establishing that the appeal itself is genuine, I am cognisant that Article 29 of the Planning and Development Regulations, 2001, as amended, states that any person or body, on payment of the prescribed fee, may make a submission or observation in writing to a planning authority and that it is a requirement under that article to state the name of the person or body making the submission or observation and to indicate the address to which any correspondence relating to the application should be sent. Section 127(1)(b) of the Act similarly requires that under the provisions for making an appeal, the appeal shall state the name and address of the appellant or person making the referral and of the person, if any acting on her behalf, with Section 127(2) stating that "*An appeal or referral which does not comply with the requirements of subsection (1) shall be invalid*".
- 7.2.4. To my knowledge, there is no impediment to the use of a single letter as a first name in the identification of a person for the purposes of lodging a submission / observation or a planning appeal. Furthermore, it would appear that the planning authority's correspondence was delivered to the addressee at the address given. However, I do note that correspondence issued by the Board to 'R. Lee' on 6th August, 2021 by way of registered post was ultimately returned by An Post on the basis that it was '*not called for*'.
- 7.2.5. Although parallels may be drawn between the applicants' concerns as regards the identity of 'R. Lee' and similar issues considered in the Board's determination of ABP Ref. No. PL07.249047 (when concerns arose as to whether that appellant was in fact a bona-fide person which culminated in the Board dismissing the appeal on the basis that it would be inappropriate to consider it as the appellant had failed to satisfactorily confirm his identity and address), I would caution the Board against any immediate dismissal of the subject appeal without affording R. Lee further

opportunity to address the concerns raised as regards their identity. In this regard, it should be noted that in the case of ABP Ref. No. PL07.249047 the appellant was offered opportunities in writing and at an oral hearing to address the concerns raised as regards his identity while the applicants had also undertaken considerable investigative work (including obtaining statutory declarations from various individuals) with a view to supporting their assertion that the appellant had provided a false name and address.

- 7.2.6. The Board is not resourced to verify the bona fides of all parties involved in the planning process and any such action would be the exception. Nevertheless, it is open to the Board to review the matter further should it wish to do so.
- 7.2.7. However, on the basis of the information available, and in response to the applicant's request for the Board to dismiss the third party appeal of R. Lee pursuant to Section 138(1) of the Planning and Development Act, 2000, as amended, on the basis that the appeal is 'vexatious' or 'frivolous', it is my opinion that the appeal as lodged satisfies the regulatory requirements and raises legitimate planning considerations. The appeal is therefore deemed to be valid and I propose to assess it accordingly.

7.3. **The Principle of the Proposed Development:**

- 7.3.1. The proposed development site is located in a well-established residential area on suitably zoned and serviced lands within the settlement boundary of Greystones. It also forms part of the wider curtilage of an existing residential property. In this respect, I would suggest that the subject proposal concerns a potential infill site where the development of appropriately designed housing would typically be encouraged provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties. Such an approach would correlate with the wider strategic outcomes of the National Planning Framework 'Project Ireland: 2040', including the securing of more compact and sustainable urban growth as expressed in National Policy Objective 35 which aims to '*increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights*'.

7.3.2. Further support is lent to the proposal by reference to the wider provisions of the County Development Plan which place a strong emphasis on encouraging infill opportunities and the better use of underutilised land, including Objective HD9 which states that in areas zoned / designated 'existing residential' *'appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted'*. The *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009'* also acknowledge the potential for infill development within established residential areas provided that a balance is struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

7.3.3. Therefore, having considered the available information, including the site context and land use zoning, and noting the infill nature of the site itself, I am satisfied that the overall principle of redeveloping the site as proposed is acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area.

7.4. **Overall Design and Layout:**

7.4.1. The overall design and layout of the proposal is conventional in appearance and typical of a suburban format of development with each unit having been provided with front and rear gardens and dedicated off-street car parking. In this regard, I am satisfied that the proposal represents an appropriate design response given the site context which is in keeping with the prevailing pattern of housing development in the surrounding built-up area, and will not detract from the residential or visual amenities of neighbouring properties.

7.4.2. In specific reference to the concerns raised in the grounds of appeal as regards the 'linear' positioning and orientation of the proposed dwelling houses, and the fact that they will back onto the R761 Regional Road, given the configuration of the site and the desirability of accessing the proposed units from a local road instead of the more heavily trafficked regional road, in my opinion, the layout as submitted is entirely reasonable. Furthermore, having regard to the overall design, height and finished floor levels of the proposed dwelling houses relative to the regional road and

adjacent properties (noting the depth of the excavations proposed), the set back from the carriageway, and the level of landscaping / screening to be provided along the intervening site boundary, I am unconvinced that the proposed development will detract to any significant extent from the broader character or visual amenity of the surrounding area. Indeed, I would suggest that as the landscaping proposals mature, the visual impact of the proposed development will be comparable to that of the existing roadside housing located further north (and at a higher elevation) along the regional road.

- 7.4.3. In addition, given the infill nature of the application site and its location on the outskirts of the built-up area of Greystones (where there are limited remaining lands available for development within the settlement boundary), I do not consider that the proposal could be construed as setting an undesirable precedent.
- 7.4.4. With respect to the assertion that the proposed development, by reason of its design and siting, contravenes Objective CZ3 of the Wicklow County Development Plan in that it does not accord with the stated policy to *'strictly regulate and manage development in this cell to protect its function as a green break between the built-up area of Bray and Greystones'*, it is apparent from a review of Map No. 11.01A contained in Chapter 11: *'Coastal Zone Management'* of the Development Plan that the application site is not located within *'Cell 3 Bray Head to Greystones (Rathdown)'* and thus is not subject to Objective CZ3. Instead, it can be confirmed that the site is within Coastal Cell 4: *'Greystones Town'* and that the proposal accords with the applicable provisions set out under Objective CZ4 which aim to support the objectives of the Greystones – Delgany and Kilcoole Local Area Plan.

7.5. **Impact on Residential Amenity:**

- 7.5.1. Having reviewed the available information, and in light of the site context, including its location in a built-up urban area and its established residential use (as part of the private garden of an adjacent property), in my opinion, the overall design, scale, positioning and orientation of the proposed dwellings, with particular reference to their relationship with (and separation from) adjacent housing, will not give rise to any significant detrimental impact on the residential amenity of neighbouring property by reason of overlooking, overshadowing, or an unduly overbearing appearance.

- 7.5.2. In support of the foregoing, it should be noted that notwithstanding the difference in levels between the proposed dwellings and the adjacent housing to the south / southeast of the site, given the separation distances involved and, more particularly, the siting of the proposed units to the north of the existing houses, the proposal will not significantly detract by way of overshadowing from the levels of sunlight / daylight presently enjoyed by the occupants of those properties.
- 7.5.3. With respect to the potential for overlooking of neighbouring properties and an associated loss of privacy, at the outset, I would suggest that cognisance should be taken of the fact that the location of the proposed dwelling houses presently forms part of the private open space / garden of Bridge House, the normal use of which is likely to already result in some level of overlooking or disturbance of the appellant's (Mr. Doyle's) property (i.e. Bridge Cottage). In addition, the absence of any ground or first floor windows within the southern gable elevation of House 'B', the separation distance between the south-facing rooflights serving the first floor master bedroom, and the proposal to erect 1.8m high fencing with supplementary landscaping along the shared site boundary, will all serve to mitigate against any direct overlooking of the appellant's property thereby avoiding any undue loss of amenity.
- 7.5.4. In relation to the suggestion that the proposed dwellings will have an unacceptably overbearing or negative visual impact on neighbouring housing, while I would acknowledge that the proposal will undoubtedly change the outlook available from surrounding properties, in my opinion, the significance of any such impact must be considered in light of the site context, including its location in a built-up urban area on lands which have been identified for development. In this respect, I am satisfied that the overall design, scale, height and siting of the proposed development, including the separation distances available and the finished floor levels shown in response to the site topography, has taken sufficient cognisance of the infill nature of the site and its relationship with surrounding residences to the effect that the subject proposal will not unduly detract from the residential amenity of properties by reason of an excessively overbearing or visually intrusive appearance.
- 7.5.5. With regard to the suggestion that the proposed development will result in the loss of a section of 3m high hedgerow / hedging which serves to demark the boundary shared with the appellant's (Mr. Doyle's) property, it is not the function of the Board to adjudicate on property disputes and in this regard I am inclined to suggest that

any alleged trespass or interference with private property attributable to the proposed development is essentially a civil matter for resolution between the parties concerned. Accordingly, I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property.

7.5.6. While further concerns have been raised that the extent of the applicants' landholding (as outlined in blue on the amended site plan (Drg. No. P-01 Rev. D) received by the Planning Authority on 25th January, 2021 in response to a request for further information) purportedly includes part of the appellant's property, I would again reiterate the provisions of Section 34(13) of the Act. Moreover, while it is regrettable that the appellant has not provided any more precise detail as to the extent of the discrepancy, I would suggest that as the area in dispute would seem to relate to lands outside of the confines of the development site as outlined in red no concerns arise as regards the ability of the applicant to undertake the development proposed.

7.6. **Traffic Implications:**

7.6.1. The proposed development includes for the closure of two existing vehicular accesses onto the R761 Regional Road and the minor local road serving 'The Grove' while a new shared access arrangement is to be provided further east onto 'The Grove' to serve both the proposed housing and the adjacent dwelling known as 'Bridge House'. In addition to the foregoing, proposals have been submitted to undertake specified improvement / enhancement works at the junction of The Grove with the R761 that include the removal of an existing pedestrian gateway and an extension of the public footpath.

7.6.2. Within the grounds of appeal various concerns have been raised as regards traffic speeds and broader safety issues along the R761 Regional Road, particularly in the vicinity of its junction with 'The Grove' and notwithstanding the 50kph speed limit and extant traffic calming measures. By extension, it has been submitted that the additional traffic turning movements at the junction consequent on the proposed development will exacerbate these road safety concerns.

- 7.6.3. The R761 Regional Road is a comparatively heavily trafficked route which serves as the most direct link between Greystones and Bray (at the Southern Cross Road). The difficulties with respect to traffic speeds along this section of roadway are likely attributable to the overall width and alignment of the carriageway. These are particularly evident in reference to southbound traffic travelling downhill towards Greystones given the transition from a 60kph to a 50kph speed limit immediately before the staggered junction arrangement serving Lower Windgates and 'The Grove'. Although some traffic calming measures have been implemented along this section of road, including the provision of dedicated right hand turning lanes to both junctions and a short section of hard shoulder / deceleration lane to allow for left-hand turns into 'The Grove', the traffic speeds observed during the course of my site inspection would, in my opinion, lend support to the need for further remedial measures at this location. However, I would consider such matters to be beyond the scope of this appeal and I am satisfied that the existing road network has sufficient capacity to accommodate the additional traffic volumes arising from the development of 2 No. houses without detriment to road safety. I am also cognisant of the wider traffic safety benefits arising from the closure of an existing vehicular access onto the regional road and the junction improvements included as part of the proposed development.
- 7.6.4. With respect to the proposed shared access arrangement onto the minor roadway serving 'The Grove', this will be positioned to the east of the existing entrance to 'Bridge House' (which is to be closed off) immediately prior to the transition from a 50kph speed limit to a 30kph zone on travelling eastbound. However, it will be sited at a pronounced dip in the carriageway which limits visibility to the east on exiting the site while almost reducing forward visibility of the access from traffic travelling westbound along the 'The Grove'.
- 7.6.5. In its assessment of the proposed access arrangement, and following consideration of the response to the request for further information, the report of the Greystones Municipal District Engineer states that while the section of roadway in question is subject to a speed limit of 50kph and the proposed development will only achieve the sightlines applicable for a 30kph speed limit (as set out in the Design Manual for Urban Roads and Streets), due to the topography and alignment of the roadway and the close proximity of the junction with the R761 Regional Road, the design speed

for this road is considered to be closer to a 30kph speed limit and thus the proposed road layout is acceptable.

7.6.6. In further support of the proposal, the applicants' response to the grounds of appeal includes a report prepared by NRB Consulting Engineers Ltd. which aims to rebut the appellants' concerns by asserting that the proposal is consistent with the guidance contained in the Design Manual for Urban Roads and Streets given the lightly trafficked nature of the road in question while the sightlines shown are deliverable.

7.6.7. Having considered the available information, while I would acknowledge that the location of the proposed entrance at a dip in the roadway is not ideal, given the presence of a long-established access (proposed for closure) in the vicinity, the lightly trafficked nature of the roadway serving 'The Grove', the topography and alignment of the roadway, the likelihood of reduced traffic speeds due to the predominantly residential nature of the surrounds and the proximity of the junction with the main regional road, and the site location at the transition between a 30kph and a 50kph speed limit, I would concur with the assessment by the Local Authority that a design speed of 30kph speed limit would be appropriate this instance and that the sightlines shown are adequate.

7.7. Flooding Implications:

7.7.1. From a review of the most up-to-date flood mapping for the area prepared by the Office of Public Works as part of its CFRAM programme, it can be confirmed that there have been recurring instances of fluvial flooding at Redford Bridge in the vicinity of the existing & proposed site entrances onto the roadway serving 'The Grove' and further west at the junction with the R761 Regional Road. This flooding would seem to be attributable to the Redford Stream and / or a natural depression, however, it would appear that some remedial works were carried out following flooding in 2003 & 2004 while additional drainage improvement works (outlined below) were undertaken in response to a flood event that occurred in August, 2008 (as per the memo included in Appendix 'L' of the applicant's response to the grounds of appeal):

- The camber of the R761 Regional Road was improved so that the northbound carriageway drains to the west.

- A new kerb drainage system was constructed on the western side of the R761, near the junction with the L5028 / Templecarrig Road, which also catches any overflow from the L5028 / Templecarrig Road, to the west.
- The insertion of two surface water gullies and three drain holes in the boundary wall at 'Rivergrove' on the southern side of 'The Grove' which then drain across that property to the stream.

7.7.2. Although both of the appellants have made reference to previous instances of flooding in the vicinity of the site which resulted in damage to property (including Bridge Cottage), it would appear that the most recent incident occurred on 16th August, 2008 when heavy rain caused several small streams to burst their banks before then flowing onto the main Greystones – Bray Road and subsequently into 'The Grove' where a pond formed. It would appear that the floodwaters then accumulated behind a concrete block wall which subsequently collapsed allowing the waters to drain to the Redford Stream which in turn overtopped its banks resulting in the flooding of housing. A flood report prepared for the Office of Public Works in response to this incident states that remedial works were therefore carried out at The Grove with a new 750mm thick 1.8m high wall erected at the house nearest the stream so as to assist any further flooding to use the road and reduce and / or avoid the future flooding of housing.

7.7.3. On the basis that there have been no further incidents of flooding at this location reported to the OPW following the implementation of the mitigation measures set out in the foregoing paragraphs, it would seem reasonable to conclude that the flood alleviation works carried out by the Local Authority have been successful to date in mitigating the flood impact along this section of roadway.

7.7.4. With respect to the site itself, it can be confirmed from a review of the 'Greystones Fluvial Flood Extent' mapping prepared by the OPW that the wider site, with particular reference to the location of the proposed housing, is located outside of the 1% (1 in 100 return period) and the 0.1% (1 in 1,000 return period) AEP fluvial flood extent and, therefore, is within Flood Zone 'C' as defined by the '*Planning System and Flood Risk Management, Guidelines for Planning Authorities*' (i.e. where the probability is less than 0.1% or 1 in 1,000 for river flooding) and is subject to a 'low probability' of flooding. Accordingly, although a dwelling house is a 'highly vulnerable'

class of development, it considered to be an appropriate form of development within Flood Zone 'C' by reference to Table 3.2 of the Guidelines and there is no need to satisfy the 'Justification Test'.

- 7.7.5. Having considered the foregoing, it is my opinion, that the submitted proposal includes for an adequate assessment of the risk of flooding and satisfies the requirements of the '*Planning System and Flood Risk Management, Guidelines for Planning Authorities*'. The proposal is unlikely to have any adverse impact on the existing flood regime of the area.

7.8. **Servicing / Infrastructural Works:**

7.8.1. *Foul Water Drainage:*

At present, foul water from Bridge House and Bridge Cottage is drained via a shared sewer across the public road to an existing 'Biocycle' treatment system located on the adjacent lands to the south at 'River Grove'. The proposed development provides for the replacement of this arrangement through the construction of a new rising main extending eastwards from the site along 'The Grove' (thereby negating any requirement for discharge to the existing treatment system which is seemingly located in an area at risk of flooding) in order to allow foul effluent from both the existing and proposed dwelling houses to be pumped directly to the mains public sewer.

- 7.8.2. While the Local Authority Municipal District Engineer has identified certain discrepancies in the submitted particulars as regards the existing drainage arrangements on site (and has also indicated that it is his understanding that effluent from Bridge House, Bridge Cottage and River Grove is currently drained to the existing biocycle system before being pumped to the public mains further east along 'The Grove'), there would seem to be no objection in principle to the drainage arrangements proposed. Furthermore, although Irish Water initially required the applicant to submit a pre-connection enquiry to determine the feasibility of connection to the public mains, its 'Planning Observation Report' has indicated that a wastewater connection is feasible. Moreover, it has not identified any capacity issues as regards the public sewerage system. Accordingly, in the absence of any evidence to the contrary, I am satisfied that there is a reasonable expectation that the public

sewer network can accommodate the additional loadings consequent on the proposed development.

7.8.3. Surface Water Drainage:

Surface water runoff from the proposed dwelling houses will be collected and drained to on-site soakaways each comprising 14 No. Aquacell / Geocell prime units (in two layers wrapped in geotextile with a minimum 700mm cover) situated in the curtilage of each of the individual properties for discharge to ground. In this regard, while I would acknowledge the concerns raised by one of the appellants that these proposals were not initially supported by any on-site investigations pursuant to BRE 365, and although it was not possible to undertake infiltration / soakage tests during the course of the application due to the COVID-19 restrictions then in place, the applicant's response to the grounds of appeal has been accompanied by a report compiled by a consulting engineer (please refer to Appendix 'G' of that document) which includes the results of percolation tests that have since been carried out on site in accordance with BRE Digest 365 (following the relaxation of the COVID restrictions) in addition to the design calculations for the 'Aquacell' units in the driveway / front garden of each of the proposed dwelling houses.

7.8.4. Proposals have also been submitted to prevent surface water runoff from the new access road draining onto the public roadway through the use of a porous surfacing material and the installation of a concrete drainage channel at the roadside boundary to direct runoff by way of gravity to a road gully that will in turn drain to 4 No. 'Aquacell' prime units with an overflow stormwater pipe connecting to the new foul water rising main. This arrangement will also prevent surface water from Bridge House draining onto the public road (Bridge Cottage is in the ownership of a third party).

7.8.5. In my opinion, the proposed surface water drainage arrangements are acceptable in principle and any outstanding matters with respect to same can be satisfactorily addressed by way of condition in the event of a grant of permission.

7.9. Impact on Biodiversity / Wildlife Considerations:

7.9.1. With regard to the suggestion that the proposed development site is of a high biodiversity value and that inadequate consideration has been given to the potential ecological impact of the works, I am unconvinced by the merits of such an argument

and would broadly concur with the contents of the ecological assessment compiled by ALTEMAR Marine & Environmental Consultants and included at Appendix G of the applicant's response to the grounds of appeal. The subject site is in an established built-up area and encompasses the domestic garden area of an existing dwelling house with landscaped amenity grassland / lawn and assorted perimeter and ornamental planting. It is not subject to any preservation or amenity orders and no terrestrial species or habitats of conservation importance were noted either on site or proximate to it. In effect, the site amounts to a well maintained but conventional suburban garden area which is of comparatively low interest or value from an ecological and biodiversity perspective.

- 7.9.2. The applicant has further sought to alleviate concerns with regard to bat species by submitting that a bat survey carried out on 27th April, 2021 did not identify any trees with bat roosting potential on site. In addition, while it is acknowledged that the treeline at the top of the slope alongside the northern site boundary may have roosting potential given the extent of ivy growth, the location of those trees on adjacent lands beyond the site boundary will ensure that they are not impacted by the proposed development.
- 7.9.3. Accordingly, although the proposed development will invariably result in the loss of some plant and animal species from within the footprint of the construction, cognisance must also be taken of the fact that the subject lands have been zoned for residential development and, therefore, having regard to the low ecological value of the application site, the nature and scale of the works proposed, and the implementation of best practice construction management measures, I am satisfied that the subject proposal is permissible in this instance.

7.10. Other Issues:

7.10.1. *The Adequacy of the Submitted Plans and Particulars / The Validity of the Planning Application:*

Concerns have been raised as regards the adequacy of the documentation submitted with the planning application, however, it is my opinion there is sufficient information on file to permit a balanced and reasoned assessment of the proposed development and that procedural matters, such as a determination as to the adequacy of the plans and particulars provided and the subsequent validation (or

not) of a planning application, are generally the responsibility of the Planning Authority which in this instance took the view that the submitted documentation satisfied the minimum regulatory requirements.

7.10.2. *Potential Contamination from Groundworks:*

Concerns have been raised as regards the extent of the ground works proposed and their proximity to The Grove (Redford) Graveyard to the northeast. More specifically, it has been suggested that the applicant should be required to investigate the potential for land slippage and / or the release of pollutants (e.g. chemicals used as part of the embalming process, wood preservatives & heavy metals) to contaminate local ground and surface waters and to detail any necessary remedial measures.

7.10.3. While the site topography with necessitate considerable ground works to facilitate the proposed housing, the most significant excavations will be confined to the eastern / north-eastern part of the site area at some distance from the adjacent graveyard. It is also apparent from a review of the existing and proposed ground levels (in addition to Drg. No. P-05: '*Proposed Site Section X-X*') that the excavation works will not extend as far as the boundary shared with the graveyard and thus the intervening lands between the works and that boundary will remain largely undisturbed. Therefore, in light of the separation distance between the more significant excavation works and the graveyard, and noting the grading of the intervening lands in combination with the use of retaining walls, in my opinion, it is reasonable to conclude that the proposed works will not undermine the stability of the graveyard and thus should not give rise to the disturbance of any potential contaminants.

7.11. **Appropriate Assessment:**

7.11.1. Having regard to the nature and scale of the development under consideration, the site location in an existing built-up suburban area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below:

9.0 Reasons and Considerations

- 9.1. Having regard to the land use zoning of the site in the current development plan for the area, the established use of the lands for residential purposes, to the infill nature of the site, to the design, layout and scale of the proposed development, and to the nature and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would represent an appropriate residential density, would comply with the provisions of the development plan, would not lead to an increased risk of flooding, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 17th day of July, 2020, the 25th day of January, 2021 and the 11th day of February, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of the upgrading works at the junction of 'The Grove' with the R761 Regional Road as shown on Drawing No. P-01 Rev. D – 'Site Plan' received by the Planning Authority on the 25th day of January, 2021, shall be submitted to, and agreed in writing, with the planning authority prior to commencement of development.

Reason: In the interests of pedestrian and traffic safety.

3. Prior to commencement of development, proposals for the permanent closure of the existing vehicular access onto the R761 Regional Road and the existing vehicular entrance to Bridge House from The Grove shall be submitted to, and agreed in writing, with the planning authority.

Reason: In the interests of pedestrian and traffic safety.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of public health.

5. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to commencement of development.

Reason: In the interest of public health.

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

Reason: In the interests of visual and residential amenity.

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

Reason: In the interest of visual amenity.

8. Complete details of all proposed boundary treatment within and bounding the proposed development site shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development.

Reason: In the interests of visual and residential amenity.

9. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- a) A plan to scale of not less than 1:500 showing –
 - i. Existing trees, hedgerows and shrubs, specifying which are proposed for retention as features of the site landscaping
 - ii. The measures to be put in place for the protection of these landscape features during the construction period
 - iii. The species, variety, number, size and locations of all proposed trees and shrubs, which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder
 - iv. Details of screen planting which shall not include cupressocyparis x leylandii
 - v. Hard landscaping works, specifying surfacing materials and finished levels.
- b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment
- c) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

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

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

11. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

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

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

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

Robert Speer
Planning Inspector

13th October, 2021