



An  
Bord  
Pleanála

## Inspector's Report ABP-314481-22

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<b>Development</b>	Demolish two houses and three equestrian buildings and construct 22 houses
<b>Location</b>	1 Kilgarron Hill & rear of 1-10 Kilgarron Hill, Enniskerry, Co. Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	21/1560
<b>Applicant(s)</b>	Enniskill SPV Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Parties
<b>Appellant(s)</b>	1. Peter Jordan 2. Alice Vignoles-Russell & Daniel Tighe
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	9 <sup>th</sup> November 2023
<b>Inspector</b>	Colm McLoughlin

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## **1.0 Site Location and Description**

- 1.1.** The appeal site comprises a stated area of 0.76ha and is located on Kilgarron Hill on the edge of Enniskerry town centre in north County Wicklow. It is currently occupied by a vacant single-storey cottage known as Oakfield Cottage fronting Kilgarron Hill (L-1010 local road) and a small bungalow directly to the rear of this cottage. It also features a former equestrian centre with three associated shed / stable buildings onto a concrete yard space, and a paddock / jumping arena occupying the bulk of the site. Recessed gated-vehicular access to the site is available off Kilgarron Hill adjoining the cottage. There is approximately a 13m drop from the southern boundary to the northern entrance onto Kilgarron Hill, with a steep embankment situated along the southern boundary. Overhead electricity powerlines traverse the site. There are mature tree stands generally to the western and northeastern sides of the site, as well as overgrown vegetation. Oakfield Cottage is included in the National Inventory of Architectural Heritage (NIAH) as a building of regional importance. The frontage of the site along Kilgarron Hill is situated within the Architectural Conservation Area (ACA) for Enniskerry town centre.
- 1.2.** The surrounding area is characterised by rows of terraced single and two-storey housing along Kilgarron Hill, with larger detached housing on Kilgarron Road to the northwest and off Forge Road, including Eagle Valley estate, adjoining to the south of the applicant's landholding. There are dense belts of mature trees surrounding the site, including along Forge Road.

## **2.0 Proposed Development**

- 2.1.** The proposed development comprises the following:
- the demolition of two houses and three former equestrian centre sheds and stables with a stated gross floor area of 449sq.m;
  - construction of 22 two to three-storey houses in a mix of 4 two-bedroom and 14 three-bedroom houses, with private terraces / gardens and 40 car parking spaces;
  - provision of a widened and upgraded vehicular access off Kilgarron Hill and all associated development, including public open space to the east side,

landscaping, boundary treatments, retaining wall structures, environmental services and lighting.

- 2.2. In addition to the standard drawings and documents, the planning application was accompanied by various reports including an Architectural Design Statement, Daylight and Sunlight Assessment, Photomontage booklet, Architectural Heritage Impact Assessment, Archaeological Desktop Assessment, Bat Assessment and an Ecological Impact Assessment.
- 2.3. Following a request for further information, the proposed development was amended to provide for a revised elevational treatment to proposed house no.1 along the vehicular access, and a revised layout to address precise ownership boundaries along the northern boundary, as well as revised and additional privacy measures, landscaping and boundary treatments.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. The Planning Authority decided to grant permission for the proposed development, subject to 19 conditions of a standard nature, including the following:
  - Condition 13 – landscaping and boundary details;
  - Condition 18 – submit a site-specific, geotechnical report;
  - Condition 19 – submit a bat report.

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

##### **3.2.1. Planning Reports**

The initial report of the Planning Authority (February 2022) noted the following:

- the development would not be dependent on public transport or car use;
- the site features overgrown agricultural grazing land and offers little ecological benefits and the proposals would not lead to substantive environmental, climate or ecological issues;
- the redline site boundary should be clarified;

- nos.1-10 Kilgarron Hill inclusive are included in the NIAH and Kilgarron Hill House (The Old Estate House) adjoining to the west is included in the record of protected structures (RPS) under reference (ref.) 03-15;
- the two houses to be demolished, including Oakfield Cottage at no.1, are in a poor state of repair and the replacement of no.1 with a similar cottage would ensure the development would not have a negative long-term impact on the character or setting of the ACA and the streetscape;
- the development is acceptable based on zoning and a specific local objective (SLO11) for the site, as well as the development density, housing design, building heights, private amenity space, housing typologies, overbearing impacts, visual and lighting impacts, entrance details, parking, lighting, impacts on the ACA and the various mitigation measures;
- the provision of side elevation windows onto the access road off Kilgarron Hill, the provision of an access road terminating on the eastern boundary, the functionality and landscaping to the public open space, the general landscaping and boundary treatments, the removal of tree 'T9', the provision of emergency / service access, road safety and sustainable urban drainage systems (SUDS) all need to be reviewed;
- appropriate assessment (AA) and environmental impact assessment (EIA) would not be required for the project.

The final report of the Planning Authority (August 2022), reflects the decision of the Planning Authority and notes the following:

- the applicant's response relating to the design of unit no.1 onto the access road is acceptable given the village-centre location and low-traffic speeds;
- the revised redline boundary and the associated details along the northern boundary provide an acceptable layout and privacy screening;
- the revised open space, road turning head, road safety, boundary details and landscaping, including the maintaining of tree 'T9', are acceptable;
- Part M building regulation compliance is not a planning matter;

- the Water & Environmental Services section do not object to the SUDS and the overall surface water drainage proposals;
- development contributions apply;
- geo-technical details, bats, lighting and SUDS matters can be dealt with as conditions of a permission.

### 3.2.2. Other Technical Reports

- Water & Environmental Services – clarification is required regarding SUDS components, surface water runoff, interception and attenuation, and the application of a 20% climate-change factor. Following submission of further information confirmation is provided stating that the response is adequate while noting the additional compliance details;
- Housing – details noted, including the need for further agreement and evidence to meet Part V social housing obligations;
- Transportation, Water and Emergency Services – comments provided regarding pedestrian and roads access, traffic, public lighting and the need for a Road Safety Audit. Following submission of further information all matters raised are stated to be resolved, with the exception of a demonstration that all stage 2 Road Safety Audit items have been addressed;
- Area Engineer – refusal recommended due to concerns regarding the access road design, relating to gradient, visibility and safety, the lack of capacity in the foul / combined sewer, SUDS, geotechnical assessment and bat-sensitive lighting;
- Fire Services – conditions recommended.

### 3.3. Prescribed Bodies

- Uisce Éireann – water and wastewater connections are feasible and will be subject of connection agreements, constraints, codes and practices. Surface water runoff shall not connect into the foul sewer network;
- Transport Infrastructure Ireland (TII) – no observations to make;

- An Taisce – no response;
- Fáilte Ireland – no response;
- An Chomhairle Ealaíon – no response;
- Minister for Culture, Heritage and the Gaeltacht – no response;
- The Heritage Council - no response.

### **3.4. Third-Party Observations**

3.4.1. During consideration of the application by the Planning Authority, a total of 42 third-party observations are stated to have been received, including photographs of the area and extracts from the planning application. The issues raised in these observations are similar to those raised in the grounds of appeal, while also objecting to the proposed development for the following reasons:

- excessive development density and the absence of Part V proposals;
- contrary to zoning objectives and premature;
- inappropriate design, materials and finished-floor levels for the development;
- loss of Oakfield Cottage would be out of character with the ACA and streetscape, and should be resisted given its history and the associated impacts, as well as the precedent this would set;
- impact on the character and setting of Enniskerry, the landscape, the ACA, the NIAH-listed buildings and the built heritage of the area;
- excessive loss of trees, including one tree (T9) outside the application site property;
- inappropriate landscaping and boundary treatment proposals;
- loss of privacy for neighbouring residents;
- limited capacity for the surrounding road network to absorb the resultant traffic volumes, with safety implications for pedestrians and cyclists;
- limited access for emergency vehicles and larger vehicles, including construction traffic;

- poor provision of public transport serving the area, resulting in a high-dependency on private-vehicle trips;
- impacts for water supplies and wastewater treatment;
- increased flood risk and a lack of details regarding natural springs on site;
- limited local services are available in the area to serve the increased population arising from the proposed development;
- negative environmental and ecological impacts for habitats, watercourses, trees and bats;
- lack of clarity regarding ground-level changes.

## **4.0 Planning History**

### **4.1. Appeal Site**

- 4.1.1. Pre-planning application discussions between representatives of the Planning Authority and the applicant are stated to have been undertaken in 2021 under Wicklow County Council (WCC) ref. PP21/49, in order to discuss proposals comprising the construction of 22 houses. The key issues raised at this pre-planning meeting related to topography, lighting, impacts on residential amenities, surveillance, access and traffic, survey details, engineering details and heritage impacts.
- 4.1.2. The following planning applications relate to the appeal site and the adjoining lands stated to be in control of the applicant:
- An Bord Pleanála (ABP) ref. PL27.236259 / WCC ref. 09/1309 – permission was refused by the Board in July 2010 for the partial demolition of a cottage, demolition of a house and the construction of 20 single to two-storey houses with upgraded vehicular access off Kilgarron Hill and ramped pedestrian access off Forge Road, as the proposals were considered to materially contravene the agricultural and amenity zoning associated with the majority of the site and due to the potential for excessive direct overlooking of properties along Kilgarron Hill;



- WCC ref. 07/1725 – permission was refused by the Planning Authority in October 2007 for the construction of 11 houses with a vehicular access off Forge Road, due to the proposals materially contravening zoning objectives, inadequate and substandard public open space, the loss of trees impacting on the visual amenities of the area, insufficient surface water drainage details and inadequate provision of social housing.

## **4.2. Surrounding Sites**

- 4.2.1. Planning applications in the immediate area primarily relate to proposals of a minor residential nature and scale, including domestic extensions and alterations.

## **5.0 Policy and Context**

### **5.1. Local Plans**

#### Bray Municipal District Local Area Plan 2018

- 5.1.1. The Local Area Plan identifies scope for an increase of 472 housing units up to 2025 based on the 2016 housing stock. Chapter 3 of the Plan addresses residential development, including policy R1 requiring all housing developments to accord with County Development Plan requirements. Specific housing objectives for the Enniskerry area include objectives R6 and R7, which state that the maximum size of any single housing estate should be 60 units with a full range of units sizes, including one and two-bedroom units, as well as no more than half of the units in any development to feature more than three bedrooms or 125sq.m of floor area.
- 5.1.2. The Local Area Plan identifies the constraints to development in the wider town area, including topography, recreational lands and Special Areas of Conservation (SACs). The land-use zoning map (no.3) contained in the Local Area Plan for Enniskerry is stated to have been formally amended as part of the review of the County Development Plan. The subject lands are identified as primarily featuring an 'R – special new residential' zoning with an 'OS1 – open space' zoning for the lands on the eastern side of the site and the remainder of the applicant's stated landholding.
- 5.1.3. The appeal site, as well as the remaining pocket of lands adjoining the site in control of the applicant amounting to approximately 2.5ha, is identified as featuring a specific local objective, referred to in the Local Area Plan as 'SLO11'. This objective

identifies potential for a maximum of 28 residential units on the applicant's overall landholding on Kilgarron Hill. Development parameters for the site are set out in the Local Area Plan (p.77), including:

- the restriction of any access from Forge Road and access to be provided strictly from Kilgarron Hill;
- provision of a tree survey and protection details;
- restriction of the house finished-floor levels to 90m above ordnance datum (AOD) and roof ridge heights to 98m AOD;
- achievement of town centre densities (i.e. 40 units per ha) in terrace or courtyard forms of housing;
- the restriction of any commercial development;
- screening and planting proposals cognisant of housing to the north;
- provision of a visual impact assessment with attention to particular views and any mitigation to address same;
- the 'OS1 open space' is not designated for a particular purpose (either housing or amenity use) and shall be retained in its current agricultural use.

#### Wicklow County Development Plan 2022-2028

5.1.4. Enniskerry is identified as a self-sustaining town in the fourth tier of the county settlement strategy as contained in the Development Plan. The population targets for Enniskerry provided for a 20% to 25% population growth rate, allowing for a population of 2,106 in 2028, which is up from 1,877 in 2016. The Development Plan states that there is a surplus of zoned land in Enniskerry based on housing targets and that this will be addressed in the next review of the Local Area Plan.

5.1.5. Chapter 5 of the Development Plan sets out key urban design policies and objectives for town and village centres. Chapter 6 of the Development Plan sets out standards and policies with respect to housing developments, including density parameters for locations within self-sustaining towns, such as Enniskerry. The architectural heritage and picturesque setting of Enniskerry is noted throughout the Plan, including the existing ACA relating to Enniskerry town centre (see map no. 08.03A). Prospects of special amenity value or special interest are listed in schedule 17.12 of the

Development Plan, none of which directly relate to the immediate area of the appeal site.

- 5.1.6. The Development Plan includes appendix 11, which is stated as forming an amendment to the land-use zoning map for Enniskerry in the Bray Municipal District Local Area Plan 2018.

## **5.2. National & Regional Policy**

### Project Ireland 2040 - National Planning Framework

- 5.2.1. Project Ireland 2040 links planning and investment in Ireland through the National Planning Framework (NPF) and a ten-year National Development Plan (NDP). The NPF encapsulates the Government's high-level strategic plan for shaping the future growth and development of Ireland to the year 2040. National policy objectives (NPOs) for people, homes and communities are set out under chapter 6 of the NPF. NPO 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Other NPOs of relevance to this appeal include NPOs 4 (build attractive, liveable, well-designed, urban places) and 13 (development standards).

### Eastern & Midland Regional Assembly - Regional Spatial & Economic Strategy 2019-2031

- 5.2.2. The Regional Spatial and Economic Strategy (RSES) supports the implementation of Project Ireland 2040 and the economic and climate change policies of the Government, by providing a long-term strategic planning and economic framework for the region. Enniskerry is situated in the 'core region' as defined in the RSES for the eastern and midland regional authority (EMRA) area. Within the RSES-EMRA this region is described as being home to over 550,000 people and comprises the peri-urban hinterlands within the commuter catchment of the Dublin metropolitan area.
- 5.2.3. The following regional policy objectives (RPOs) of the RSES are considered relevant to this appeal:
- RPO 3.2 – in promoting compact urban growth, a target of at least 50% of all new homes should be built within or contiguous to the existing built-up area of

Dublin city and its suburbs, while a target of at least 30% is required for other urban areas.

### **5.3. Planning Guidelines**

5.3.1. The following section 28 Ministerial Guidelines are relevant:

- Design Manual for Urban Roads and Streets (DMURS) (2019);
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018);
- Water Services Guidelines for Planning Authorities – Draft (2018) and Circular FPS 01/2018 issued by the Department of Housing, Planning and Local Government on the 17<sup>th</sup> day of January, 2018;
- Architectural Heritage Protection Guidelines for Planning Authorities (2011);
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009);
- The Planning System and Flood Risk Management - Guidelines for Planning Authorities, including the associated Technical Appendices (2009).

5.3.2. The following planning guidance and strategy documents are also considered relevant:

- Building Research Establishment (BRE) 209 Guide - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice, (2<sup>nd</sup> Edition, 2011);
- Road Safety Audits (Transport Infrastructure Ireland, 2017);
- AA of Plans and Projects in Ireland - Guidance for Planning Authorities (2009);
- EIA Guidance for Consent Authorities regarding Sub-threshold Development (2003);
- Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0).

## 5.4. Natural Heritage Designations

5.4.1. The nearest European sites to the appeal site, including SACs and Special Protection Areas (SPAs), comprise the following:

**Table 1.** Natural Heritage Designations

Site Code	Site Name / Qualifying Interests	Distance	Direction
000725	Knocksink Wood SAC	0.3km	north
000713	Ballyman Glen SAC	1.3km	northeast
002122	Wicklow Mountains SAC	3.2km	west
004040	Wicklow Mountains SPA	3.8km	west
000714	Bray Head SAC	5.2km	east
000719	Glen of the Downs SAC	6.3km	southeast
003000	Rockabill to Dalkey Islands SAC	8.2km	northeast
004186	The Murrough SPA	10.2km	southeast
004172	Dalkey Islands SPA	10.3km	northeast

## 5.5. Environmental Impact Assessment Screening

5.5.1. An Environmental Impact Assessment (EIA) Screening report was not submitted with the application. 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 that would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere ('business district' means a district within a city or town in which the predominant land use is retail or commercial use).

5.5.2. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall stated area of 0.76ha and is located within an existing built-up area, but not in a business district given the predominance of residential uses surrounding the site. The site area is well below the applicable threshold of 10ha. The site accommodates two vacant houses and a former-equestrian centre, as well as agricultural lands. The provision of additional residential development on site would 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 heritage. Oakfield Cottage is listed in the NIAH and the frontage to the site along Kilgarron Hill is within an ACA. The proposals would feature the demolition of Oakfield Cottage along the ACA streetscape and construction of a replacement cottage. As concluded below under section 7.3 of my report, this element of the project would not have a significant effect on the built heritage or the visual amenities of the area. The site is not directly connected with any European sites and there is no hydrological connection present such as would give rise to a significant impact on nearby watercourses. The proposed development would not give rise to waste, pollution or nuisances that differ from those arising from other housing in the immediate area. 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 Uisce Éireann and Wicklow County Council, upon which its effects would be marginal.

5.5.3. 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 revised;
- the location of the housing element of the proposed development on lands that are zoned as 'R – Special New Residential' and with a specific local objective (SLO11) allowing for housing under the provisions of the Bray Municipal District Local Area Plan 2018, and the results of the strategic environmental assessment of the Bray Municipal District Local Area Plan 2018, 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 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 revised;
- the guidance set out in the ‘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 revised.

5.5.4. I have concluded that, by reason of the nature, scale and location of the appeal 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 would not be necessary in this case.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. In conjunction with the observations received by the Planning Authority during consideration of the application, the grounds of appeal from two parties with addresses on Kilgarron Hill, can be collectively summarised as follows:

#### Principle and Scale

- previous proposals for housing on this site have been refused permission and the site is only suitable for use as an equestrian centre;
- additional houses are not necessary, as there are other houses being constructed in the area;
- three-storey housing does not exist in Enniskerry and, as such, the proposals would be out of character with the area;

#### Residential Amenity

- proposals lack consideration for neighbouring residents;

- overbearing impacts and a loss of natural light for the residents to the north would arise, particularly as the proposed houses would be greater than a single storey;

#### Boundary Treatments

- further details of the retaining wall on the boundary with the rear of housing along Kilgarron Hill is necessary, as the revised proposals would appear to suggest a 4m-high wall, which would have a poor appearance and would result in overshadowing and loss of sunlight to adjoining gardens, including no.4 Kilgarron Hill;
- the property boundary between no.4 Kilgarron Hill and proposed house no.5 is not accurate, and the boundary should be reassessed along proposed house nos.6 to 9;

#### Access and Surface Water

- the proposed entrance is close to a busy intersection, where it is constrained by on-street parking and a limited carriageway width;
- the entrance is unsuitable as there is extensive surface water runoff from the surrounding steep ground during heavy rainfall events;

#### Structural Integrity

- Oakfield Cottage should not be demolished, due to concerns relating to the structural implications for the adjoining cottage;
- the structural integrity of the existing retaining wall, 2m from the rear of no.4 Kilgarron Hill, should be surveyed and tested;
- a structural survey of no.4 Kilgarron Hill should be undertaken prior to any groundworks.

## **6.2. Applicant's Responses**

6.2.1. The applicant's responses to the grounds of appeal from both third parties can be collectively summarised as follows:

- the proposals were subject of due consideration with respect to national and local planning policy, the status of the site, the site context, the impacts on the



amenities of neighbouring residents and the potential visual impacts, including impacts on the ACA and streetscape;

- maintaining the site in its current format would not be compliant with planning policy;
- the development density and the infill housing is compliant with the specific local objective (SLO11) applying to the site;
- the reasons for refusal of a previous planning permission in 2010 related to zoning and overlooking (ABP ref. PL27.236259), and these matters have been addressed in the subject proposals;
- the roof-ridge levels for the proposed houses would not exceed the 98m AOD limitation set for the site in objective SLO11 of the Local Area Plan;
- the retaining wall boundary and the timber panel and post fence atop of this along the rear of housing on Kilgarron Hill, as illustrated on drawing no.PI-19, was proposed at further information stage to address potential overlooking concerns;
- an additional drawing no.SD-11 is appended to the response to provide for a revised boundary treatment solely along the rear of no.4 Kilgarron Hill, with a 2.7m proposed garden boundary setback from the actual property boundary with no.4 and the resultant garden area to proposed house no.5 remaining above the minimum 80sq.m area required in the Development Plan;
- lighting and overshadowing impacts to existing neighbouring houses would be negligible;
- the demolition of the cottage is necessary to allow access to the site and the replacement cottage would be sensitive to this historical context and setting;
- following submission of a Stage 1/2 Road Safety Audit and revisions to the scheme to address matters raised in the audit, comprehensive assessment by the Transportation, Water and Emergency Services section of the Planning Authority led to the entrance proposals being considered acceptable;
- the scheme includes SUDS, which would improve the present drainage situation;

- the proposed site boundaries accurately mark the property in control of the applicant;
- matters relating to structural integrity are not planning matters, however, the applicant is willing to undertake a survey of no.4 Kilgarron Hill.

### **6.3. Observations**

6.3.1. None received.

### **6.4. Planning Authority Response**

6.4.1. The Planning Authority did not respond to the grounds of appeal.

### **6.5. Further Submissions**

6.5.1. In response to the first-party's response to the third-party appeal by Peter Jordan, the other third-party appellants, Alice Vignoles-Russell and Daniel Tighe, responded by primarily reaffirming matters raised in the third-party appeals and also raising the following:

- the proposed access would not be safe, as it would be onto a road featuring limited capacity, high traffic volumes, school children walking, excessive traffic speeds, dangerous alignment and incline, and limited carriageway width;
- the development would add to traffic congestion;
- the Bray Area Engineer's report from the Planning Authority recommended refusal of planning permission and this has not been duly considered;
- the structural integrity of properties along Kilgarron Hill have not been adequately addressed, including the integrity of the rear retaining walls and no.2.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Development Principles;
- Impacts on Architectural Heritage;
- Impacts on Neighbouring Residents;
- Building Heights;
- Vehicular Access & Traffic;
- Engineering Matters.

7.1.2. Concerns with respect to the design or amenities of the proposed houses or the general layout of the housing are not raised, and as per the assessment of the Planning Authority, I am satisfied that future occupants of the houses would be provided with suitable levels of residential amenities, albeit with a necessity to restrict exempted development provisions for the houses due to their limited garden areas.

### **7.2. Development Principles**

7.2.1. The grounds of appeal refer to previous refusals of planning permission for proposals to develop the appeal site for housing. In this regard I note that the previous reasons for refusal of planning permission for housing on the subject landholding under ABP ref. PL27.236259 related to the proposals materially contravening the agricultural and amenity zoning associated with the majority of the site. A similar situation arose under WCC ref. 07/1725, however, the boundaries in both of the previous cases differed from those in the subject appeal case. The Planning Authority has concluded that the proposed development would not materially contravene the zoning objectives for the site and parties to the appeal have not objected to the development for reasons directly relating to land-use zoning objectives. I am satisfied that the principle of developing the proposed houses on a

backland inner-urban site with a land-use zoning objective 'R – Special New Residential' is acceptable based on the stated provisions within the Bray Municipal District Local Area Plan 2018.

- 7.2.2. A third-party appellant also asserts that there is not a necessity for additional housing in this area and that the site is most suitable for reuse as an equestrian centre. NPO 33 of the NPF seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. RPO 3.2 of the RSES-EMRA reinforces the principle of compact urban growth prioritised in the NPF and sets a target of at least 30% of all new homes in the region to be built in urban areas outside of Dublin city. The subject lands are within approximately 100m to 200m from the centre of Enniskerry and they are subject of a specific local objective SLO11, which details that the subject landholding can provide for up to 28 houses. This specific local objective restricts commercial activity on the site and provides a definitive and clear requirement for the 'R – Special New Residential' zoned area of the site to be developed for housing. The 22 proposed houses would not exceed the stated housing limit for the site under SLO11 of the Local Area Plan. Accordingly, I am satisfied that the principle of developing the site for housing in the manner and quantum proposed would be acceptable and would accord with the land-use zoning objective for the site. Any new housing in this location would be subject of standard conditions with respect to Part V social housing and the regulation of investment restricting ownership of the houses.

### **7.3. Impacts on Architectural Heritage**

- 7.3.1. Parties to the appeal object to the demolition of Oakfield Cottage solely with respect to the potential structural implications of this element of the project for the attached cottage at no.2. I address this potential impact of the project in section 7.7 below. Demolishing of the cottage and replacing it with another building would have the potential to impact on the built heritage of the area, and this issue is considered directly below.

## Demolition & Replacement of NIAH / ACA Building

- 7.3.2. The Planning Authority did not object to the demolition of the two proposed houses noting that they are in a poor state of repair and the replacement of Oakfield Cottage with a similar cottage would ensure the development would not have a negative long-term impact on the character or setting of the ACA and the streetscape. Oakfield Cottage is listed in the NIAH (ref. 16302013) as an end-of-terrace, four-bay, single-storey vernacular house, built approximately in 1840, and is one of four 'stepped' non-identical houses. The record primarily focuses on the front features of the house and notes that it is a rare example of urban vernacular in what is a largely planned estate village, although the cottage is somewhat altered with the insertion of uPVC windows, doors and a rear extension.
- 7.3.3. The Local Area Plan addresses the primary aspects of Enniskerry ACA, noting the main features that are characteristic of this area and providing guidance in relation to development within the ACA, including the need for the design and quality of development to respect rather than mimic the character of the existing built environment. The Development Plan includes a number of objectives with respect to the assessment of proposals affecting architectural heritage, including objective CPO 8.12 referring to the guidance in the Architectural Heritage Protection: Guidelines for Planning Authorities. Objectives CPO 8.18 and 8.21 of the Development Plan seek to protect and discourage demolition of vernacular buildings and buildings within ACAs. Where proposals affect vernacular buildings objective CPO 8.19 requires detailed, true measured survey, photographic records and written analysis.
- 7.3.4. The application included a metric scale drawing (no.P-17) of the buildings to be demolished and an Architectural Heritage Impact Assessment, including a description of the cottage accompanied by internal and external photographs. The applicant has also provided a booklet of photomontages to illustrate the potential appearance of the development from the front street area within the ACA. The applicant's rationale for demolishing the cottage is outlined, including the need to provide a vehicular access to the proposed development and the provision of a more accessible and sustainable replacement house.
- 7.3.5. At present there is approximately a 4m gap between the subject cottage and the site boundary, while the proposed development would feature a 5.5m-wide carriageway

and a 2m-wide footpath on the eastern side. The applicant sets out how the design of the replacement house would have limited effect on the appearance of the streetscape, including the materials chosen to reflect the original cottage and complement the adjoining row of cottages. At further information stage the applicant confirmed that the front boundary along Kilgarron Hill would be formed by a 1.2m-high stonewall to match the existing front wall.

- 7.3.6. Based on the Development Plan objectives referenced above, the applicant has provided information compliant with objective CPO 8.19, although the general guidance would to a preference for the existing cottage to remain in situ. Notwithstanding this, there is not a strict requirement for the cottage to remain based on planning policy. Furthermore, the specific local objective (SLO11) relating to this site only allows for vehicular access from Kilgarron Hill with limited scope to safely achieve same at present. I am satisfied that given the need for safe vehicular access to the serve the appeal lands that are zoned for housing purposes and as Kilgarron Hill would appear the only acceptable and most logical and practical approach to access the development, the circumstances arising would justify the demolition of the cottage. While I accept that the replacement cottage would not fully maintain the character of the original cottage, it would feature the primary front elevation proportions and scale of the original cottage and in doing so it would allow for the main characteristics of the ACA and the streetscape to be maintained. In conclusion, I do not consider the demolition and replacement of Oakfield Cottage to have substantive impact on the character and setting of the ACA.

#### Visual Impact on ACA

- 7.3.7. Objective CPO 8.21 of the Development Plan also aims to protect the elements of an ACA that contribute to its character. With the exception of Oakfield Cottage, the other existing buildings on site are not visible from the front street areas defining the character of the ACA. Based on the photomontages included with the application, screening offered by existing buildings and mature trees, as well as alterations in topography, would restrict views of the proposed houses on site from much of the surrounding streets and the ACA. Views of the taller roof elements protruding marginally above the cottages would be visible from the immediate stretch of Kilgarron Hill to the north. Where discernible from this front street area, the proposed development would read as a separate development to the cottages along

Kilgarron Hill. Accordingly, I am satisfied that the proposed development would not impact on the special interest or character of Enniskerry ACA.

#### Impact on Protected Structure

- 7.3.8. A deep belt of mature trees would separate the proposed development from the Protected Structure, Kilgarron Hill House (The Old Estate House – RPS ref.03-15). This Protected Structure sits on higher ground above the proposed development. I am satisfied that the difference in ground level and screening would ensure that the development would not negatively impact on the setting or appearance of Kilgarron Hill House (RPS ref.03-15).

#### Conclusion

- 7.3.9. I am satisfied that the design of the scheme would provide an appropriate response to the historical architectural context, without contravening the built heritage objectives of the Development Plan. Accordingly, I do not consider refusal of the development or amendments to the development would be warranted due to impacts on the built heritage of the area, or the loss of the NIAH-listed building.

### **7.4. Impacts on Neighbouring Residents**

- 7.4.1. The appeals received from third parties raise concerns in relation to the impact of the proposed development on existing gardens and houses, due to overshadowing and overbearing impacts and a perceived general lack of consideration for neighbouring residents. The Planning Authority do not consider the proposed development to have substantive impacts on the amenities enjoyed by residents of neighbouring houses. The Development Plan refers to the Sustainable Residential Development Guidelines as an effective guide for new housing developments in urban areas, while including numerous housing objectives (CPO 6.3, CPO 6.13, CPO 14, CPO 15 and CPO 6.22) aiming to protect the amenities enjoyed by existing residents when assessing housing proposals.

#### Context

- 7.4.2. The nearest residential buildings include no.2 Kilgarron Hill attached to Oakfield Cottage, as well as the terrace of single and two-storey houses along nos.2 to 10 Kilgarron Hill. The proposed house nos.3 to 9 along the northern boundary of the

site would back onto the rear gardens of housing along Kilgarron Hill, which are situated on substantially lower levels to the appeal site. The applicant's revised site sections drawing (no.P-18 revision A) illustrates the relationship between the proposed and existing houses, including the existing retaining wall structure along the rear of houses on Kilgarron Hill accommodating raised rear gardens for these houses along the appeal site boundary. The rear elevations of the proposed houses along the northern boundary would be located between approximately 4.4m and 12.1m from the rear gardens of houses along Kilgarron Hill and between approximately 18.3m and 36.2m from the directly-facing rear elevations of these houses. The proposed two-storey house nos.3 to 9 would feature roof-ridge heights between approximately 7.9m and 10.6m over the roof-ridge heights of housing along no.2-9 Kilgarron Hill. There are other houses in the wider area, but these are more substantive distances from the proposed development and they are not directly referenced in the appeals submitted.

#### Outlook and Overbearing Impacts

- 7.4.3. The proposed development would be visible from the private gardens and internal areas of the immediately adjacent houses to the north and east and to an extent it would partially change the outlook from these properties. The proposed development would have similar building heights to those prevailing in the area with the buildings modulated providing gaps within the terrace rows and stepped to address alterations in ground levels. Photomontage view no.4 submitted by the applicant provides a reasonably accurate visual portrayal of the development in situ.
- 7.4.4. The modulated appearance of the terraces coupled with the setback distances achieved, is such that where visible from neighbouring properties the proposed development would not be excessively overbearing. I consider that the extent of visual change arising for neighbouring residents would be in character with the evolving urban landscape, as would be anticipated by the zoning and specific local objectives for the site, and the existing scale of development in the area, including other housing estates in the immediate area and detached housing on higher ground.



### Overlooking

- 7.4.5. The Sustainable Residential Development Guidelines and the Development Plan refer to the traditional minimum separation distance of 22m between opposing first-floor windows in two-storey housing for privacy reasons. Dependent on positioning and detailed design, reduced separation distances may be acceptable based on the Guidelines and the Development Plan. A 22m separation distance would not be achieved between the rear elevations of proposed house nos.3 and 4 with the rear elevation of no.2 Kilgarron Hill. In all other situations the 22m separation distance would be achieved, including from proposed roof terrace areas. Furthermore, I recognise that upper-floor habitable room windows facing north onto Kilgarron Hill are not proposed and this would further alleviate the potential for excessive direct overlooking from the development. I am satisfied that the positioning of a retaining wall approximately 1m from the rear of no.2 Kilgarron Hill and the difference in finished-floor levels (see section C-C of drawing no.P-18 revision A) and the separation distances marginally below the 22m standard would sufficiently restrict the potential for excessive direct overlooking between proposed house nos.3 and 4, and no.2 Kilgarron Hill.

### Impacts on Lighting

- 7.4.6. Third-party observers have raised concerns regarding the potential for the development to overshadow and result in excessive loss of light to neighbouring houses. In assessing the potential impact on light access to neighbouring properties, two primary considerations apply, including the excessive loss of daylight and light from the sky into houses through the main windows to living rooms, kitchens and bedrooms, and the excessive overshadowing of amenity areas to existing residences.
- 7.4.7. Section 3.2 of the Building Heights Guidelines state that the form, massing and height of a proposed development should be carefully modulated so as to maximise access to natural daylight, ventilation and views, and to minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides such as BRE 209 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice' (2011) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of

Practice for Daylighting’. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solution must be set out, in respect of which the Planning Authority or An Bord Pleanála should apply their discretion, having regard to local factors, including site specific constraints and the balancing of that assessment against the desirability of achieving wider planning objectives.

- 7.4.8. I acknowledge that an updated BRE 209 Guide replaced the 2011 Guide in 2022 and an updated BS EN 17037:2018 ‘Daylight in Buildings’ guide replaced the BS 8206-2: 2008 (in the UK) in May 2019, however, I am satisfied that this updated guidance does not have a material bearing on the outcome of my assessment and that the relevant guidance documents remain those referenced in the Building Heights Guidelines (i.e. BRE 209 Guide 2011 and BS 8206-2: 2008).
- 7.4.9. The applicant has provided a Daylight and Sunlight Assessment report relying on the standards of the above referenced BRE 209 Guide 2011 and BS 8206-2 documents, and this report provides an assessment of the effect of the proposed development on the vertical sky component (VSC) and annual probable sunlight hours (APSH) achievable at neighbouring windows, as well as the effect on sunlight to gardens.

#### Light from the Sky and Sunlight

- 7.4.10. When considering the impact on daylight to existing buildings, criteria is set out in figure 20 of the BRE 209 Guide 2011 and further summarised as follows:
- if the separation distance is greater than three times the height of the proposed building above the centre of the main window, then the loss of light would be minimal. Should a lesser separation distance be proposed, further assessment would be required;
  - if the proposed development subtends an angle greater than 25° to the horizontal when measured from the centre line of the lowest window to a main living room, then further assessment would be required;
  - if the VSC would be greater than 27% for any main window, enough skylight should still be reaching this window and any reduction below this level should be kept to a minimum;

- if the VSC with the development in place is less than 0.8 of the previous value, occupants would notice a reduction in the amount of skylight;
- in the room impacted, should the area of the working plane that can see the sky be less than 0.8 the previous value, then daylighting is likely to be significantly affected. Where room layouts are known, the impact on daylight distribution in the existing building can be assessed.

7.4.11. The tests above are a general guide only and the BRE 209 Guide 2011 states that they need to be applied flexibly and sensibly with figures and targets intended to aid designers in achieving maximum sunlight and daylight for residents and to mitigate the worst of the potential impacts for existing residents. It is clear that the guidance recognises that there may be situations where reasonable judgement and balance needs to be undertaken cognisant of circumstances. To this end, I have used the Guidance documents referred to in the Ministerial Guidelines to assist me in identifying where potential issues and impacts may arise and also to consider whether such potential impacts are reasonable, having regard to the need for increased densities within zoned, serviced and accessible sites and the need to address impacts on existing residents in as much as is reasonable and practical.

7.4.12. When measured from the centre line of the lowest window to a main living room in the existing cottages, the proposed buildings would not subtend at an angle greater than 25° to the horizontal, with the existing raised garden retaining wall structures substantially impeding views from the existing windows. Consequently, further assessment of daylight impacts would not necessarily be required based on the BRE 209 Guide 2011, as a perceptible impact on daylight would be unlikely.

Notwithstanding this, the baseline and proposed VSC was calculated in the submitted report for 44 windows on the rear elevation to housing along nos.2 to 10 Kilgarron Hill. I am satisfied that the VSC assessment has been targeted to neighbouring windows, rooms and houses that have greatest potential to be impacted and would be representative of the worst-case scenario. The level of change in proposed VSC is estimated as being within the recommended limit of 0.8 of the previous value with the greatest change in circumstances calculated as arising for a rear window on the west side of no.2, which would receive daylight at a ratio of 0.85 its former value with the development in place. The applicant asserts that there would be no noticeable loss of available light to surrounding houses and any

reduction of the available daylight arising from the proposed development would be negligible.

7.4.13. As part of the VSC study and in accordance with the assessment criteria within the BRE 209 Guide 2011, the applicant has also calculated the effect on the APSH for the 44 windows that feature aspect within 90° of due south. The BRE 209 Guide 2011 states that in order for a proposed development to have a noticeable effect on the APSH of an existing window, the following would need to occur:

- the APSH value drops below the annual (25%) or winter (5%) guidelines and;
- the APSH value is less than 0.8 times the baseline value and;
- there is a reduction of more than 4% to the annual APSH.

7.4.14. The applicant asserts that due to the proximity of the retaining wall and the sloping nature of the area, many of the windows facing the site would not currently meet the BRE 209 Guide 2011 target sunlight criteria. The applicant's report indicates that with the exception of one rear window to no.2, the APSH value for all windows tested would not fall below the stated target value of 25% (annual), therefore a noticeable effect for the residents of the majority of the properties tested would not arise. When the baseline APSH for the rear windows of no.2 is compared with the APSH when the development is in place, the ratio of change would amount to 0.68. When the baseline winter probable sunlight hours (WPSH) are compared with the WPSH for development in place, the ratio of change would be between 0.62 and 1.06. This indicates for 18 windows that the lighting would not change or it would improve with the proposed development in place. Where the ratio of change in WPSH would fall below 0.8 for 13 of the tested windows, these windows would continue to meet the target 5% WPSH.

7.4.15. Only a small proportion of the tested windows would be affected in a noticeable manner by the proposed development and the loss of light would only be marginally below the target BRE 209 Guide 2011 values. Any change in daylight would appear to be exacerbated by the existing low baseline VSC conditions for some windows owing to the existing retaining wall structure. Arising from the predominance of compliance with BRE 209 Guide 2011 standards, I am satisfied that the impacts of the proposed development on lighting to neighbouring residences would not be sufficiently adverse to require amendments to the proposed development,

particularly having regard to the flexibility afforded in the BRE 209 Guide 2011, the site specific constraints and the existing baselines scenario. Accordingly, a refusal of permission or modifications to the proposed development for reasons relating to lighting to neighbouring properties would not be warranted.

#### Overshadowing

- 7.4.16. Concerns were expressed by neighbouring residents regarding the potential loss of light to rear gardens, including via the retaining wall structures. The applicant's Daylight and Sunlight Assessments report addresses the potential effect of the proposed development on sunlight levels to ten adjoining rear gardens along Kilgarron Hill. The BRE 209 Guide 2011 indicates that any loss of sunlight as a result of a new development should allow at least 50% of an amenity area to receive a minimum of two hours sunlight on the 21<sup>st</sup> day of March, and if this is not achieved the change in sunlight to an amenity area should be no greater than 0.8 times its previous value.
- 7.4.17. A sunlight assessment was undertaken using a three-dimensional model of the development and the adjoining buildings, with the results shown in tabular and graphical format in the applicant's report. The graphical view provided in the applicant's report would suggest the greatest change in levels of sunlight to the rear gardens would be focussed along the rear boundary where it is intended to construct a retaining wall. Under revised proposals the retaining wall structures and boundaries would be set back further from several neighbouring gardens, thus further alleviating overshadowing of these gardens. In line with the standards, the analysis reveals that with the proposed development in place, between 75% and 92% of the rear gardens would receive at least two hours of sunlight on the 21<sup>st</sup> day of March. I have no other information to demonstrate that this would not be the case. I am satisfied that the level of change in sunlight and overshadowing to neighbouring gardens would comply with the BRE 209 Guide 2011 and a refusal of planning permission for reasons relating to the loss of sunlight and overshadowing to neighbouring properties would not be warranted.

#### Boundary Treatments

- 7.4.18. The third-party appellants assert that the property boundary between no.4 Kilgarron Hill and proposed house no.5 is not accurate, and the property boundary should be

reassessed along the rear of proposed house nos.6 to 9. During consideration of the application the Planning Authority requested that the applicant address the alignment of the site boundaries to ensure that it would correlate with the lands in control of the applicant. In response to this the applicant accepted that there was a discrepancy between the legal and planning boundary along the northern side of the site. The applicant asserted that no works would be undertaken outside of the area in their control and the garden boundaries to the rear of proposed house nos. 6 to 9 would be set in from the legal boundary to address the steep change in ground levels in this area.

7.4.19. I have no information to suggest that the revised site boundaries presented in the application are incorrect. As clarified in the Development Management Guidelines with regard to title of land, section 34(13) of the Planning and Development Act 2000, as amended, states that a person shall not be entitled solely by reason of a permission to carry out any development. Accordingly, the preciseness of the northern boundary is a civil matter that can be resolved between the relevant parties, if necessary, and I am satisfied that sufficient information has been provided to enable a recommendation on planning and environmental matters in this case.

7.4.20. The third-party appellants also require additional details of the boundary along the rear of houses on Kilgarron Hill. Details of the boundary between the existing and proposed houses are provided in the site layout plan (drawing no. P-04 revision A), the site boundary elevation (drawing no.P-19) and the boundary treatment plan (drawing no.377-PL-07 Sheet A). A 2m-high timber-post and panel fence is proposed along the rear boundary of the gardens to proposed house nos.2 to 10. A retaining wall would be provided along the boundary between proposed house nos.3 to 5 and the existing houses at nos.2 to 4 Kilgarron Hill. The retaining wall structure along the rear of proposed house nos.6 to 9 would be set 1.5m from the proposed timber-panel fences serving these gardens. The site sections (drawing no.P-18 revision A) also illustrate the scale of the retaining walls. In response to the appeals, the applicant also proposed stepping in by 1.5m the rear timber panel fence serving the rear garden to proposed house no.5 along the rear boundary of no.4 Kilgarron Hill. The proposals, as revised, provide an undeveloped strip of ground along the rear of proposed house nos.5 to 9 and further details of how this can be accessed and landscaped can be provided as a condition in the event of a grant of planning

permission. I am satisfied that the information presented in the application and appeal provides sufficient details of the intended works along boundary with Kilgarron Hill to allow a decision to be made on the application. Further details regarding submission of method statements to construct the retaining walls can be requested as a condition in the event of permission being granted.

### Conclusions

- 7.4.21. Having regard to the assessments and conclusions set out above, I am satisfied that the proposed development should not be refused permission for reasons relating to impacts on the amenities of neighbouring residents.

## **7.5. Building Heights**

- 7.5.1. The third-party grounds of appeal assert that the proposed building heights would be out of character with the existing building heights in Enniskerry. In response, the applicant asserts that the building heights proposed are appropriate given that they would strictly adhere to limitations set for the subject lands under specific local objective SLO11 of the Local Area Plan. The Planning Authority considered the proposed heights to be acceptable. The existing housing in the area generally consists of single and two-storey buildings of differing scales along Kilgarron Hill, off Forge Road and within the town centre, although I would note that there are three-storey houses in other parts of the town, including within the Sika Woods development approximately 1km directly to the west of the site. The proposed development would feature two and three-storey houses, with elements of the houses reading as being single-storeys as the houses step into the steep topography of the site.
- 7.5.2. The Local Area Plan places a specific height limitation on buildings on the appeal site, requiring the finished-floor level of housing to be no more than 90m AOD and the ridge height of any structure to be no more than 98m AOD. The Local Area Plan refers to the 90m AOD level as being the existing ground level at the southeast of the former jumping arena. The applicant's site development demolition plan (drawing no.SD-05) provides details of a topographical survey, including spot levels across the site. The topographical survey details appear to relate to a local benchmark and do not appear to strictly relate to ordnance datum with an

approximate ground level of +86.5m identified for the southeast corner of the jumping arena area. Accordingly, based on the surveyed levels the ridge height of any structure should be no more than +94.5m. The roof-ridge heights for the proposed houses vary from +91.6m to +96.525m. Six of the proposed houses (nos.14, 15, 16, 17, 21 and 22) would feature roof-ridge heights between 0.9m and 2m above the height limitation arising from the Local Area Plan, with the remainder of the housing complying with the limitation.

7.5.3. The Building Heights Guidelines describe the need to move away from blanket height restrictions within statutory plans and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. Section 3.1 of these Guidelines presents three broad principles that Planning Authorities must apply in considering proposals for buildings taller than the prevailing heights:

1. does the proposal positively assist in securing NPF objectives of focusing development into key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the NSO to deliver compact growth in our urban centres?
2. is the proposal in line with the requirements of the Development Plan in force and such a plan has taken clear account of the requirements set out in Chapter 2 of the Building Heights Guidelines?
3. where the relevant Development Plan or Local Area Plan pre-dates these Guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant Plan or planning scheme does not align with and support the objectives and policies of the NPF?

7.5.4. By focussing development in this edge of urban centre location and supporting the NPF objective to deliver compact growth in urban centres, I am satisfied that the proposed development meets the requirements set out in item 1 directly above. The Bray Municipal District Local Area Plan 2018 was adopted in May 2018 predating publication of the Building Heights Guidelines in December 2018 and I am satisfied that the Local Area Plan does not take clear account of the need to avoid numerical limitations on building heights, as required under chapter 2 of the Guidelines. Consequently, as regards the question in item 3 above, it can be demonstrated that



that implementation of the Local Area Plan building height objectives for the site does not strictly align with or support the objectives and policies of the NPF.

- 7.5.5. In principle, given the proximity of the site to the town centre and the prevalence of housing on higher ground in the immediate area with roof ridges higher than the proposed roof-ridge heights, I am satisfied that there is no issue with the height in terms of compliance with national policy, therefore the issue of height should be considered in the context of specific planning policy requirement (SPPR) 3(a) of the Building Heights Guidelines, which refers to the criteria in section 3.2 of the Guidelines. Section 3.2 of the Building Heights Guidelines states that the applicant shall demonstrate to the satisfaction of the Planning Authority or An Bord Pleanála that the proposed development satisfies criteria at the scale of the relevant city or town, at the scale of district / neighbourhood / street and at the scale of site or building, in addition to undertaking specific assessments.
- 7.5.6. The first criteria under section 3.2 of the Building Heights Guidelines relates to whether the site is well served by public transport with high capacity, frequent services and good links to other modes of public transport. Local bus services include the Dublin bus route 44 connecting with Dublin city centre and GoAhead bus route 185, which connects with Bray town centre and the DART rail station over 6km from the appeal site. A review of current timetables for GoAhead route 185 indicates that a service is provided every hour between 06:00 and 23:00 hours, Monday to Friday, while Dublin Bus route 44 provides a connection every 45 minutes towards Dublin city centre. This suggests that the local bus services could not be defined as being of high frequency. An additional population of 132 persons is estimated for the proposed development based on the occupancy of 6 persons per house used in the applicant's Drainage Report, with a population of 1,889 for Enniskerry in 2016 referenced in the Local Area Plan. Based on the 17% public transport modal split in 2016, as referenced in the Wicklow County Development Plan 2022-2028, I am satisfied that the level of public transport services would appear reasonable with the additional public transport journeys estimated to amount to 22 persons from the proposed houses likely to place very limited impact on the capacity of existing services. Additional planned services in this area would be supported by providing for developments such as this, which would help to create a critical mass of population to support such services.

- 7.5.7. Point two under this part of the section 3.2 criteria relates to the scale of the development and its ability to integrate into / enhance the character and public realm of an area, having regard to topography, cultural context, the setting of key landmarks and the protection of key views. A booklet of photomontages carried out by suitably qualified practitioners has been submitted as part of the application, which suggests very limited views of the development from the immediate and wider areas surrounding the site, due to the screening afforded by existing structures, trees and steep topography. Based on the information provided I am satisfied that the proposals would have negligible to slight effects on the townscape. The primary visual impact on the townscape would be as a consequence of the replacement of the cottage fronting the site along Kilgarron Hill, however, this element of the project is not anticipated to impact on the visual amenities of the area, arising from my assessment above (see section 7.3).
- 7.5.8. With regard to the contribution of the development to placemaking and the delivery of new streets and public spaces, I note that the development would feature some improvements to the public realm along Kilgarron Hill and the provision of public open space on site, which would make a limited positive contribution to placemaking at the scale of the town.
- 7.5.9. The Building Heights Guidelines require consideration of how proposals respond to the overall natural and built environment, the urban neighbourhood and streetscape, and whether proposals would be monolithic in form, legible and integrated, enhancing the urban design of public spaces and contributing to building/dwelling typologies in the neighbourhood. The stepped building arrangement would address ground levels on site and the modulated heights of the proposed houses would avoid the creation of buildings monolithic in appearance and would provide for surveillance of the future public realm.
- 7.5.10. In terms of how the development responds to the overall natural environment, I note the limited presence of flora and fauna on site, and the applicant's mitigation measures to address potential impacts on flora and fauna, as outlined in their Ecological Impact Assessment and Bat Assessment, as well as the landscaping proposals. I am satisfied that the development would respond appropriately to the existing built and natural environment and the height and scale of the buildings would positively contribute to the urban neighbourhood and the streetscape by

replacing the existing house. The site is not considered to be at risk of flooding, and as addressed further below, the drainage solutions would reduce the potential for flooding by means of the surface and storm water drainage proposals. The housing typology proposed would accord with the provisions set out in the Local Area Plan and would add to the variety of housing options available in the area.

- 7.5.11. In section 7.4 above, I assessed in detail the impact of the height and scale of the proposed buildings on the amenity of neighbouring properties, including the potential for overshadowing and loss of light, views and privacy. I consider the form of the proposed development to be well considered in this regard and issues in relation to sunlight, daylight and overshadowing have been adequately addressed as part of the proposed development. I am satisfied that with a limited number of houses in the overall proposals featuring a slightly taller roof ridge height than provided for in the Local Area Plan, and given the scale of the site, the separation distances between existing and proposed buildings, and the immediate adjoining land uses, development at the height and scale proposed can be absorbed onto this site.
- 7.5.12. A number of specific assessments have been undertaken and submitted with this application, specifically in relation to sunlight and daylight. Given the modest increase in building heights and the scale of the site, microclimate or telecommunication assessments would not be necessary. An Ecological Impact Assessment, including bat and habitat surveys, have been submitted as part of the application to demonstrate no significant impact on ecology, and that with mitigation no likely adverse impacts on protected habitats or species would arise. Strategic Environmental Assessment would not be required for this project and screening for EIA concluded that an EIA would not be necessary either (see section 5.5 above) with significant environmental impacts not likely to arise. I am satisfied that adequate information has been submitted and is available to enable a comprehensive assessment of the impact of the proposed development.
- 7.5.13. The proposed buildings provide transition and variety in the development, as required in SPPR 4 of the Building Heights Guidelines. Excessively tall buildings are not proposed in the development relative to the scale of the site and its context. Arising from the existing housing in the immediate area on higher ground, the proposed development would not be substantially higher than all existing buildings in the immediate area.

7.5.14. SPPR 3(a) of the Building Heights Guidelines states that where a Planning Authority is satisfied that a development complies with the criteria under section 3.2, then a development may be approved, even where specific objectives of the relevant statutory plan may indicate otherwise. In conclusion, notwithstanding that the roof ridge heights to six of the proposed houses in the development would exceed the limitation set in the Local Area Plan, the proposed development would not exceed all established building heights in the area and would be in accordance with national policy and guidance supporting compact consolidated growth within the footprint of existing urban areas. In such a scenario, I am satisfied that the proposed building heights would be appropriate for the site and permission should not be refused for this reason.

## **7.6. Vehicular Access & Traffic**

- 7.6.1. The grounds of appeal assert that the proposed development would feature a substandard vehicular access that would present road safety concerns along a constrained road network, which would be further impeded by the additional traffic arising from the development. The applicant submitted a site visibility and DMURS statement of consistency drawing (no.SD-08) to illustrate how access would be provided and the standards being applied. To the front of the site along Kilgarron Hill there is an unmarked local road with a 50km/hr speed limit and a footpath along the southern side with the cottages. Cars were not parked along this street during my site visit, however, photographs on the file would suggest that cars regularly park on the southern side of this local road. The proposed houses would be served by an upgraded vehicular access off Kilgarron Hill, including a 5.5m-wide carriageway and a 2m-wide footpath. The details submitted indicate that 49m-long visibility splays would be available in both directions from a point setback 2.4m from the back edge of the carriageway.
- 7.6.2. An Area Engineer in the Planning Authority referred to concerns regarding the location of the access onto a road featuring steep gradients, unregulated parking and excessive traffic speeds. There are numerous other residential accesses and properties onto this road. The Transportation Water and Emergency Services section of the Planning Authority did not object to the proposals having initially sought a Stage 1/2 Road Safety Audit of the proposed development, which the

applicant submitted. This audit highlighted problems with respect to visibility at the entrance and a lack of signage, road markings and pedestrian tie-in details. As part of the applicant's revised site layout plan road markings, tactile paving and double-yellow lines to restrict on-street parking within 10m to 15m of the junction was provided. The Transportation Water and Emergency Services section of the Planning Authority subsequently recommended a follow-up audit of the roads serving the development in the event of a grant of planning permission for the proposed development. This would be reasonable and standard to request for developments of this nature and scale.

- 7.6.3. Traffic speeds along Kilgarron Hill are restricted to 50km/hr and curtailed by the provision of a raised table at the junction of Kilgarron Hill, the Dublin Road (R117 regional road) and Forge Road. While I recognise that the houses would attract additional traffic to the area, this would be largely imperceptible and would not lead to concerns regarding traffic safety or convenience. On-street parking may intermittently restrict visibility at the site entrance, however, the proposed vehicular access would be onto a road featuring limited traffic speeds and volumes, and the access arrangements would generally accord with DMURS. In conclusion, subject to conditions, the proposed development would not result in traffic hazard or significant additional traffic congestion in the area, and it would feature an appropriate vehicular access.

## **7.7. Engineering Matters**

### Structural Impacts

- 7.7.1. The grounds of appeal assert that the proposed development would impact on the structural integrity of neighbouring properties, including nos.2 and 4 Kilgarron Hill, as well as retaining wall structures situated to the rear of housing along Kilgarron Hill. The applicant provided various details with respect to the changes in ground levels between the proposed development and the existing housing along Kilgarron Hill. Specific details regarding the method to be employed in relation to demolition of Oakfield Cottage, in order to address impacts on no.2, have not been submitted. There would be scope for various lateral restraints to support the shared wall to no.2, and support buttresses to any retaining walls on site.

7.7.2. The Planning Authority's decision to grant permission includes a condition requiring a site-specific geo-technical report to be provided based on site investigations and a slope stability analysis. A construction management plan is also requested by the Planning Authority. A method statement for the demolition works and groundworks can be requested alongside the information requested by the Planning Authority and from a planning perspective based on the details presented and projects of a similar nature and context, I am satisfied that this would be sufficient to obviate potential impacts to neighbours. With the finalisation of and adherence to this condition and the construction management plan, this would ensure demolition and construction activity is carried out in a planned, structured and considerate manner that minimises the impacts of these temporary works on local residents and properties in the vicinity. Accordingly, permission for the proposed development should not be refused for reasons relating to the potential impact of the proposed development on the structural integrity of neighbouring retaining walls and houses.

#### Drainage

7.7.3. The third-party appellants raise concerns regarding surface water overflows from the steep ground on site during heavy rainfall events. The application was accompanied by a Drainage Report addressing various matters, including SUDS, surface water drainage and flood risk. The Water and Environmental Services section of the Planning Authority initially sought details of the SUDS components and in response the applicant provided a follow-up Drainage Report. SUDS measures would be incorporated into the development to provide interception storage, including two underground attenuation tanks, tree pits, permeable paving to parking bays and water butts. The proposed attenuation tank would have sufficient capacity to accommodate 1-in-100 year storm events and a 20% climate change factor has been incorporated into the detailed design. A fuel interceptor would be installed to the system prior to the discharge of storm waters to the existing combined sewer system running along Kilgarron Hill. To prevent surface water runoff onto the public road the applicant set out that gullies would be installed on both side of the access road and a concrete channel would be installed across the full width of the access road. The applicant asserts that runoff would be minimised as a result of the proposals and water would be treated to an adequate quality. According to the

Planning Authority, the surface water drainage proposals would accord with the Greater Dublin Strategic Drainage Study and CIRIA SUDS Manual C753.

- 7.7.4. The Water and Environmental Services section of the Planning Authority has confirmed that the additional and revised drainage details are acceptable. An Area Engineer objected to the proposed development discharging surface waters to the combined sewer due to asserted capacity constraints. Uisce Éireann requested that surface water runoff should not discharge to the foul sewer network. I note that it is the stormwater that is only intended to discharge to the combined sewer. The provision of SUDS and piped stormwater discharging to the sewer would address existing concerns raised with respect to surface water overflows from the site onto the public road. A hydrobrake to limit flow rates and the runoff from the site would be restricted below the greenfield rate. This would offer improvements with respect to the present unmanaged surface water drainage regime and I am satisfied that the proposed SUDS and stormwater drainage proposals would be satisfactory, subject to appropriate conditions, including in relation to follow-up audits of the installed system.

## **8.0 Appropriate Assessment**

### **8.1. Stage 1 – Screening**

- 8.1.1. A report screening for Appropriate Assessment was submitted with the planning application, alongside an Ecological Impact Statement and a Bat Assessment report. The grounds of appeal do not address Appropriate Assessment and the Planning Authority do not consider AA to be necessary.

#### Site Description

- 8.1.2. A description of the site is provided in section 1 and throughout the assessments above. No Annex I habitats were recorded within the appeal site and only limited use of the appeal site by flora and fauna was identified within the applicant's Ecological Impact Assessment dated December 2021. The site does not feature any substantive surface water bodies. The Glencullen river is the closest surface water body to the appeal site, which is a tributary of the River Dargle and located approximately 170m to the north of the site. The most recent Water Framework

Directive (WFD) status (2013-2018) identifies the Dargle as having 'good' status and that it was not at risk of meeting WFD objectives for 2027. The appeal site is located over the Enniskerry gravels groundwater body and the most recent status (2013-2018) described by the EPA for this groundwater body categorised it as 'good' and that it was not at risk of meeting WFD objectives for 2027.

- 8.1.3. The applicant states that Cherry Laurel, Snowberry, Butterfly-bush and Sycamore were identified within the site. While these are non-native species, they are not included as invasive species in the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011).

## **8.2. European Sites**

- 8.2.1. The nearest European sites are listed in section 5.3 of this report. Qualifying interests and conservation objectives for each of the sites are listed on the National Parks and Wildlife Services (NPWS) website ([www.npws.ie](http://www.npws.ie)).

## **8.3. Is the Project necessary to the Management of European sites?**

- 8.3.1. The project is not necessary to the management of a European site.

## **8.4. Direct, Indirect or Secondary Impacts**

- 8.4.1. The potential direct, indirect and secondary impacts of the proposed development that could arise as a result of the proposed works and which could have a negative effect on the qualifying interests of European sites, include the following:

- impacts on water quality, for example via release of suspended solids, accidental spills or the release of contaminants from made ground during construction;
- loss or disturbance of habitat/species, for example, use of the appeal site by qualifying species.

## **8.5. Relevant European Sites**

- 8.5.1. In determining the zone of influence for the proposed development, I have had regard to the nature and scale of the project, the distance from the development site



to European sites and any potential pathways that may exist from the development site to a European Site, application documentation and submissions, and my visit to the area. Table 1 of the applicant’s screening information report identifies the potential links to European Sites from the appeal site. The distances and directions from the site to European Sites are listed in table 1 above. I do not consider that any other European Sites other than those identified in table 2 potentially fall within the zone of influence of the project, having regard to the nature and scale of the development, the species identified as using the site during ecological surveys, the distance from the development site to European Sites, the lack of an obvious pathway to European Sites from the development site, local drainage patterns and catchments, and separation across open marine waters.

**Table 2.** Identification of relevant European Sites using Source-Pathway-Receptor model and compilation of information (Qualifying Interests and Conservation Objectives)

Site Name / Code	Qualifying Interests (QIs) / Special Conservation Interest (SCIs)	Connections	Consider Further
Knocksink Wood SAC / 000725	<p>To restore the favourable conservation condition of Petrifying springs with tufa formation (Cratoneurion);</p> <p>To restore the favourable conservation condition of Old sessile oak woods with Ilex and Blechnum in the British Isles;</p> <p>To maintain the favourable conservation condition of Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)</p> <p><a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000725.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000725.pdf</a></p>	<p>No</p> <p>Hydrological connections do not exist through surface water or groundwater runoff to the SAC and its catchment zone to the north, with the appeal site situated downriver of the SAC and land sloping eastwards from the site down to Glencullen river</p>	No
Bray Head SAC / 000714	<p>To maintain the favourable conservation condition of Vegetated sea cliffs of the Atlantic and Baltic coasts;</p>	<p>Wastewater from the site would pass and would be treated in Enniskerry WWTP, which is operating within</p>	No

	<p>To restore the favourable conservation condition of European dry heaths</p> <p><a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000714.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000714.pdf</a></p>	<p>capacity and discharges to the River Dargle, which ultimately discharges to the Irish Sea approximately 1.9km north of this European site.</p>	
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## 8.6. Potential Effects

- 8.6.1. The site is currently occupied by two former residential buildings, a former equestrian centre with stables and sheds, as well as jumping arena and agricultural lands. It is of limited ecological significance based on information presented and available. Based on the source-pathway-receptor model, the nearest pathway to designated sites from the appeal site is the Glencullen River. Having regard to the survey findings, the urban context and the residential nature of the proposed development, I consider that the only potential pathways between the appeal site (source) and the European Sites (receptors) would relate to drainage during construction and operation. Due to the nature of the appeal site and the proposed development there is no direct pathway to a European Site, however there is a potential indirect pathway to coastal SACs and SPAs via storm and foul drainage networks and Enniskerry WWTP.
- 8.6.2. Stormwater and foul wastewater from the development would be discharged to the public combined sewer drainage system. There is theoretically an indirect hydrological pathway between the appeal site and Bray Head SAC via the public drainage system and the Enniskerry WWTP, where stormwater and wastewater from the proposed development would be treated. Uisce Éireann has confirmed that the proposed development would not be likely to cause overloading potentially impacting on receiving waters from this WWTP. I am satisfied that the distances are such that any pollutants post treatment from the Enniskerry WWTP would be minimal and would be diluted and dispersed and, therefore, there is no likelihood that pollutants arising from the proposed development either during construction or operation could reach the European Site in sufficient concentrations to have any likely significant effects on the integrity of this European Site in view of its qualifying interests and conservation objectives relating to coastal habitats.

8.6.3. Accordingly, I am satisfied that the European sites potentially within the zone of influence of the project can be ‘screened out’ on the basis that significant impacts on these European sites can be ruled out, as a result of the separation distances from the appeal site, the extent of marine waters or given the absence of any direct hydrological or other pathway to the appeal site.

## **8.7. In-combination Impacts**

8.7.1. This project is taking place within the context of other developments in the Enniskerry area, which can impact in a cumulative manner with the proposed development through drainage and increased volumes to the Enniskerry WWTP. The expansion of the town is catered for through land-use planning by the Planning Authority, including the Wicklow County Development Plan 2022-2028 and the Bray Municipal District Local Area Plan 2018. Both the Development Plan and the Local Area Plan have been subject to AA by the Planning Authority, who concluded that their implementation would not result in significant adverse effects on the integrity of any European Sites. I am satisfied that likely significant in-combination impacts would not arise.

## **8.8. Stage 1 – Screening Conclusion**

8.8.1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. Having carried out screening for AA, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on any European Site, in view of the sites’ Conservation Objectives, and AA and the submission of a NIS is not therefore required.

8.8.2. In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

## **9.0 Recommendation**

9.1. Following the assessments above, I recommend that planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out below.

**9.2.** I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

## **10.0 Reasons and Considerations**

1. Having regard to the zoning for the site, to the nature and scale of the proposed development, and to the provisions of the Wicklow County Development Plan 2022-2028 and the Bray Municipal District Local Area Plan 2018, it is considered that subject to compliance with the conditions below, the proposed development would respect the character and setting of the area, including the Enniskerry Architectural Conservation Area, would not seriously injure the residential amenities of the area or of property in the vicinity, would provide a suitable level of amenity for future occupants, would be acceptable in terms of road safety and would not be likely to have a detrimental impact on the structural stability of adjoining structures and property. Furthermore, having regard to the provisions of the Urban Development and Building Heights, Guidelines for Planning Authorities prepared by the Department of Housing, Planning and Local Government in 2018, the proposed building heights would not be excessive and would be appropriate for the site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **11.0 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 12<sup>th</sup> day of July 2022 and to An Bord Pleanála on the 27<sup>th</sup> day of September 2022, 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. Prior to the commencement of development, a site-specific geo-technical report, as well as detailed structural drawings and a construction methodology statement for the retaining wall structures and the protection of the structural stability and fabric of neighbouring properties, including the attached cottage at no.2 Kilgarron Hill, shall be submitted to, and agreed in writing, with the Planning Authority. These details shall specifically include the methods proposed to remove the attached cottage at no.1 Kilgarron Hill, demolition and excavation arrangements, the proposed foundation system and any underpinning, any structural bracing and supports, the method of construction and details of supervision by a suitably qualified person.

**Reason:** In the interest of orderly development and preserving the integrity of neighbouring buildings and structures.

3. Mitigation measures outlined in the plans and particulars, including the Ecological Impact Assessment and the Bat Assessment submitted with the application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment and in the interest of public health.

4. Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the Planning Authority (such agreement must specify the number and location of each house), pursuant to section 47 of the Planning and Development Act 2000, as amended, that restricts all houses

permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and / or affordable housing, including cost-rental housing.

**Reason:** To restrict new housing development to use by persons of a particular class or description, in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

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

**Reason:** In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed houses.

6. Details of the materials, colours and textures of all the external finishes to the proposed houses shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

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

7. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas

8. The road works along Kilgarron Hill, including the vehicular access serving the proposed development, and the layout of the proposed development, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

9. A Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and a Walking Audit) shall be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post-construction stage. All audits shall be carried out at the developer's expense in accordance with the Design Manual for Urban Roads and Streets guidance and Transport Infrastructure Ireland standards. The independent audit team(s) shall be approved in writing by the planning authority and all measures recommended by the Auditor(s) shall be implemented unless the planning authority approves a departure in writing. The Stage 2 Audit reports shall be submitted to and agreed with the planning authority prior to the commencement of development.

**Reason:** In the interest of traffic safety and proper planning and sustainable development.

10. All of the communal parking areas serving the residential units shall be provided with functional electric-vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with

electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation.

11. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann.

**Reason:** In the interest of public health.

12. a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
- b) Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.
- c) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.
- d) A maintenance policy to include regular operational inspection and maintenance of the Sustainable Urban Drainage System infrastructure and the fuel interceptor shall be submitted to and agreed in writing with the Planning Authority prior to the occupation of proposed development and shall be implemented in accordance with that agreement.

**Reason:** In the interest of public health and surface water management.



13. Public lighting shall be provided in accordance with a final scheme, which shall include lighting for the public open space and front street areas, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The design of the lighting scheme shall take into account the existing public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any unit. Any bat-sensitive lighting for the proposed development shall accord with the updated guidance contained in 'Bats and Artificial Lighting in the UK Guidance Note GN 08 23'.

**Reason:** In the interests of amenity, public safety and bat species.

14. 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.

15. (a) A plan containing details for the management of waste, in particular recyclable materials, within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened bin stores, which shall accommodate not less than three standard-sized wheeled bins within the curtilage of each house plot.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

16. The area of public open space shown on the lodged plans shall be reserved for such use. This area shall be contoured, soiled, seeded, and landscaped in accordance with the landscape masterplan (drawing no.377-PL-01 Sheet No.C) submitted to the planning authority on the 12<sup>th</sup> day of July, 2022.

The grasscrete lane and gate to the public open space shall have a maximum width of 3.5 metres, and this gate shall not be electronic and shall have a maximum height of 1.5 metres.

Full details of the landscaping and means of access to the lands to the rear of proposed house numbers 5 to 10 inclusive between the rear garden boundaries and the site boundary shall be submitted to, and agreed in writing, with the planning authority prior to commencement of development.

This work shall be completed before any of the houses are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the Local Authority.

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

17. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the “Recommendations for Site Development Works for Housing Areas” issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the Local Authority.

**Reason:** To ensure that the development is carried out and completed to an acceptable standard of construction.

18. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall;

(a) notify the planning authority in writing at least four weeks in advance of the commencement of development works on the site (including hydrological and geotechnical investigations) relating to the proposed development;

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and;

(c) provide arrangements, acceptable to the Planning Authority, for the recording and for the removal of any archaeological material which the Authority considers appropriate to remove.

In default of agreement between the parties regarding compliance with any of the requirements of this condition, the matter shall be referred to An Bord Pleanála for determination.

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

19. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records, including for waste and all resources, pursuant

to the agreed RWMP shall be made available for inspection at the site office at all times.

**Reason:** In the interest of sustainable waste management.

**20.** The construction of the development shall be managed in accordance with a final project Construction and Environmental 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 the construction practice for the development, including:

- a) Location of the site and materials compound(s), including areas identified for the storage of construction refuse;
- b) Location and details of areas for construction site offices, staff facilities, site security fencing and hoardings;
- c) Details of on-site car parking facilities for site workers during the course of construction;
- d) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- e) Measures to obviate queuing of construction traffic on the adjoining road network;
- f) Details of construction phase mobility strategy, incorporating onsite mobility provisions;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (1Hz to 80Hz) and BS7385:

Part 2 1990: Evaluation and Measurement for Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels;

- j) Details of appropriate mitigation measures for noise and dust, and monitoring of such levels;
- k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- l) Off-site disposal of construction / demolition waste and details of how it is proposed to manage excavated soil;
- m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local sewers or watercourses;
- n) A record of daily checks that the works are being undertaken in accordance with the final project Construction and Environmental Management Plan shall be kept for inspection by the planning authority;
- o) Invasive species management plan.

**Reason:** In the interest of amenities, public health, the environment and safety.

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

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

- 22.** Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or

other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

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

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

- 24.** The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the

Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Colm McLoughlin  
Senior Planning Inspector

23<sup>rd</sup> November 2023