



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314579-22

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<b>Development</b>	Development which comprises the addition of 2 no. dwelling units increasing the total new dwelling units on the site from 32 to 34.
<b>Location</b>	Kilbride Hill House, Herbert Road, Bray, Co. Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	22694
<b>Applicant(s)</b>	Kilbride Hill Limited.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Kilbride Hill Limited.
<b>Observer(s)</b>	Stephen Brady for Thornbrook Residents Group.
<b>Date of Site Inspection</b>	30 <sup>th</sup> of November 2023.
<b>Inspector</b>	Elaine Sullivan



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## 1.0 Site Location and Description

- 1.1. The appeal site is located on the western outskirts of Bray, Co. Wicklow, near the M11. Vehicular access to the site is off Herbert Road and the site is in the former grounds of Kilbride House, a Protected Structure. The 'Thornbrook' housing development is currently under construction on the site with some of the houses completed and inhabited.
- 1.2. The Gate Lodge to the original house is located on the western side of the entrance and has been refurbished and extended as part of the development. The subject site is located on the eastern side of the entrance and comprises an area of open green space. Stands of mature trees have been retained along the site boundary to Herbert Road and at the entrance to the development. These large trees frame the southern side of the open space at the entrance.
- 1.3. To the south of the site and on the opposite side of Herbert Road is Pemberton, an established housing development. The entrance to this estate is set back from the road with grassed areas on either side and mature trees surrounding the entrance. There are established housing developments located to the east and south of the subject site.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for an additional 2 x 4-bedroom houses in a housing development permitted under ABP-301577-18, (PA Ref. 17/1085), and amended under PA Ref. 21/1405.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Planning permission was refused by the PA for the following reason:

*Having regard to:*

- *The design and layout of the development, which encroaches on an area of public open space, forming part of the main entrance to the development, and*

*results in the removal of mature trees and vegetation to facilitate the construction of the 2-no. 4 bed detached dwelling units;*

- *The long and narrow garden design of the proposed dwellings; and*
- *The inappropriate boundary treatment design to the rear gardens and its relationship with the relocated public footpath.*

*It is considered that the proposed development would have a significant adverse impact on the character, the main entrance, and the public open space of the overall development; is likely to form an incongruous and intrusive feature within the scheme; would significantly detract from the residential amenity of future occupants; and would have negative visual, ecological, biodiversity, and natural drainage impacts. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The report of the Planning Officer, (PO), dated the 8<sup>th</sup> of August 2022 informed the decision of the PA and included the following,

- The proposed development was assessed against the policies and objectives of the Wicklow County Development Plan 2016-2022, (which was the operative Development Plan at the time), and the Bray Municipal District Local Area Plan 2018.
- Planning permission was granted on the site under ABP-301557-22, (PA Ref. 17/1085), for a development comprising 33 houses. This application was amended under PA Ref. 21/405 which permitted one additional house. Therefore, the principle of the development is acceptable.
- The proposed houses would be located on lands previously designated as public open space, which is also the primary pedestrian route into the centre of the site.

- The proposal would result in the removal of a number of trees and vegetation which were to be retained. This would detract from the entrance to the scheme, public open space, public realm, passive surveillance and residential amenity and would have a negative impact on visual amenity, biodiversity, habitat and natural drainage.
- The 2m high boundary wall to the north and northwest of house No. 33 would result in an unattractive entrance to the development and would reduce passive surveillance of the adjoining open space. The PO also considered that the provision of private open space for the houses would be of poor quality.

### 3.2.2. Other Technical Reports

- Water and Environmental Services – No objection.
- Roads Department – No objection.
- Housing – The proposed development has no impact on the number of Part V units required.

### 3.3. Prescribed Bodies

- Uisce Éireann – No objection.
- Dept. of Housing, Local Government and Heritage – A condition requiring archaeological monitoring should be attached to any grant of permission.

### 3.4. Third Party Observations

One third party observation was received by the PA. The following issues were raised,

- Removal of additional trees from the site.
- Planning history for the site previously refused three houses in this location.
- Impact on the appearance of the entrance.
- Loss of public open space.
- Impact on wildlife.

## 4.0 Planning History

**21/1405** – Planning permission granted on the 26<sup>th</sup> of January 2022 for amendments to the previously approved planning permission Reg Ref No: 17/1085 & Ref No: ABP-301577-18. The application was for the addition of 4 houses, (4 x 3-bedroom houses), increasing the total new dwelling units on the site from 31 to 35, and changing a proposed 4-bed house to a 3-bed house. A split decision was issued by the PA. Planning permission was refused for 3 of the houses, (which were to be located on the subject site), and permission was granted for the addition of one house by changing of a proposed of 1 no. 4 bed dwelling unit into 2 no 3 bed semi-detached dwelling units.

**ABP-301577-18, (PA Ref. 17/1085)** – Planning permission was sought for the development of 43 houses on the site. Permission was granted on the 22<sup>nd</sup> of November 2018 for the development but with the omission of 12 houses to the rear of the Protected Structure.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The site is located within the administrative boundary of Wicklow County Council. The operative Development Plan for the area is the Wicklow County Development Plan, (WCDDP), 2022-2028, which came into effect on the 23<sup>rd</sup> of October 2022.
- 5.1.2. The application was initially assessed by Wicklow County Council in accordance with the policies and objectives of the Wicklow County Development Plan 2016-2022, which was the operative Development Plan at the time. The decision of the PA's was made under this plan.
- 5.1.3. On review of the contents of both plans and both Plans, I note that there are no material changes between the 2016 County Development Plan and the 2022 County Development Plan as they relate to the appeal site and the current proposal. In this regard I consider the proposal in accordance with the guidance and provisions of the operative Development Plan, namely the 2022-2028 Wicklow County Development Plan, (WCDDP).

5.1.4. The subject site is within the settlement boundary of the **Bray Municipal District Local Area Plan 2018-2024** and is zoned objective 'RE – 'Existing Residential'.

5.1.5. **Wicklow County Development Plan 2022-2028**

Section 17.4 – Woodlands, Trees and Hedgerows

- CPO 17.21 To strongly discourage the felling of mature trees to facilitate development and encourage tree surgery rather than felling if such is essential to enable development to proceed.
- CPO 17.22 To require and ensure the preservation and enhancement of native and semi-natural woodlands, groups of trees and individual trees, as part of the development management process, and require the planting of native broad-leaved species, and species of local provenance in all new developments.

**Appendix 1 – Development and Design Standards**

Section 3.0 – Mixed Use & Housing Developments

3.1.4 – Open space –

- The minimum quantum of private open space for houses of 3+ bedrooms is 60-75 sq. m.
- Public open space will normally be required at a rate of 15% of the site area – areas within the site that are not suitable for development or for recreational use must be excluded before the calculation is made.

5.2. **Natural Heritage Designations**

- No designations apply to the subject site.

5.3. **EIA Screening**

5.3.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of



significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal include the following,

- The proposed development seeks to increase the number of houses on the site from 32 to 34 by providing an additional two, four-bedroom houses. This is in accordance with national and regional planning policy which encourages increased density.
- The scheme will retain a significant area of open space and will integrate into the surrounding context without impacting on residential amenity. The quantum of private open space to serve the development would equate to approximately 5,000 sq. m. with an additional 9,430 sq. m. of undevelopable area within the wider site. This quantum greatly exceeds the requirement of the Development Plan.
- The site is located in an existing residential area with good public transport links with bus stops within 300 and 500m of the site. The Bray DART station is approximately 2.5km from the site.
- The R10 zoning objective for the site limits the density to 10 units per hectare. Development permitted for the site has a density of 8 units per hectare. The development proposal would increase this to 9 units per hectare, which does not breach the threshold.

**(Note** – This statement seems to be an error on the part of the appellant. The site is zoned RE – Existing Residential in the Bray LAP 2018, which has no restriction on density. The reports of the PO and the Planning Inspector for ABP-301577-18 also refer to the RE zoning of the site).

- The applicant does not agree that the gardens would be long and narrow. They would exceed Development Plan requirements and would be of appropriate size.

- In the interest of clarity, the applicant states that the approved attenuation tank is no longer located on the appeal site and has been relocated to a different part of the site on foot of a compliance submission. Therefore, there will be no impact from the proposal on attenuation and drainage.
- The proposal does not increase the number of trees to be removed from the site and would not result in any impact on the Protected Structure on the site.

## 6.2. Planning Authority Response

- No further comments received.

## 6.3. Observations

6.3.1. One observation was received from Stephen Brady on behalf of the Thornbrook Residents Group and raised the following issues.

- The developer has twice submitted plans to build on this location, (PA Refs., 21/1405 and 22/694), and both times the PA deemed it not to be a suitable location for development. The PA also found it unacceptable to remove an area of public open space, the primary pedestrian route to the estate and vegetation.
- The future residents are concerned with how the proposed homes will affect the look and style of the development. Concerns are also raised regarding the ecological impact and the potential impact on safety through altering the main pedestrian footpath and pushing it to the roadside.

## 7.0 Assessment

7.1. The issues raised in the grounds of appeal and in third party observations can be addressed under the following headings.

- Principle of Development
- Proposed Development
- Impact on Existing Development

- Appropriate Assessment

## 7.2. Principle of Development

- 7.2.1. The subject site is zoned objective RE – Existing Residential, which seeks, ‘To protect, provide and improve residential amenities of existing residential areas.’ This objective is further expanded on the Chapter 11 of the Bray LAP 2018, which states that the RE zoning is, *‘To provide for house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity. In existing residential areas, the areas of open space permitted, designated or dedicated solely to the use of the residents will normally be zoned ‘RE’ as they form an intrinsic part of the overall residential development; however new housing or other non-community related uses will not normally be permitted’.*
- 7.2.2. I am satisfied that the proposed development is acceptable in principle based on the zoning objective for the site and the surrounding pattern of development, which includes a new housing development currently under construction. The development can therefore be assessed against the policies and objectives of the Wicklow County Development Plan 2022-2028.

## 7.3. Proposed Development

- 7.3.1. The subject site is located at the entrance to the partially completed Thornbrook housing development within the grounds of Kilbride House, a Protected Structure. A number of in the southern section of the site are completed and occupied. It is proposed to construct an additional two houses on an area of open space adjacent to the entrance to the estate. The addition of two houses to the development would not have a significant impact on the density of the site, which would remain low at approximately 9 units per hectare. The houses would be detached, four-bedroom houses which would provide a good level of internal accommodation. As the site is essentially an infill site, the private open space for the houses would be compromised by the layout and the site restrictions.

- 7.3.2. Private open space for each house would be laid out in long strips of approximately 5m in width, along the western elevation of House No. 33 and the eastern elevation of House No. 32. The quantum of private open space would be sufficient to meet the requirements of the Development Plan, but the arrangement of the space would have an impact on the overall appearance of the wider development.
- 7.3.3. A low-level metal railing of 1.2m with hedgerow behind would form the eastern boundary to House No. 33 and would face onto the remaining area of open space at the entrance to the estate. To enclose the open space for both houses, the northern site boundary would include a section of rendered wall of 2m in height directly adjoining the public footpath, (as per the Boundary Treatment Plan submitted with the application). A section of the 'front' garden of No. 33, (i.e. to the front of the northern elevation), would also be enclosed by a 1.8m high boundary fence to provide private open space. The proposed boundary treatments would match those used in the landscaping plan for the wider site. However, the provision of a higher wall to screen the private open space from the public areas creates an uneven juxtaposition between the orientation of the houses, the positioning of the boundary walls and the overall aesthetic for the development. This impacts on the overall coherence of the landscaping scheme and the quality of the overall design of the proposed houses.

#### **7.4. Impact on Existing Development**

- 7.4.1. The layout of the development addresses the Protected Structure, and the retention of mature trees, within and around the site, references the historic character. This results in a unique open and sylvan setting. Should permission be granted for the development, there would still be a sufficient quantum of open space to adequately service the houses. However, I would agree with the opinion of the PO, that the location of the houses would have a negative impact on the overall setting of the development. The open space at the entrance to the site provides an appropriate introduction to the development and provides a separation between the original Gate Lodge and the new houses. The construction of two houses on the existing open space would detract from the sense of space and the open character of the development.

- 7.4.2. Concerns were raised by third parties regarding the provision of a safe pedestrian route from the development. The proposal would result in the loss of a pathway across the open space. However, it includes the provision of public footpaths adjoining the internal carriageways, which is sufficient to facilitate pedestrian movements.
- 7.4.3. I am satisfied that the proposed development would not have a significant impact on the biodiversity of the site as it has already been significantly developed. In response to the concerns raised regarding the further loss of trees, the applicant states that the development will not require any additional trees to be removed. I note that the original planning application for the site included the retention of a larger number of trees within the open space on the subject site than would appear be present. (This is shown in the Tree Survey submitted with PA Ref. 17/1085. Extract attached in Appendix 3). Despite the applicant's assertion, I would have a concern that the development would result in the loss of additional trees along the southern boundary. Should the Board be minded to grant permission, I would recommend that a condition be attached to ensure that adequate tree protection measures are employed during construction.
- 7.4.4. The proposed houses would back on to the mature treeline along the southern boundary of the site. The 2m high boundary walls would be visible between the trees and from Herbert Road and would detract from the setting of the development when viewed from this area. The proximity and visibility of the houses would be out of character with the existing pattern of residential developments along Herbert Road which have provided adequate separation from the carriageway using green space and mature trees.
- 7.4.5. I acknowledge that the woodland area along the southern boundary is not included in the formal open space for the development. However, it forms an attractive woodland area for passive use or informal play. I would agree with the PA that constructing a 2m high boundary wall adjoining this area would impact on the passive surveillance of this area.
- 7.4.6. Whilst the houses could be accommodated on the site, their position and orientation would have a negative impact on the overall setting of the development. The rear elevation of both houses would be visible from the main road and would diminish the

woodland setting of the existing mature trees and the open space beyond. The proximity of the houses to the entrance would also detract from the landscaping and sylvan character that has been curated and retained within the development. Additional planting along the western elevation of House No. 33 would help to soften the visual impact but the built form and long elevation would undermine the carefully considered character of the development.

## **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission is refused for the development.

## **9.0 Reasons and Considerations**

Having regard to the proximity of the proposed houses to the southern boundary of the site and to the entrance of the development, it is considered that the development would result in a negative visual impact on the character and setting of the overall development which responds to its location within the grounds of a Protected Structure. It would result in an incongruous form of development within the site and would seriously injure the visual amenities of the area, which would be contrary to the policies and objectives of the Wicklow County Development Plan 2022-2028, and in particular with the RE zoning objective for the site and would be contrary to the proper planning and sustainable development of the area.

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.

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Elaine Sullivan  
Planning Inspector

1<sup>st</sup> of December 2023

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-314579-22		
<b>Proposed Development Summary</b>	Planning permission is sought for an additional 2 x 4-bedroom houses in a housing development permitted under ABP-301577-18, (PA Ref. 17/1085), and amended under PA Ref. 21/1405.		
<b>Development Address</b>	Kilbride Hill House, Herbert Road, Bray, Co. Wicklow.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	
<b>Yes</b>	X	Class 10(b)(i) – 500 residential units	Proceed to Q.4



**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Form 2**

**EIA Preliminary Examination**

<b>An Bord Pleanála Case Reference</b>	ABP-314579-22	
<b>Proposed Development Summary</b>	Planning permission is sought for an additional 2 x 4-bedroom houses in a housing development permitted under ABP-301577-18, (PA Ref. 17/1085), and amended under PA Ref. 21/1405.	
<b>Development Address</b>	Kilbride Hill House, Herbert Road, Bray, Co. Wicklow.	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	The development is for 2 additional houses in a partially completed housing development.	No
		No
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing</p>		No
		No

and/or permitted projects?		
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>		No
<b>Conclusion</b>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>	<p><b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b></p>	<p><b>There is a real likelihood of significant effects on the environment.</b></p>

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)

### Appendix 3

#### Extract from Tree Survey Report – Submitted with PA Ref. 17/1085



With reference to the above drawing, Page. 3 of the Report states that, 'The perceived development impacts have been demonstrated graphically on the drawing 'Kilbride Hill House-A1A-08-17', within which trees denoted with a 'Black' crown outlines will be removed and those denoted with 'Green' crown outlines will be retained'.