



An  
Bord  
Pleanála

## Inspector's Report ABP-314681-22

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<b>Development</b>	Construction of two detached two storey split - level four bedroom houses.
<b>Location</b>	No. 84 Newcourt Road, located at junction of Newcourt Road and Raheen Park, Bray, Co Wicklow, A98 E7F4.
<b>Planning Authority</b>	Wicklow County Council.
<b>Planning Authority Reg. Ref.</b>	21/1554.
<b>Applicant</b>	Tino and Claire Cassoni.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party v Grant of Permission
<b>Appellant</b>	Maura Moraghan and family.
<b>Observer(s)</b>	None.

**Date of Site Inspection**

8<sup>th</sup> February 2023

**Inspector**

Enda Duignan

## **1.0 Site Location and Description**

- 1.1.** The address of the appeal site is No. 84 Newcourt Road, Bray, Co. Wicklow. The site is located at the junction of Newcourt Road and Raheen Park and comprises the side garden of a detached dormer style dwelling. There is an existing vehicular entrance and connecting driveway located along its north-eastern boundary to Raheen Park which leads a car parking area to the front (north) of the existing dwelling. The dwelling is served by a large area of amenity space to its front side and rear and the site contains a slope from its rear (south) down towards its roadside boundary. The site has a stated area of c. 0.15ha.
- 1.2.** In terms of the site surrounds, the site is located within an established residential area which is characterised by semi-detached and detached single and double storey dwellings of a varying architectural styles. The site is bound to the east by No. 1 Raheen Park with the property at No. 85 Newcourt Road located further to the west, beyond the existing dwelling. There are also a number of single and dormer style properties located to the south of the appeal site on Newcourt Avenue and Raheen Park.

## **2.0 Proposed Development**

- 2.1.** The proposed development seeks planning consent for the construction of 2 no. detached dwellings within the side amenity space of the existing dwelling on site. The proposed dwellings will have a double storey form and each dwelling will have a floor area of c. 265sq.m. The dwellings shall comprise an open plan kitchen/living/dining room, WC, store, study and living room at ground floor level and 4 no. bedrooms at first floor level. The north facing master bedroom is served by a terrace on the front elevation of each dwelling.
- 2.2.** Each dwelling shall be served by an area of amenity space to its rear and a partially enclosed terrace on its western side. Given the topography of the site, the dwellings are split level with the rear element of each dwelling being elevated relative to its front.

- 2.3.** In terms of site access, the proposal seeks to relocate the existing vehicular entrance to the south east and provide a new vehicular entrance so that each dwelling can be independently accessed from Raheen Park. 3 no. designated off-street car parking spaces are proposed to be provided within the front setback of each dwelling. A new 1m high rendered wall is proposed to the north of each dwelling and will delineate the boundaries between the 2 no. proposed dwellings and the existing dwelling on site.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Wicklow County Council granted planning permission for the development subject to compliance with a total of 7 no. conditions. A condition of noted included:

Condition No. 6

The side (eastern) balustrade panel to the first floor terraces of the proposed houses shall be fitted with a 1.7m high obscure screen.

Reason: To protect against overlooking, in the interest of protecting residential amenity.

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

##### **3.2.1. Planning Report**

The Wicklow County Council Planning Reports form the basis of the decision. The First Report provides a description of the site and the subject proposal, it sets out the planning history of the site and provides an overview of the policy that is relevant to the development proposal. The report also summaries the observations on file.

The Planning Authority note that the principle of development is acceptable at this location it was considered that the layout and overall size of the site can accommodate the construction of 2 no. new houses and the retention of the existing house. It was highlighted that the existing dwelling was the subject of a concurrent application for its extension. No concerns were raised with respect to the design and form of the dwellings. However, further information was requested with respect to the following matters:

- The applicant was required to submit an overshadowing assessment of the proposal in the context of the property to the east and its front amenity space.
- Revised site layout plan demonstrating adequate sightlines.
- A longitudinal section of the proposed driveways.
- Proposals to address surface water runoff from the driveway on the public road.
- Additional information with respect to drainage and design details for SUDS proposals.

Following the submission of additional information, the Planning Authority recommended a grant of planning permission subject to compliance with 7 no. conditions.

#### 3.2.2. Other Technical Reports

Bray Municipal District Engineer: First report recommending additional information. Second report received stating no objection subject to compliance with conditions.

#### 3.2.3. Prescribed Bodies

Irish Water. Report received stating no objection subject to compliance with conditions.

#### 3.2.4. Third Party Observations

A total of three (3) no. observations were received from Third Parties. The issues raised within the observations can be summarised as follows:

- Concerns with respect to overlooking.
- Concerns with respect to the impact of the proposal on views.
- The scale and height of the proposal is not acceptable.
- The density of development is excessive.
- It is unclear whether the dwellings are 2 or 3 storeys in height.
- Concerns with respect to the impact of the proposal on the structural integrity of adjoining properties.
- Site notice was misleading.
- The proposal is not in keeping with the character of the surrounding area.

- Traffic related concerns associated with the creation of 2 no. vehicular entrances.

An additional observation was received following the Applicant's submission of additional information. Concerns were highlighted within this observation with respect to the creation of a new vehicular entrance and the potential for a traffic hazard at this location.

## **4.0 Planning History**

### **4.1. Appeal Site**

**21/1555 (existing dwelling):** Planning permission granted by the Planning Authority in May 2022 for development comprising the removal of the existing pitched roof and chimneys, partial demolition of internal and external walls, the construction of a part single, part two storey extension with three rooflights to the front, side and rear of the existing single storey detached bungalow, the provision of a new vehicular entrance onto Newcourt Road with associated gates and pillars, alterations to the existing front boundary wall, together with all associated site and landscaping works.

**99/630246:** Planning permission refused by the Planning Authority in January 2000 for the construction of a new house to the side of the existing house.

**99/630247:** Planning permission granted by the Planning Authority in January 2000 for development comprising the construction of a conservatory to the side of the existing house.

## **5.0 Policy and Context**

### **5.1. Project Ireland 2040 National Planning Framework (NPF)**

The first National Strategic Outcome expected of the National Planning Framework is compact growth. Effective densities and consolidation of urban areas is required to minimise urban sprawl and is a top priority. 40% of future housing delivery is to be within the existing footprint of built up areas (National Policy Objective 3a).

National Policy Objective 35 of the NPF seeks to “Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.

## **5.2. Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).**

A key National Strategic Outcome (NSO 1) in the NPF and Regional Strategic Outcome (RSO 2) in the RSES is the need to achieve ambitious targets for compact growth in our urban areas. Urban regeneration and infill sites can contribute to sustainable compact growth and revitalisation of existing settlements of all scales. This will help to address National Policy Objective 3a, 3b and 3c of the NPF which targets the delivery of new homes within the footprint of existing settlements.

## **5.3. Design Manual for Urban Roads and Streets (DMURS), 2019.**

## **5.4. Quality Housing for Sustainable Communities, 2007 (Department of the Environment, Heritage and Local Government).**

## **5.5. Wicklow County Development Plan, 2022-2028 (CDP)**

In relation to zoning, the plan states that 'For larger towns in Levels 1-5, where more significant growth is targeted that is unlikely to be possible to accommodate wholly within the existing built up envelope, a minimum of 30% of the targeted housing growth shall be directed into the built up area of the settlement. In cognisance that the potential of town centre regeneration / infill / brownfield sites is difficult to predict, there shall be no quantitative restriction inferred from this Core Strategy and associated tables on the number of units that may be delivered on town centre regeneration / infill / brownfield sites.

The policy notes that town centre regeneration / infill / brownfield developments normally located within the existing built up part of the settlement, generally on lands

zoned 'town centre', 'village centre', 'primary area', 'existing residential' and other similarly zoned, already developed lands will be prioritised and promoted in the first instance for new housing development.

Relevant policy objectives of the current CDP include:

- **CPO 4.2:** Town centre regeneration / infill / brownfield developments normally located within the existing built up part of the settlement, generally on lands zoned 'town centre', 'village centre', 'primary area', 'existing residential' and other similarly zoned, already developed lands will be prioritised and promoted in the first instance for new housing development.
- **CPO 4.3:** Increase the density in existing settlements through a range of measures including bringing vacant properties back into use, reusing existing buildings, infill development schemes, brownfield regeneration, increased building height where appropriate, encouraging living over the shop and securing higher densities for new development.
- **CPO 6.21:** In areas zoned 'Existing Residential' house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space, see CPO 6.25 below). While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.
- **CPO 6.22:** In existing residential areas, small scale infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties. However, on large sites or in areas where previously unserviced, low density housing becomes served by mains water services, consideration will be given to densities above the prevailing density, subject to adherence to normal siting and design criteria.



## Relevant Appendices

- Appendix 1: Development and Design Standards.

### **5.6. Bray Municipal District Local Area Plan 2018 – 2024 (LAP)**

The site is zoned RE – Existing Residential. The objective of which is to: ‘To protect, provide and improve residential amenities of existing residential areas’. The description 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.

Page 26 of the written statement states: ‘In order to make best use of land resources and services, unless there are cogent reasons to the contrary, new residential development shall be expected to aim for the highest density indicated for the lands. The Council reserves the right to refuse permission for any development that is not consistent with this principle. Lands zoned Residential – High Density will be expected to achieve a density of not less than 50 units / hectare.’

Policy objectives contained within the LAP which are relevant to the assessment of the proposed development include:

- **R1:** All new housing developments shall be required to accord with the housing objectives and standards set out in the Wicklow County Development Plan.
- **R2:** In order to make best use of land resources and services, unless there are cogent reasons to the contrary, new residential development shall be expected to aim for the highest density indicated for the lands. The Council reserves the right to refuse permission for any development that is not consistent with this principle. Lands zoned Residential - High Density will be expected to achieve a density of not less than 50 units / hectare.
- **R3:** Housing development shall be managed and phased to ensure that infrastructure and in particular, community infrastructure, is provided to match the need of new residents. Where specified by the Planning Authority, new significant residential or mixed use development proposals, may be required to provide a social and community facility/facilities as part of the proposed

development or the developer may be required to carry out a social infrastructure audit, to determine if social and community facilities in the area are sufficient to provide for the needs of the future residents. Where deficiencies are identified, proposals will be required to either rectify the deficiency, or suitably restrict or phase the development in accordance with the capacity of existing or planned services.

- **R4:** To encourage in-fill housing developments, the use of under-utilised and vacant sites and vacant upper floors for accommodation purposes and facilitate higher residential densities at appropriate locations, subject to a high standard of design, layout and finish.

### **5.7. Natural Heritage Designations**

The nearest designated site is the Bray Head SAC (Site Code: 000714), located c. 350m to the south of the appeal site.

### **5.8. EIA Screening**

Having regard to the nature and scale the proposed development which consists of the construction of 2 no. infill detached houses in a suburban location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

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

A Third Party appeal has been prepared and submitted on behalf of Maura Moraghan and family, who reside in the property to the immediate east of the appeal site. The appeal submission outlines the existing development context, it sets out the development in the context of the appellant's property, it queries a number of technical matters in the submitted documentation and drawings, it reviews the planning history of the site and it carries out a relevant planning policy assessment of the proposed development. The main grounds of appeal can be summarised as follows:

- It is stated that the proposed development fails to comply with the sustainable residential development guidelines given its siting and design. It is submitted that the proposed development does not strike an acceptable balance between reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. It is stated that the proposed design seeks to achieve excessive density, scale, height, length and massing of dwellings on a sloping site which is unsuitable, due to its physical context and multiple constraints.
- The proposed development is contrary to the Urban Design Manual (2007) and cannot be considered to evolve naturally as part of its surroundings. The buildings are up to three storeys in height and 24.5m long and extend extremely close to the shared boundaries with residential properties and their respective rear gardens. It is stated that it is a high-density residential scheme that would bear no positive visual relationship whatsoever in the surrounding urban design of the area and there is little visual relationship to adjoining residential developments.
- The design provides for a dwelling which extends 11m in front of the appellant's front elevation and the proposal fails to prevent negative residential impacts on residential properties. It is stated that the proposed dwellings are too tall, long and close to adjoining site boundaries and the scheme's scale and design have been prioritised above the residential and visual amenities of the surrounding area.
- The proposed development fails to respond to the character and pattern of development surrounding the full circumference of the site. The dwellings are monolithic, long, bulky and over scaled which are not informed by the developments place and time and therefore, the proposal represents an over development of this subject site.
- It is contended that the proposed development does not enhance or improve the residential amenity of the surrounding area and would in fact cause significant negative impacts on their established residential and visual amenities. In this regard, the proposal is contrary to Objective HD2 and HD9 of the County Development Plan.

- The proposal is contrary to the policy requirements of the Bray Municipal District Local Area Plan 2018-2024. It is contended that the proposed dwelling should be refused and a revised application for a single dwelling, set back from the east and west boundaries of this garden site be proposed instead.
- With respect to Ground 2, it is stated that the proposed 530sq.m. floor area in 2 no. houses constitutes a gross overdevelopment of the appeal site.
- The existing pattern and character of the area suggests that one dwelling could be accommodated on the appeal site, not two. It is contended that this site can accommodate one dwelling of the size proposed, subject to it being orientated in the same manner as the existing dwelling. The peculiar shape and sloping nature of the site results in a form of development that is at odds with its context.
- The appellant does not accept that two dwellings orientated in the north-south manor can reasonably be inserted into the site. It is stated that the applicant's proposals ignore the surrounding site context and a suitable proposal for the appeal site would be the provision of a bungalow which would be sited along the building line between the two existing dwellings. This bungalow could be of the same scale as the existing dwelling on site and would provide a dwelling with quality front and rear gardens, adequate setbacks to adjoining properties and side elevations facing east and west which are no more than 11m long.
- It is contended that the proposed dwellings are a storey too tall to the front and a storey too tall to the rear. The maximum height of the dwelling should not ignore the context just because a split level design approach is proposed.
- It is stated that House B proposes a relationship to the appellant's dwelling which is far worse than that of the proposals for House A and the existing dwelling on site. It is contended that the eaves level of the appellant's property represents the appropriate maximum height of House B. This would provide for a two-storey house to the front and a single storey house to the rear.
- The appeal site and the appellant's property are located at the confluence of Newcourt Road and Raheen Park and both properties have large front gardens due to this particular siting. It is stated that the applicant's existing dwelling responds to the established building line along new Newcourt Road. It is the appellant's position that any new development proposed on the appeal site should respectfully address the historic building line that exists between the

existing dwelling on site and the appellant's property. One cannot reasonably consider that this has been achieved. The result is that the two proposed dwellings are sited approximately 11m in front of the appellant's dwelling and its established building line.

- It is stated that proposed dwellings are massive houses with massively long side elevations which would leave the appellant's dwelling appearing wholly at odds with this proposed development. It is also stated that the proposal negatively impacts the residential amenity of the appellant's property. It is stated that these negative impacts are wholly avoidable by staggering the sighting of one or two of the dwellings within the applicant site. Alternative proposals could have been submitted so this staggered setback could be achieved.
- It is stated that the applicant's dwellings are extraordinarily long and the length and depth of these dwellings need to be reduced to something resembling a standard house in this area, which would be 11m to 16m maximum. It is stated that the proximity of the east elevation is exacerbated by the proposed courtyard design. It is noticeable that the courtyard design favors the existing dwelling on site by offering a set back to the rear section of House A. It is stated that the removal of the courtyards would allow the rear section of House B to be set back a further 1.8m from the boundary with the appellant's property.
- The applicant's rear gardens and rear garden layouts require revisions and the designs have been shoehorned into an area which is suitable to contain one dwelling only.
- There is an objection to how the split level design is manifested on the subject site. It is stated that the applicant has not provided contiguous east and west elevations showing the outline of the appellant's dwelling relative to the proposed houses. It is difficult to judge what impact the development would have on the appellant's property.
- It is stated that the rear elevation contains large windows at first floor level and would overlook the garden of the appellant. It is contended that a balanced relationship between the two properties would see the applicant's rearranging to provide a single level to the rear. The need for large front balconies is also questioned. It is stated that these are proposed in a manner which would allow

angled views into the appellant's property. It is contended that front balconies are contrary to the established character and pattern of development in the area the proposal would set precedent for similar development to be added to existing dwellings.

- Concerns are raised that a landscaping plan has not been submitted with the application or appeal.
- Concerns are highlighted with respect to existing and proposed boundary treatments and it is difficult to understand what is fully proposed.
- In terms of Ground 3, significant concerns are raised with respect to the impact of the proposal on the residential and visual amenities of the appellant's property. It is contended that the proposed development needs to be revised by way of a refusal of planning permission and the submission of a new planning application for one dwelling or for two smaller dwellings which are single storey to the rear.
- By reason of the overall height and the length of the side elevations, the proposal would cause a significant and negative impact on the residential amenity of the adjoining property arising from visual overbearing, visual obstruction and intrusion and the proposals would therefore be contrary to the planning and sustainable development of the area. It is also stated that the eastern side elevation of House B is monolithic in scale which exacerbates the overbearing impact and the appellant describes it as being akin to shipping containers being stacked on top of one another alongside their property. It is also noted that the flat roofed nature of the building compounds this visual impact.
- Significant concerns are raised with respect to the potential for overlooking from the first floor level balcony on the front elevation and also from the first floor level windows to the rear of the property. It is stated that the condition of the permission as included by the Planning Authority fails to address the concerns of overlooking.
- Concerns have been highlighted with respect to the negative impact of the proposal on the appellant's property by reason of overshadowing. It is stated that the submitted BRE Assessment approach is not accepted and is not suitable for developments of this nature. The Board is requested to not rely wholly on

the conclusions of this BRE Assessment, but also makes its own judgment as to the extent of overshadowing proposed. Reference is made to precedent cases where applications were refused on the basis of the Shadow Diagrams and not the BRE Guidelines or Assessment.

- In terms of overshadowing, it is contended within the appeal submission that the conclusions reached by both the applicant and the Planning Authority underrepresent the likely impact arising. Concerns arise regarding the late afternoon and evening in particular, and this overshadowing has the potential to negatively impact on the appellant's property and the site's future development potential.
- An overshadowing exercise has been undertaken by the appellant which they contend demonstrate that the overshadowing impacts are more pronounced than what has been identified throughout the year in the planning application documents.
- Concerns are highlighted that the applicants BRE Assessment did not have regard to the impact of the proposed development on the west facing windows, glass conservatory to the rear or the 4 no. roof lights of the appellant's property. The appeal submission notes that there is no issue with digital dimensions assessor doing his work. However, it is stated that the BRE Guidelines are not meant to act as a tool to make genuine overshadowing concerns disappear. The 2 no. proposed dwellings are sited to the west of the appellant's property and in the line of afternoon and evening sunshine. It is stated that the sunlight cannot reach their property if a two or three level building is proposed as close as House B is to the appellant's property. It is argued that the windows, roof light and conservatory and that their front yard and rear gardens must be protected from excessive overshadowing.
- It is stated that the appellants have had difficulty understanding the proposed development and additional 3D visuals should have been provided for the Planning Authority and the Board to properly assess the proposed development.
- In terms of Ground 4, It is stated that the proposed development could impact negatively on the value of the appellant's property by preventing their ability to develop their front garden in the future. It states that the appellant has a large

front garden and there is ample room to the front of their property for a new dwelling with parking and private open space. It is contended that in principle and subject to design, an infill dwelling could fit into the appellant's front garden. This being the case, it is considered that the matter in which the dwellings project forward of the appellant's building line and contains a balcony, would negatively impact on the development potential of their property.

- In terms of Ground 5, Concerns are raised with respect to the cumulative negative impact of the 2 no. proposed dwellings. It is stated that there are many issues with the proposed site layout plan and how it addresses the existing dwelling which are of concern to those who want to ensure that the establish character and pattern of development in the area is respected.
- In terms of Ground 6, it is again highlighted that the proposal represents an overdevelopment of the appeal site. It is stated that the setbacks to the appellant's property are insufficient to protect them from the negative impacts of this overdevelopment.
- I note that Ground 7 and 8 as detailed in the table of contents are in fact included as Ground 11 and 12 in the body of the report.
- With respect to Ground 9, it is contended that the proposal will result in the proliferation of unsafe vehicular entrances at this location. It is argued that one shared entrance should be provided to serve the new dwellings, in the event that they are to be permitted. It is also considered that a Road Safety Audit should have been submitted to properly assess the impact of the proposed development.
- With respect to Ground 10, significant concerns have been raised in terms of the potential noise impacts associated with the proposed development. It is stated that there is a lack of suitable noise mitigation measures proposed to address potential noise impacts associated with the construction phase of the proposed development. Mitigation measures should include:
  - The provision of 3m tall acoustic barriers on the boundaries which shared private properties.
  - The provision of acoustic barriers on the external face of all scaffolding where works are proposed to take place above first floor level.



- Noisy construction work should not begin on the site until 8.30am and it should stop at 5pm.
- It is contended that monitoring of noise is required to effectively manage noise and vibration at the appellant's property and consequences must arise if noise levels are exceeded. It is suggested that planning conditions attached to a possible grant of planning permission should direct the applicant to ensure a complaints management procedure is properly implemented.
- In terms of vibration, the applicant has failed to assess the impact that vibration caused by the scheme during the construction phase would have on existing adjoining properties. It is considered that the Board cannot be in a position to grant planning permission in a situation where the existing baseline vibration levels are unknown, where the status of the ground within the site and adjoining properties is unknown and the pre-project vibration status of surrounding properties is unknown. It should be made clear as to how the applicant proposes to indemnify the appellant's property against possible structural impacts arising from construction vibration. It is also highlighted that a noise and vibration impact assessment report is required.
- Concerns are also highlighted with respect to possible light overspill impacts and dust impacts which would need to be carefully managed.
- With respect to Ground 11, it is contended that the proposed development as submitted would set a poor precedent for similar development in the surrounding area. It is stated that any decision to grant this proposal would signal that the existing and established amenities of existing properties are to be sacrificed to support CDP non-compliant development.
- In terms of Ground 12, concerns are highlighted that the proposed development, as currently designed and sited would seriously injure the amenities and depreciate the value of their property. It is stated that this proposal can be redesigned and its scale reduced to address their concerns, but failing this, the proposal is not acceptable.
- The appeal submission recommends that planning permission be refused for the proposed development. It is stated within the submission that they cannot envisage any redesign which could be undertaken by way of condition that could address the concerns arising from the siting, scale and design of the

proposed dwellings. Suitable reasons for refusal have been recommended within the appeal submission

- Should permission be contemplated, the following conditions are recommended:
  - House B should be refused in a split decision. Failing this, House B should be set back from the shared boundary and its eastern elevation reduced to no more than 11m to 15m in length.
  - The dwelling should be redesigned to reflect an appropriate scale and not impact negatively on adjoining and neighbouring properties. The front balconies should be removed from both houses.
  - There should be one road entrance to serve both new houses and this should be sited in the location of the existing road entrance.
  - Full details of the proposed boundary treatment to the appellant's property are required.
  - A Construction Management Plan, Noise and Vibration Management Plan and Dust Minimisation Plan should be required.

## **6.2. Planning Authority Response**

None.

## **6.3. First Party Response**

A response has been prepared on behalf of the Applicant which noted the following:

- In terms of the technical matters raised, it stated that drawings have been provided of contiguous elevations with datum levels annotated on all parts of the proposed development. These elevations show the proposed development next to the adjoining property, all at the same scale, for basic understanding of the proposal relative to the existing context.
- It is contended that the proposals seek to maintain the established building line and has also had regard to the properties further to the east of the appeal site and their respective building lines.
- The appellant's claims that the dwelling is monolithic in scale is contested. The finish proposed is a self coloured render which is a dominant material in the

area. It is stated that there is a selection of materials proposed which will add detail to help soften the appearance of the dwellings.

- With respect to overshadowing, the BRE Assessment has been carried out to the current industry standard for daylight analysis and they have undertaken the required analysis to satisfy the suitability of the proposed development in this regard.
- In terms of the accuracy of the shadow analysis and the concerns raised by the Third Party, it is stated that the shadows have been generated from a detailed 3D model in a sunlight generating software, georeferenced with the coordinates of the site for the correct altitude and azimuth. The alternative shadow diagrams presented by the appellant provides rudimentary shadow generation of a theoretical object, which fails to take account of the complexities of the site and context, and which is believed to have no verification or validity for use in a statutory application.

#### **6.4. Observations**

None.

#### **6.5. Further Responses**

None.

#### **7.0 Assessment**

The main issues are those raised in the Third Party's grounds of appeal and the Planning Reports on file. Overall, I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Design, Visual Amenity & Neighbourhood Character
- Residential Amenity
- Access
- Other Matters
- Appropriate Assessment

## **7.1. Principle of Development**

- 7.1.1. The proposal seeks planning consent for the construction of 2 no. detached dwellings within the site amenity space of the existing dwelling on the original site. The appeal site has a stated area of c. 0.15ha and the original landholding benefits from a large area of amenity space to its front, rear and eastern side. I also note that the larger landholding which includes the existing dwelling is somewhat of an anomaly in the area as it is roughly 3-4 times the size of sites, typically found along Newcourt Road, Raheen Park and the neighbouring residential areas to the north of the appeal site. Under the Bray LAP, the site is zoned RE – Existing Residential, the objective of which is to ‘To protect, provide and improve residential amenities of existing residential areas’. This zoning objective seeks 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. I note that residential development is identified as a permitted in principle use on lands zoned RE.
- 7.1.2. Given the nature of the proposed development and the characteristics of the appeal site, the proposal can be described as infill development. Policy Objective R4 of the Bray LAP is therefore relevant to consideration of this appeal, whereby it is policy ‘To encourage in-fill housing developments, the use of under-utilised and vacant sites and vacant upper floors for accommodation purposes and facilitate higher residential densities at appropriate locations, subject to a high standard of design, layout and finish.’ There is also policy support for infill type development under Objective CPO 4.3 of the current CDP, whereby it is policy to ‘Increase the density in existing settlements through a range of measures including bringing vacant properties back into use, reusing existing buildings, infill development schemes, brownfield regeneration, increased building height where appropriate, encouraging living over the shop and securing higher densities for new development.’ In addition to the local level policy support for developments of this nature, I am satisfied that the proposed development would represent a more efficient use of a brownfield site which benefits from good access to public transport and range of amenities and services given its location relative to Bray. This is particularly relevant in the context of national policy

objectives which seek to ensure that 40% of future housing delivery is to be within the existing footprint of built up areas (National Policy Objective 3a). Section 2.6 (Securing Compact and Sustainable Growth) of the National Planning Framework (NPF) also highlights that the preferred approach to development would be compact development that focuses on reusing previously developed, 'brownfield' land, building up infill sites, which may not have been built on before and either reusing or redeveloping existing sites and buildings. I consider this to be directly applicable to the development proposal given the national policy objectives which now seek to secure compact and sustainable growth.

- 7.1.3. Having regard to the overall size of this site, the pattern of development in the surrounding area and the applicable zoning designation, I am satisfied that the principle of an infill development at this location is acceptable and is in accordance with local through to national policy. The issue that needs to be ascertained is whether the proposed development is acceptable on this specific site, taking into consideration the design and layout, the impact on the amenities of adjoining residents, access and the sustainable planning and development of the area.

## **7.2. Design, Visual Amenity & Neighbourhood Character**

- 7.2.1. As noted in the foregoing, the proposal seeks to construct 2 no. new dwellings within the side amenity space of the existing dwelling, thereby resulting in the subdivision of the larger landholding. Given the slope across the site, a degree of cut is proposed and a split level design has been adopted so the linear form of each dwelling follows the topography of the site. Each dwelling will have a distinctly contemporary architectural expression with a flat roof form, with materials and finishes comprising a combination of brick and painted render for the principal elevations. I note that planning permission has been approved under Ref. 21/1555 for the extension and modernisation of the existing dwelling on site which will adopt a similar architectural response.
- 7.2.2. Section 3.1.6 (Infill/backlands development in existing housing areas) of Appendix 1 of the current CDP indicates that where opportunities arise for infill or backland type

development, the design of a new house should complement the area. Where an area has an established unique or valuable character worthy of preservation, particular care should be taken to match the style and materials of the area; however, where an area is a 'mixed-bag' of styles and periods, more flexibility can be applied. From my inspection of the appeal site and my analysis of the surrounding area, I observed there to be a variety of architectural styles within the surrounding street network. I also note that the site is not located within an architectural conservation area, nor is the site located within close proximity of an existing Protected Structure. A flexible approach to the design of the dwellings can therefore be provided in this instance and I am satisfied that a contemporary architectural design can be complimentary to the established neighbourhood character in this instance. Although the proposal represents a departure from the immediate neighbouring properties in design terms, the proposed dwellings are designed to a high standard and are of an overall scale, height and form which are responsive to the prevailing neighbourhood character and provide an acceptable graduation in height within the existing streetscape context. I note that there are extensive views of the appeal site, when travelling in a southerly direction along Edward Road to the site's north-west. However, I note that the dwellings to the south of appeal site on Raheen Park, are perched above the appeal site with Bray Head located further uphill to the south. As a consequence, the proposed dwellings can readily nestle into its receiving landscape and will not have an adverse impact on the existing streetscape. Overall, the proposal provides a density of development which is consistent with the pattern of development in the surrounding area and I consider the design of the dwellings to be respectful of the areas established neighbourhood character. I am therefore satisfied that the proposal is in accordance with Objective CPO 6.22 of the current CDP.

- 7.2.3. I note that significant concerns have been raised in the Third Party appeal submission with respect to the proposed building line and the failure of the proposal to provide a graduated building line which has regard to the siting of the appellant's property. I note that the appellant's property is somewhat of an anomaly in the existing streetscape context, given the substantial setback of the dwelling from Raheen Park to the north. The appellant's dwelling is served by a front garden and a car parking area to its

immediate north. This dwelling's private open space area is located to the rear, with this area benefiting from a southern orientation. In terms of the surrounds, the dwellings further to the east along Raheen Park are substantially set forward of the appellant's property. I note that the dwellings to the west of the appeal site along Newcourt Road have a building line which generally matches that of the existing dwelling on the larger landholding. House A proposes to match the front building of the existing dwelling and is set forward by c. 2m beyond the proposed front building line of House B. Having inspected the site and surrounds, I am satisfied that the development as proposed would not disrupt the rhythm of the existing streetscape and I consider that the design approach has had due regard to its receiving context and the established building line along Newcourt Road. Whilst I acknowledge that the dwelling is sited beyond the building line of the appellant's property, I am cognisant of the dwelling constructed to the immediate east of their property (Ref. 03/176). This dwelling was constructed within the side amenity space of 'Raheen House', and a building line was provided which matched that of the properties further to the east along Raheen Park. A similar design response has been adopted in the case of the proposed development which I deem to be acceptable. There is no policy provision with the current CDP that requires a graduated building line to be provided and I am satisfied that the development as proposed will not be detrimental to the existing streetscape character. In this regard, I consider the proposal to be acceptable having regard to the visual amenity of the surrounding area.

### **7.3. Residential Amenity**

- 7.3.1. As set out within the detailed grounds of appeal, significant concerns have been raised with respect to the impact of the proposed development on the residential amenity of the appellant's property. This dwelling is located to the immediate east of the subject site and like many of the dwellings along Raheen Park to the east, is double storey to the front with a single storey element extending to the rear given the topography of the lands. I note that additional accommodation is also provided at attic level within this dwelling and contained within the gable fronted roof form. House B is proposed to be located adjacent the appellant's property and on its eastern side has a total length of c. 24m. As noted, a split-level design has been adopted and a degree of cut is

proposed across the site. On its eastern side, the height of the proposed dwelling will range from between c. 6.37m to c. 7.83m above the revised ground level. The rear portion of House B is largely sited opposite the side wall of the appellant's property and a minimum setback of c. 1.2m is provided from the common boundary. The front element of House B is positioned forward of the front building line of the appellant's property and the double storey element of the dwelling is set back c. 3m from the shared boundary. Given the overall scale and height of the dwelling and due to the fact that it does not extend beyond the rear building line of the appellant's property, I am satisfied that the proposed development will not unduly compromise the residential amenity of the appellant's property by reason of being visually overbearing. I deem the provision of a double storey form to represent an acceptable graduation in height at this location and I note that views of the side elevation of House B when viewed from the rear amenity space of appellant's property be obscured somewhat by their own dwelling. Although a significant portion of the dwelling extends beyond the front building line of the appellant's property, I note that more generous setbacks (i.e. c. 3m) are provided from the common boundary and I am satisfied that the proposal will not unduly diminish the residential amenity of this property.

- 7.3.2. Concerns have been highlighted with respect to the potential for overlooking of the appellant's property from the north facing balconies of House A and B and from the first floor level windows of House B on the rear elevation. Each dwelling will have a balcony on its northern elevation at first floor level which will be directly accessible from the master bedrooms. The appeal submission contends that the proposal will result in overlooking of the adjoining property and it was considered that that proposal was not in keeping with the character of the surrounds and would set a poor precedent for similar development in the area. I note that the Planning Authority included a condition (Condition No. 6) which requires the side (eastern) balustrade panel to the first floor terraces to be fitted with a 1.7m high obscure screen as a measure to protect against overlooking. Given the siting of the proposed dwelling relative to the appellant's property and as the balconies are located to the front of the property, I do not share the appellant's concerns with respect to undue overlooking. Although balconies may not be prevalent within the surrounding area, I am satisfied that the



proposal would not establish a poor precedent. Subject to their careful design and siting, balconies such as those proposed can significantly enhance the amenity of existing dwellings. In response to the concerns raised that the proposal may impact the development potential of the appellant's property, I do not consider this to be the case in this instance as there are no windows/balconies within House B which have an outlook towards the appellant's property that would constrain the development on the adjoining site. I therefore deem the proposals to be acceptable subject to compliance with the condition as recommended by the Planning Authority.

7.3.3. With respect to the first floor level windows on the rear elevation, I note that there are 2 no. windows which will serve Bedroom Nos. 3 & 4. The appellant has concerns that the windows will result in overlooking of their rear amenity space and it was suggested that the height of the dwelling should be limited to single storey. I note that the windows are not directed towards the amenity space of appellant's property and have a southern orientation. This is a typical arrangement found in most urban and suburban environments and I am satisfied that the proposal will not result in undue overlooking of the adjoining property. I therefore consider the proposal to be acceptable having regard to the residential amenity of the surrounds.

7.3.4. The appellant has also raised concerns with respect to overshadowing impacts associated with the proposed development and the impact of the proposed development in terms of loss of light. Following concerns raised by the Planning Authority at additional information stage, the Applicant submitted a Daylight and Sunlight Assessment of the proposed development which examined the potential impact of the proposal. The study also included a series of shadow diagrams to illustrate the extent of additional overshadowing caused by the proposed development. I note that the Planning Authority accepted the conclusions of this study, and no concerns were raised. With respect to sunlight to gardens and open spaces, the BRE Guidelines indicate that for an amenity area to have good quality sunlight throughout the year, 50% of the area should receive in excess of 2 hours sunlight on the 21<sup>st</sup> March. The Applicant's report concludes that both the front and rear garden will meet the BRE Guidelines, and the development will have a negligible impact on the open

space areas of the appellant's property. As highlighted earlier in this report, the appellant's private open space area is located to the rear of the dwelling and this space benefits from a southern orientation. A car parking area is provided to the immediate north of the dwelling and a garden area is located further to the north. There are currently a number of trees and shrubs along the western side of the appellant's front garden area. Within their appeal submission, it was contended that the submitted shadow study may have underrepresented the true impact of the proposed development. The Applicant has responded to this and confirmed that the shadow diagrams have been generated from a detailed 3D model in a sunlight generating software, georeferenced with the coordinates of the site for the correct altitude and azimuth. Although I accept that the proposal will result in a degree of additional overshadowing in the late afternoon period, I note that at the March Equinox the additional overshadowing is negligible, and this will be largely confined to the car parking area and the portion of the front garden comprising shrubs and trees. Having regard to the results of the shadow study and the conclusions of the Daylight and Sunlight Assessment, the overall scale, height and form of the dwellings, the setback of the dwellings from the eastern site boundary and the orientation of the site, I am satisfied that the proposal will not result in undue overshadowing of the open space of the appellant's property and the proposal is therefore considered to be acceptable.

- 7.3.5. In terms of daylight, there are 2 no. west facing windows on the western elevation of the appellant's property. There are also 4 no. rooflights on the side and rear roof slope and there is a glazed conservatory to the dwelling's rear. As noted earlier in this report, the rear portion of the dwelling is set back c. 1.2m from the common boundary and the height of the eastern façade ranges from between c. 6.37m to c. 7.83m. In terms of the Applicant's Daylight and Sunlight Assessment, the Vertical Sky Component (VSC) of all the windows on the northern elevation of the appellant's property are tested and each window has a VSC which exceeds 27%. Although this analysis has not been undertaken for the 2 no. windows on the western elevation, I note that one window is serving an existing bathroom and has obscured glazing. It would appear that the additional window on this elevation may serve an office/study and it does not benefit from an additional source of natural light. Notwithstanding this, I note that the dwelling

has a maximum height of 2 no. storeys and there is a separation distance of c. 2.3m provided between the existing and proposed dwellings, an arrangement which is commonly found in urban and suburban environments. I note that the attic area is served by additional roof lights on the rear and side roof slope and a window on the dwelling's front elevation. In addition, the appellant's conservatory is located to the dwelling's rear and benefits from a southern orientation. I am therefore satisfied that residential amenity of this dwelling is not unduly compromised by the proposed development and the proposal is acceptable having regard to the residential amenity of the surrounds.

7.3.6. I note that the appellant has raised concerns with respect to the existing and proposed boundary treatments and lack of detail within the application documents regarding same. There is currently a boundary wall and hedge within the appeal site that runs along the eastern boundary of the site and it would appear that its removal is required to facilitate the proposed development. Although some boundary treatments have been indicatively shown on the sections and elevations, I acknowledge that there is a level of ambiguity regarding the proposed boundary adjacent to the appellant's property. I note that there is a stepped walkway proposed along the eastern elevation of House B and the natural ground level has been identified relative to the modified ground levels on the proposed elevations. In this regard, I recommend the inclusion of a condition which shall require the Applicant to submit details of all boundary treatments to the Planning Authority for written agreement, prior to the commencement of development on site.

7.3.7. In terms of the properties to the south of the appeal site, I note that the proposed dwellings provide a setback of between c. 10.8m and c. 12.8m from the site's rear boundary. On their southern side, the dwellings have a maximum height of c. 6.4m above the modified ground floor level. Having regard to the overall scale, height and form of the proposed dwellings, the setbacks provided from the southern site boundary, the orientation of the site and the elevated position of the dwellings on Raheen Park and Newcourt Avenue relative to the appeal site, I am satisfied that the proposal will not unduly compromise the residential amenity of the properties to the

south by reasons of overlooking, overshadowing or by being visually overbearing. The proposal is therefore considered to be acceptable having regard to the residential amenity of the surrounding area.

#### **7.4. Access**

- 7.4.1. In order to provide access to the appeal site, the proposal seeks to close up and relocate the existing vehicular entrance on Raheen Park to serve House A. An additional vehicular entrance is proposed on Raheen Park and will serve House B. I note that planning permission has been granted under Ref. 21/1555 to provide a new vehicular entrance on Newcourt Road to serve the existing dwelling on the larger landholding. Both proposed recessed entrances are c. 3.5m wide and are set back c. 5m from the roadside edge. A car parking and turning area is then provided within the front setback of each dwelling. Within their assessment of the application, the Planning Authority requested the Applicant to submit modified proposals for the proposed entrances so that appropriate sightlines could be achieved. In addition, the Applicant was requested to redesign the proposed driveways so that the first 6m from the public road had a gradient not exceeding 1:40, and thereafter at a maximum of 1:10. The proposals were modified to respond to the recommendations of the Planning Authority.
- 7.4.2. At additional information stage, the Applicant submitted an Engineering Report showing revised site entrance locations and driveway layouts to achieve the required sight distances. The revised drawings showed a sight distance of 100m to the right, and 11m and 18m to the left from the respective entrances, using the 2m setback. In their assessment of the response, the Planning Authority deemed the revised proposals to be acceptable and would improve traffic safety at the entrances. Although it was acknowledged that the sight distances to the left are more restricted, regard was given to the location of the existing entrance, the existing boundary treatment and the limited amount of additional traffic movements that would be generated by each dwelling. From my inspection of the appeal site and surrounds, I observed there to be a low ambient speed along this stretch of Newcourt Road and Raheen Park. This is particular evident when travelling in an easterly direction towards the entrances given the slope up towards the site from Newcourt Road. I note that one would naturally tend

to drive at a reduced speed as result this gradient. Overall, I would concur with the commentary of the Planning Authority, and I am satisfied that the proposals would not constitute a traffic hazard at this location given the limited additional traffic movements that would be generated from a development of this scale. The proposed development is therefore considered to be acceptable having regard to the proper planning and sustainable development of the area.

## **7.5. Other Matters**

- 7.5.1. The appellant within their submission have highlighted a number of concerns with respect to the potential impact of the proposal during the construction phase of the development in terms of associated noise, vibration, dust and light spill impacts. I noted that Section 1.4.6 (Construction Management) of Appendix 1 of the current CDP indicates that all construction sites shall be appropriately managed to ensure that environmental emissions are strictly controlled. The policy notes that where necessary (such as for larger scale developments or developments in ecologically sensitive areas), this will be enforced by requiring (by planning condition) the agreement and implementation of a 'construction environmental management plan' (CEMP), which should set out, at a minimum, the various best practice construction measures/mechanisms that will be put in place during the construction phase to avoid or mitigate the impacts of: construction traffic, waste, noise, lighting, dust, storm water run-off etc, on adjoining residences and properties, on existing biodiversity, public roads etc. I note that the Planning Authority have included a condition restricting the site development and building works. Although I do not deem the proposed development to constitute a 'larger scale development' where significant piling or excavation works would typically be required, I am cognisant that there is a degree of cut required across the site and there are works located proximate to the appellant's property. In this regard, I recommend the inclusion of a condition requiring the Applicant to prepare and submit a Construction Management Plan (CMP) to the Planning Authority for their written agreement, prior to the commencement of development on site. The CMP shall deal with issues relating to traffic management, noise and dust mitigation measures, excavation details, details of construction lighting and waste minimisation. Subject to compliance with this condition, I am satisfied that

the proposed development is considered to be acceptable having regard to the proper planning and sustainable development of the area.

## **7.6. Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development, an infill development of 2 no. dwellings on a serviced site, and to the nature of the receiving environment, with no direct hydrological or ecological pathway to any European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site

## **8.0 Recommendation**

- 8.1. Grant of permission is recommended.

## **9.0 Reasons and Considerations**

- 9.1. Having regard to Project Ireland 2040: The National Planning Framework, and the relevant objectives which seek to consolidate residential growth in urban areas, and the objectives of the Wicklow County Development Plan 2022-2028 and the Bray Municipal District Local Area Plan 2018–2024, including the RE zoning objective for the site, the specific characteristics of the site and the pattern of development in the surrounds, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be prejudicial to public health, would not represent a traffic hazard and would constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1.	The proposed development shall comply with the plans and particulars lodged with the application submitted and as amended by Further Information received on 03/08/2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require
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	<p>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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Prior to commencement of development, the Applicant shall enter into water and waste water connection agreement(s) with Irish Water and adhere to the standards and conditions set out in that agreement. All development shall be carried out in compliance with the Irish Water Standards codes and practices.</p> <p><b>Reason:</b> In the interest of public health.</p>
3.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>The side (eastern) balustrade panel to the first floor terraces of the proposed houses shall be fitted with a 1.7m high obscure screen.</p> <p><b>Reason:</b> To protect against overlooking, in the interest of protecting residential amenity.</p>
5.	<p>Prior to the commencement of development, the Applicant shall submit details of all boundary treatments to the Planning Authority for written agreement. This shall include an elevation of the eastern boundary to House B which clearly identifies the proposed boundary treatment.</p> <p><b>Reason:</b> In the interest of clarity and to safeguard the amenities of property in the vicinity.</p>
6.	<p>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 the proposed dwelling without a prior grant of planning permission.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
7.	<p>Prior to the commencement of development, the Applicant shall prepare and submit a Construction Management Plan to the Planning Authority for their</p>

	<p>written agreement. The Construction Management Plan shall deal with issues relating to traffic management, excavation, noise and dust mitigation measures, details of construction lighting and waste minimisation.</p> <p><b>Reason:</b> In the interest of clarity and to safeguard the amenities of property in the vicinity.</p>
8.	<p>Site development and building works shall be carried out only between the hours of 8am to 6pm Mondays to Fridays inclusive, between 9am to 2pm 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.</p> <p><b>Reason:</b> In order to safeguard the amenities of property in the vicinity.</p>
9.	<p>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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 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.</p>

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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Enda Duignan  
Planning Inspector

15/03/2023