



An
Bord
Pleanála

Inspector's Report

ABP-314981-22

Development	Construction of 11 no. houses comprising of 9 no. 4-bed, detached, dormer units and 2 no. 3-bed, semi-detached, dormer units
Location	Bramble Hill, Lugduff Td., Tinahely, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	22/81
Applicant(s)	Seamus Monaghan Construction Ltd.
Type of Application	Permission (s. 34)
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party (s. 37)
Appellant(s)	Colm and Paula Doyle
Observer(s)	None
Date of Site Inspection	21 st July 2023
Inspector	Philip Maguire

1.0 Site Location and Description

- 1.1. The appeal site is located along and to the southeastern side of the L7706 in Tinahely, Co. Wicklow, where a 50kph speed limit applies. The site lies c. 1km southeast of the town centre between 'The Tyndles' and 'Bramble Hill' housing estates. Lands to the northwest, on the opposite side of the road, are similarly characterised by low density, cul-de-sac type, housing with some ribbon development between and extending north-eastwards along the adjoining road. Further west lies some industrial and commercial uses near the junction with the R747, beyond which flows the Derry River in a southerly direction, c. 600m west of the appeal site. Agricultural grassland lies to the southeast.
- 1.2. The appeal site is roughly rectangular shaped and consists of previously disturbed ground associated with the adjoining 'Bramble Hill' development, part of which is under construction. The site has a stated area of 1.2981ha and road frontage of some 75m. Site topography is generally consistent with road level and falls noticeably in a south-westerly direction towards the R747. The roadside boundary is defined by a grass verge, hedgerow and a gated construction access. The north-eastern boundary overlaps with 'Bramble Hill' and the undeveloped land is defined by a mix of timber rail and panel fencing and temporary security fencing. The south-eastern boundary is defined by fencing and hedgerow. The south-western boundary is common with the rear gardens of houses in 'The Tyndles' and includes a mix of post and wire, and timber fencing interspersed with boundary planting including trees and hedgerow.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of 11 no. houses comprising of 9 no. 4-bed, detached, dormer units and 2 no. 3-bed, semi-detached, dormer units. The proposal represents an extension and completion of the 'Bramble Hill' housing estate which has been developed in various phases. The houses are located on 'Site Nos. 20 to 30, inclusive' and laid out in linear form along the southwestern boundary.
- 2.2. Vehicular access is proposed via the existing 'Bramble Hill' estate road which is outlined in blue. It would tie into an existing new section serving site nos. 15-19, which are currently under construction and nearing completion, and also outlined in blue together with site nos. 10-14. This road would be extended towards the northwest and southeast. All houses would be sited to the southwestern side, and below the new

road level, backing onto the rear gardens of houses in 'The Tyndles', bar unit nos. 29 and 30, which would tie into an established building line addressing the public road.

- 2.3. Site nos. 20 to 26 consist of House-Type A1 which is a 4-bed, detached, dormer unit with a floor area of 175.06sq.m and a maximum ridge height of 6.545m. The FFLs are stepped gradually from 108.50mAOD (unit no. 20) to 109.00mAOD (unit no. 26). Site nos. 24 to 26 appear to require retaining structures to the front given the topography. External finishes include smooth plaster walls and blue/black roof tiles or slates. Each site has parking for 2 no. cars to the front and private amenity space to the rear. The private amenity space ranges from 265sq.m (site no. 24) to 567sq.m (site no. 21).
- 2.4. Site nos. 27 and 28 consist of House Type-H which is a 3-bed, 5-person, semi-detached, dormer unit with a floor area of 110.86sq.m and a maximum ridge height of 7.463m. The FFLs are illustrated as 109.00mAOD. Both sites appear to require retaining structures given the topography. External finishes include rendered walls and roof slates. Each site has parking for 2 no. cars to the front and private amenity space to the rear. The private amenity space is shown as 142sq.m and 146sq.m.
- 2.5. Site nos. 29 and 30 consist of House-Type J which is a 4-bed, detached, dormer unit with a floor area of 153.26sq.m and a maximum ridge height of 6.500m. The FFLs are illustrated as 108.00mAOD (unit no. 29) and 107.25mAOD (unit no. 30). External finishes include smooth plaster walls and blue/black roof tiles or slates. Each site has parking for 2 no. cars to the front and private amenity space to the rear. The private amenity space is shown as 383sq.m (site no. 29) and 367sq.m (site no. 30).
- 2.6. A Civil Engineering Infrastructure report (Kilgallen & Partners) addressing roads and street, wastewater, surface water and water supply was submitted with the plans etc.
- 2.7. The Planning Authority sought further information on 24th March 2022 in respect of surface water drainage, public open space and the Part V proposal. The applicant submitted a report on Surface Water Drainage (Kilgallen & Partners), a revised Part V proposal and revised drawings on 11th July 2022, including revisions to the proposed open space and House-Type H. The revisions were deemed significant and revised site and newspaper notices were submitted on 18th July 2022. The Planning Authority then sought clarification of further information on 10th August 2022 in respect of surface water drainage. The applicant's response of 9th September 2022 included a revised surface water layout drawing and accompanying note (Kilgallen & Partners).

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant permission for the proposed development on 5th October 2022, subject to 19 no. conditions.

3.1.2. Conditions of note include:

Condition 7 (a) – requires a detailed construction management plan to be agreed with the Planning Authority prior to commencement.

Condition 8(a) – requires the written agreement of Irish Water for the provision of water services necessary to serve the proposal prior to commencement.

Condition 9 – requires all uncontaminated roof and surface water drainage to be collected via a separate storm water system and attenuated on site with no surface water run-off discharge onto the public road, to the public foul sewer or adjoining properties. Volume reduction, source control of pollutants and provision of emergency overflow are also to be included in the drainage system.

Condition 11 – requires the finished floor levels of the dwellings to be in accordance with the details indicated on the drawings received on 09/09/2022, unless agreed otherwise in writing with the Planning Authority prior to commencement etc.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning Report (23/03/22): Having regard to the zoning objective, it considered that the proposal was acceptable in principle. It set out the background to the development of 'Bramble Hill' and noted that the proposal would result in 30 no. houses on the overall site. It considered the proposed density (8.5dph) and overall density (12dph) acceptable in addition to the housing mix in the overall scheme, private amenity space and finishes etc. Particular concerns related to the overall open space provision, surface water drainage and the Part V proposal. Further information (FI) was requested on this basis. It also noted that no AA/EIA issues arise, notwithstanding the comments from the Department of Heritage (DHLGH).

- Planning Report (08/08/22): It accepted the FI response regarding the public open space and Part V, noting that 17.25% of the overall site has been provided as open space and the satisfaction of the Housing section regarding the revised proposal. It noted concerns raised by the Area Engineer regarding capacity in the stormwater network and connection consents. Clarification of FI was sought on this basis.
- Planning Report (29/09/22): Basis for the Planning Authority decision. It considered the applicant's response to the clarification request and concluded that the proposal would not have a negative visual impact on the area or an undue negative impact on the residential amenity of existing dwellings in the area and would provide a good level of residential amenity for future residents.

3.2.2. Other Technical Reports

- Area Engineer (29/09/22): No further observations following clarification of FI.
- Fire (16/02/22): No objection subject to conditions.
- Housing (02/08/22): No objection.
- Roads (19/02/22): No objection subject to conditions.
- Water (25/07/22): No further observations.

3.3. Prescribed Bodies

- DHLGH – Nature Conservation (08/03/22): Raised concerns in relation to potential damage to the Slaney River Valley SAC caused by sediment and pollution loads arising during the construction phase and sediment, pollution, hard surface flood/water run off etc. in the operational phase. It recommended that the applicant be requested to provide an Appropriate Assessment (AA) Screening Report.
- Irish Water (08/03/22): No objection.

3.4. Third Party Observations

- 3.4.1. The Planning Authority received a third-party observation from C and P Doyle of 12 The Tyndles, Tinahely, and southwest of the appeal site.
- 3.4.2. The issues raised generally reflect the Planning Authority's further information request and are broadly similar to the grounds of appeal – see section 6.1 below.

4.0 Planning History

4.1. Appeal site:

PA ref. 07/2008 – permission refused on appeal (PL27.226905) in June 2008 for 13 no. houses in lieu of 8 no. previously permitted houses etc. under PL27.222163. The Board considered that the proposal would exceed the maximum density allowed under the provisions of the Development Plan, would result in overdevelopment of the site, and would, therefore, be contrary to proper planning and sustainable development etc.

PA ref. 06/6505 – permission granted on appeal (PL27.222163) in August 2007 for 19 no. houses etc. The duration of this permission was extended until August 2017 under PA ref. 12/6157. It would appear that only 4 no. houses were constructed.

4.2. Adjoining sites:

Site Nos. 5-9

PA ref. 19/403 – permission granted in December 2019 for 5 no. houses and extension of existing estate road etc. Appeal under ABP-305653-19 withdrawn by the appellant. All houses under this phase are constructed and appear to be occupied.

Site Nos. 10-14

PA ref. 20/789 – permission granted in January 2021 for 5 no. houses and extension of existing estate road etc. House type on site no. 10 was amended under PA ref. 21/410. All houses under this phase are constructed and appear to be occupied.

Site Nos. 15-19

PA ref. 21/818 – permission granted in December 2021 for 5 no. houses and extension of existing estate road etc. This phase is under construction and nearing completion.

5.0 Policy Context

5.1. Wicklow County Development Plan 2022-2028

- 5.1.1. The current Development Plan (as varied) came into effect on 23rd October 2022. The Planning Authority decision of 5th October 2022 was made under the previous Plan for the period 2016-2022. This appeal shall be determined under the current Plan.

5.1.2. The main policy objectives relevant to the proposal are set out in chapters 3 (Core Strategy), 4 (Settlement Strategy), 6 (Housing), 12 (Sustainable Transportation), 13 (Water Services) and 14 (Flood Risk Management) of Volume 1 (Written Statement). Part 6 of Volume 2 sets out the Town Plan for Tinahely.

5.1.3. The following sections are relevant to the proposed development:

- 3.4 – Population & Housing Allocations
- 4.2 – County Wicklow Settlement Strategy
- 6.2 – Wicklow County Housing Strategy
- 6.3 – Key Housing Principles

5.1.4. Summary of the relevant policy objectives:

CPO 4.2 Seeks compact growth by delivering at least 30% of all new homes in the built-up footprint of settlements by prioritising infill development.

CPO 4.3 Seeks to increase the density through measures such as infill development and securing higher densities for new development.

CPO 6.3 Requires new housing to provide the highest possible standard of living without reducing residential amenity to an unacceptable degree.

CPO 6.4 Requires new housing to achieve the highest quality layout and design in accordance with Development and Design Standards (Appendix 1).

CPO 6.7 Requires permeability and well-connected streets with active street frontage in the design and layout of new residential and mixed-use development in accordance with best practice and DMURS.

CPO 6.13 Requires new residential development to achieve the minimum densities as set out in Table 6.1, subject to the reasonable protection of existing residential amenities and the established character of settlements.

CPO 6.14 Seeks to densify existing built-up areas subject to the adequate protection of existing residential amenities.

CPO 6.16 Seeks to encourage and facilitate high quality well-designed infill and brownfield development that is sensitive to context, enables consolidation of the built environment and enhances the streetscape.

CPO 6.22 Requires small-scale infill development in existing residential areas at a density that respects the established character of the area, subject to the protection of the residential amenity of adjoining properties.

CPO 13.21 Requires the implementation of Sustainable Urban Drainage Systems (SuDS) to ensure surface water runoff is managed for maximum benefit.

CPO 14.14 Notes that underground tanks and storage systems are only permissible under public open space where there is no feasible SuDS alternative.

5.1.5. Appendix 1 of Volume 3 sets out relevant design standards. The following is relevant:

- Section 2.2.4 (Surface & storm water systems) notes that regard will be had to the standards set out in the Greater Dublin Strategic Drainage Study (GDSDS).
- Section 3.1.1 (Density) sets out Density Standards (Table 3.1).
- Section 3.1.3 (Privacy) notes that a separation of 22m will normally be required between opposing windows serving private areas and the degree of ‘overlooking’ afforded by different window types shall be considered e.g., an angled roof light will not have the same impact as a traditional window on the same elevation.
- Section 3.1.4 (Open space) notes that public open space will normally be required at a rate of 15% of the site area.
- Section 3.1.6 (Infill development etc.) notes that house design should complement the area but where an area is a ‘mixed-bag’ of styles and periods, more flexibility can be applied. It also notes that particular attention will be required to be paid to the design and location of new windows, in order to ensure that the privacy of either the existing house on the plot or adjacent houses is not diminished.

5.2. Tinahely Town Plan 2022-2028

5.2.1. The Tinahely Town Plan is set out in Volume 2, Part 6 of the Development Plan.

5.2.2. The appeal site is zoned ‘RE-Existing Residential’ with a zoning objective ‘*To protect, provide and improve residential amenities of existing residential areas.*’ The vision for this zoning includes for the provision of appropriate infill residential development etc. in accordance with the principles of good design and protection of residential amenity. Uses generally appropriate for residential zoning include houses, apartments etc.

5.2.3. The following sections are relevant to the proposed development:

- 6.3 – Residential Development
- 6.7 – Service Infrastructure

5.2.4. The following policy objective is particularly relevant:

TIN3 Requires that the design and layout of new residential development reflects Tinahely's special character and identity etc.

5.3. **Regional Spatial and Economic Strategy**

5.3.1. The Eastern and Midland Regional Spatial and Economic Strategy (RSES) 2019-2031 sets the regional planning policy context. Regional Policy Objective (RPO) 3.2 outlines that core strategies shall set out measures to achieve compact urban development targets of at least 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

5.4. **National Planning Framework**

5.4.1. Project Ireland 2040, the National Planning Framework (NPF), sets the national planning policy context. National Policy Objective (NPO) 3c seeks to deliver at least 30% of all new homes that are targeted in settlements other than the five cities and their suburbs, within their existing built-up footprints. NPO 13 advocates a move away from rigidly applied planning policies and standards in relation to building design, in favour of performance-based criteria, to ensure well-designed, high-quality outcomes.

5.5. **Residential Development Guidelines**

5.5.1. The Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (DEHLG, 2009) set out the key planning principles which should *inter alia* guide the assessment of planning applications for urban residential development.

5.5.2. Section 6.12 provides that in order to offer an effective alternative to the provision of single houses in surrounding un-serviced rural areas, it is appropriate in controlled circumstances to consider proposals for developments with densities of less than 15-20 dwellings per hectare (dph) along or inside the edge of smaller towns and villages,

as long as such lower density development does not represent more than about 20% of the total new planned housing stock of the small town or village in question.

- 5.5.3. Section 7.4 notes that there should be adequate separation (about 22m) between opposing first floor windows of two-storey dwellings. However, such rules should be applied flexibly: the careful positioning and detailed design of opposing windows can prevent overlooking even with shorter back-to-back distances. Windows serving halls and landings do not require the same degree of privacy as balconies, living rooms etc.

5.6. Other Guidance

5.6.1. Design Manual for Urban Roads and Streets (DMURS)

Guidance relating to the design of urban roads and streets is set out in DMURS (DTTS and DHPLG, 2013, updated May 2019). Section 3.3.1 notes that new street networks should be based on layouts where all streets lead to other streets, limiting the use of cul-de-sacs and maximising the number of walkable/cycleable routes. Section 3.3.2 notes that on larger and/or irregular blocks short cul-de-sacs may be used to serve a small number of dwellings and to enable more compact/efficient forms of development.

5.6.2. Greater Dublin Strategic Drainage Study (GSDSDS)

Guidance relating to the design of drainage infrastructure is set out in the GSDSDS, Regional Drainage Policies (RDP), Volume Two, New Development (March 2005). It notes Sustainable Drainage Systems (SuDS) are mandatory for all new development.

Criterion 3 sets out the design criteria for the level of service (flooding). For a 30-year high intensity rainfall event, it is the design objective that no external flooding will occur except where specifically planned. For a 100-year high intensity rainfall event, it is the design objective that no internal flooding or flooding of adjacent urban areas occurs. Planned flood routing and temporary storage would be accommodated on site for high intensity storms and overland flooding would be managed within the development.

Criterion 4 sets out the design criteria for river flood protection. For a 100-year return period, a maximum discharge rate of Q_{BAR} or 2 l/s/ha, whichever is greater, is the design objective for all attenuation storage where long term storage can't be provided.

5.7. Natural Heritage Designations

Slaney River Valley SAC (Site Code 000781) – 0.60km west

5.8. EIA Screening

- 5.8.1. Having regard to the nature and scale of the proposed development, which is for 11 no. houses in an established and serviced urban area, and its proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposal. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and there is no requirement for a screening determination or EIA (see Appendix 1).

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third-party appeal has been lodged by Colm and Paula Doyle of 12 The Tyndles, Tinahely, and southwest of the appeal site. The grounds of appeal generally reflect the observations made to the Planning Authority and can be summarised as follows:
- It is submitted that House-Type A1, unit nos. 22 and 23 specifically, will have a substantial adverse impact on both the enjoyment and privacy of their property and will significantly reduce the value of their home. They refer to the most recent proposal involving houses along their boundary under ABP ref. PL27.226905 and note the Inspector's comments regarding the "potential for overlooking" to exist and recommendation in respect of dwelling height being limited to 5.5m. The roof windows of the proposed houses (3 per unit) will overlook their home from a height of c. 8-9m taking into account the substantial difference in ground levels. They request that any dwellings adjacent to 'The Tyndles' that may be permitted be single-storey bungalows with a stated height as previously recommended.
 - Referring to the Wicklow County Development Plan 2016-2022, where the site was zoned R15 with a potential yield of 25 no. units, it is suggested that the proposal would be a material contravention of the Development Plan. It is stated that previous decisions regarding the site were based on overdevelopment and density

considerations. The Board is requested to investigate whether all plans were calculated on the basis of 31 no. units i.e., stormwater, wastewater services etc.

- It is stated that Tinahely's Wastewater Treatment Plant (WWTP) is currently operating at maximum capacity and numerous applications in the past have been refused on the basis that connection is not possible. It is suggested that an Irish Water response under a previously withdrawn application (PA ref. 17/1285) on the appeal site recommended refusal based on WWTP capacity issues. It is also noted that Irish Water had no objection to recent applications but suggest that subsequent grants may lead to commencements with no certainty of connection. Referring to the Tinahely Town Plan 2016-2022 and the Draft Wicklow County Development Plan 2021-2027, they submit that the Planning Authority's decision is a material contravention in this regard and request that permission be refused.
- It is requested that the permission be considered invalid and rescinded should the Board ascertain that the site notices were not erected and visible to the public in accordance with the statutory obligations.
- It is submitted that the density, height and house types of the proposed development are not in keeping with the local area and the dwellings constructed thus far have a negative visual impact on the rural landscape.

6.2. Applicant Response

None.

6.3. Planning Authority Response

None.

7.0 Assessment

- 7.1. Having examined the application details and all other documentation on the appeal file, including the appeal submission, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal. The issues can be addressed under the following headings:

- Zoning and Density
- Residential Amenity
- Visual Amenity
- Drainage
- Appropriate Assessment
- Legal and Procedural

7.2. Zoning and Density

- 7.2.1. As noted, the appeal site is zoned existing residential. The vision for this zoning includes for the provision of appropriate infill residential development. Uses generally appropriate for residential zoned areas include houses and residential open space etc.
- 7.2.2. Planning permission is sought for 11 no. houses on the appeal site which has a stated area of 1.2981ha. Taken in isolation, this equates to a density of 8.5dph. This is broadly consistent with the Residential Development Guidelines and density standards for Tinahely in Table 6.1 of the Development Plan i.e. less than 15-20dph (see also Table 3.1 of the Development Design Standards, Volume 3, Appendix 1).
- 7.2.3. The proposal is however a *de facto* extension and completion of the 'Bramble Hill' development which currently has 14 no. houses occupied and a further 5 no. under construction and nearing completion. The proposal would therefore result in 30 no. houses on an overall site of c. 2.41ha. Cumulatively, this equates to a density of 12dph and is consistent with section 6.12 of the Guidelines and Table 6.1 of the Plan.

Material Contravention

- 7.2.4. The appellant correctly highlights that the overall site was zoned R15 in the previous Tinahely Town Plan (2016-2022) with a 'potential' for 25 no. units as per Table 7.1. There may have been merit to their claims regarding a material contravention, given the exceedance of this figure on the overall site but I am not convinced that words like 'potential / indicative' are sufficiently specific to justify the use of the term "materially contravene" in normal planning practice. Moreover, it is unclear whether the 'potential' for 25 no. units, excluded the 4 no. units evident on that particular zoning map.
- 7.2.5. The current Development Plan came into effect on 23rd October 2022, incorporating a new Tinahely Town Plan. No similar provisions exist in terms of potential yield from

the overall site, and I am therefore satisfied that the proposal does not materially contravene the Development Plan incorporating the Tinahely Town Plan 2022-2028 in terms of density or zoning. The Board should not, therefore, consider itself constrained by s. 37(2) of the Planning and Development Act 2000 (as amended).

Conclusion on Zoning and Density

- 7.2.6. I therefore conclude that the proposed density on the appeal site, and within the overall 'Bramble Hill' development site, is in accordance with the Development Plan incorporating the Tinahely Town Plan 2022-2028 and national Planning Guidelines.
- 7.2.7. Subject to further consideration of amenity impacts, I further conclude that the proposal for 11 no. houses on residentially zoned land, between existing residential development, is appropriate infill development consistent with the zoning objective and CPO 4.2 and CPO 4.3 which seek to secure compact growth and higher densities.

7.3. Residential Amenity

- 7.3.1. The appellant submits that the proposal would have a substantial adverse impact on the enjoyment and privacy of their property and reduce the value of their home by reason of overlooking from unit nos. 22 and 23 specifically. They also refer to Inspector comments under ABP ref. PL27.226905 in support of their claim and request that any houses that may be permitted adjacent to 'The Tyndles' be at most 5.5m high.

Overlooking

- 7.3.2. The permitted layout illustrates unit nos. 22 and 23 with FFLs of 108.65mAOD and 108.80mAOD respectively. These units back onto the common boundary with the appellants property. As submitted, these units consist of House-Type A1 which is described generally in para. 2.3 above. Specific overlooking concerns relate to the 3 no. rooflights in each rear roof slope, illustrated as 1 no. 980mm by 1180mm opening in the upper floor landing and 2 no. 780mm by 980mm openings in Bedroom 1. The bottom and top of the bedroom rooflights are 1.80m and 2.40m above first floor level.
- 7.3.3. The permitted layout does not illustrate a FFL for the appellant's house. The FFLs of the adjacent houses to the north, Nos. 13-15 The Tyndles, are shown as 105.20mAOD, 105mAOD and 104.50mAOD respectively. These levels are consistent with the layout drawing submitted under PA ref. 07/2008 (ABP ref. PL27.226905). The

appellant's house is shown with a FFL of 104.60mAOD on that drawing. It is reasonable to assume that the FFL of the appellant's house is therefore 104.60mAOD.

- 7.3.4. The FFLs of unit nos. 22 and 23 would therefore be elevated by c. 4.05m and 4.20m respectively, above the FFL of the appellant's house. This is undoubtedly a significant difference in levels, and I fully appreciate the appellant's concerns in this regard. However, the separation distance between the appellant's house and unit nos. 22 and 23 is roughly 35m and the proposed rooflights would be even further away. Bearing in mind that "adequate separation" is traditionally considered as 22m between opposing first floor windows, I am fully satisfied that the proposed rooflights are adequately removed from the appellant's house to ensure their privacy and enjoyment is not negatively impacted notwithstanding the significant difference in ground levels.
- 7.3.5. Whilst I accept that there may be a very limited degree of overlooking from the proposed rooflights, given the lowest point at c. 1.80m above first floor level, I consider that this overlooking will be mostly limited to oblique views of adjoining private amenity space. There are no directly opposing windows and I am satisfied that any adverse impact on the residential amenity of the appellant will be negligible having regard to the separation distance and offset in orientation. I also note that no submissions or observations were received from any other properties in the vicinity of the appeal site and particularly from the property backing onto unit nos. 27 and 28 (House-Type H).
- 7.3.6. For completeness, I have reviewed the drawings considered under ABP ref. PL27.226905 and I note that the bottom of the rear rooflights was c. 1.50m above first floor level, some 300mm lower than that proposed for unit nos. 22 and 23. The circumstances of that appeal are therefore materially different to the current proposal, and I agree that the 'potential for overlooking' existed, and indeed to a greater degree. There is no requirement, therefore, to restrict these units to a ridge height of 5.50m.

Conclusion on Residential Amenity

- 7.3.7. Having regard to the above, I do not consider the 3 no. rooflights proposed to the rear roof slope of unit nos. 22 or 23 will give rise to any adverse impacts on the residential amenity of the appellants, or any other houses in the area, by reason of overlooking.
- 7.3.8. The appellant also suggests that an existing earth mound on the appeal site simulates the impact of the proposed development. Subsequent issues of overbearance or overshadowing were not explored in their submission, but I am satisfied that the

proposal would not be overbearing or overshadow the appellant's, or other, property having regard to the aforementioned separation distance and general orientation.

- 7.3.9. I therefore consider that the proposal would provide new housing with a high standard of living for occupants without reducing to an unacceptable degree the level of amenity enjoyed by existing residents in the area in accordance with CPO 6.3. Subsequently, I am satisfied that the density is consistent with CPO 6.13, CPO 6.14 and CPO 6.22.

7.4. Visual Amenity

- 7.4.1. The appellant submits that the proposal is not in keeping with the local area which consists mainly of single-storey dwellings and suggests that the dwellings constructed thus far have had a negative visual impact on the rural landscape of the area.
- 7.4.2. As noted, the 'Bramble Hill' estate has been developed incrementally in various phases. A total of 14 no. houses were built and occupied during my site inspection with a further 5 no. under construction and nearing completion. All 19 no. units are dormer-style bungalows with projecting dormer windows in either the front or rear roof slope. The roof structure is gable-ended and all external finishes are generally consistent with the initial 4 no. houses constructed under ABP ref. PL27.222163.
- 7.4.3. The houses in 'The Tyndles' estate, including the appellant's, are hipped roof bungalows, some with attic conversions. They present as a squatter form of development on significantly larger plots. Whilst I accept that they nestle into the landform, it is reasonable to say that this type of development is of its time, and would now generally be considered as an inefficient use of zoned and serviced urban land.
- 7.4.4. On this basis, I am not convinced that the proposal represents a significant departure from the established and under construction development in the area. Indeed, and albeit incidental to this case, I consider that the newer houses built in the 'Bramble Hill' estate have adequately navigated what is undoubtedly a difficult sloping site to develop, with minimal use of retaining structures, and without negative visual impact.

Conclusion on Visual Amenity

- 7.4.5. The layout of the proposal represents a suitable transition between the low-density, larger footprint, hipped roof form of 'The Tyndles' and the smaller footprint, dormer roof form of the houses in 'Bramble Hill', which are at the upper end of low-density.

- 7.4.6. The houses are of a height and scale that are generally consistent with the prevailing height and scale of the area, and whilst the difference in ground levels between the appellant's property and the appeal site is acknowledged, it will not militate against the successful integration of the proposal subject to landscaping and boundary treatment.
- 7.4.7. The proposal is appropriate infill development which consolidates the built-up footprint of Tinahely, and the layout and design reflects the character and identity of the area in accordance with TIN 3. I specifically note that it successfully responds to the site topography and accords generally with CPO 6.4, CPO 6.7 and CPO 6.16. I am therefore satisfied that it will not adversely impact on the visual amenities of the area.

7.5. Drainage

- 7.5.1. The appellant submits that the Tinahely WWTP is operating at capacity, and referring to the Tinahely Town Plan 2016-2022, they suggest that the proposal represents a material contravention. I also note that the Planning Authority had concerns regarding the collection and disposal of surface water. I will address each issue separately.

Wastewater

- 7.5.2. The engineering report states *inter alia* that wastewater will be discharged to a foul sewer in the existing estate, part of which has been previously permitted under PA ref. 21/818. The drawings show the extent of the existing, permitted and proposed sewer.
- 7.5.3. Uisce Éireann, then Irish Water, had 'no objection', noting that wastewater connection is feasible subject to upgrades to the foul network and WWTP. They also note that the proposal is not likely to cause overloading potentially impacting receiving waters.
- 7.5.4. Section 6.7 of the Tinahely Town Plan 2022-2028 notes that the WWTP has a design capacity of 1,200pe and has limited spare capacity for further development. It states that no new development shall be permitted unless there is adequate capacity in the wastewater collection and treatment system. The guidance in the Tinahely Town Plan 2016-2022, as referred to by the appellant, is identically worded (section 7.7 refers).
- 7.5.5. Notwithstanding this guidance and the Irish Water response from March 2022, I note that the Uisce Éireann *Wastewater Treatment Capacity Register*, June 2023, indicates that there is 'available capacity' at the treatment plant, and to this I attach significant weight. Having regard to the planning history for 19 no. houses on the overall site,

which lapsed in 2017, the additional loading would be insignificant in the context of the design capacity, and thus the impact on the overall discharge would be negligible.

Material Contravention

- 7.5.6. I am therefore satisfied that the proposal does not materially contravene the Development Plan incorporating the Tinahely Town Plan 2022-2028 in terms of wastewater infrastructure capacity. The Board should not, therefore, consider itself constrained by s. 37(2) of the Planning and Development Act 2000 (as amended). I recommend that standard connection agreements with Uisce Éireann be conditioned.

Surface Water & Flood Risk Management – New Issue

- 7.5.7. Whilst not explicitly raised in the grounds of appeal, I note that the Planning Authority had raised concerns regarding the collection and disposal of surface water. This issue is particularly relevant given the DHLGH nature comments as considered below.
- 7.5.8. Surface water would discharge to an existing manhole (Ex. S2) in the northwest corner of the appeal site and be restricted to greenfield runoff rate as detailed in the surface water drainage report i.e. 9.74 l/s (section 2.3 and Appendix II). I note this calculation is based on the overall site area, stated in the report as 2.51ha. This is reasonable given the proposal will feed into the storm network for the ‘Bramble Hill’ development. Discharge rates will be restricted using flow control valves and attenuation storage.
- 7.5.9. The applicant has indicated that manhole Ex. S2 is at the upstream end of the 450mm surface water sewer that flows through ‘The Tyndles’ estate before discharging to a 600mm surface water sewer in the public road (R747). The applicant estimates that the 450mm sewer has a hydraulic capacity of 322 l/s. They state that runoff from ‘The Tyndles’ estate was modelled, and the combined peak surface water runoff was found to be less than this hydraulic capacity i.e. 265.74 l/s. I note that the surface water layout submitted in clarification illustrates the 600mm sewer travelling due south from a manhole in the R747 (south of Y14 VW42) across agricultural land towards the Rosnastraw Stream, a tributary of the Derry River. This correlates with the applicant’s contention that the storm sewer discharges to a watercourse and not a combined sewer as stated in the further information request. The subsequent comments on the applicant’s response refers to “new stormwater drains” and the Planning Authority did not pursue the issue further. On balance, I am satisfied that outfall is to a watercourse.

- 7.5.10. Section 2.4 of the surface water drainage report states that the drainage system and attenuation storage were designed to ensure that the system does not overflow for all rainfall events of a 30-year return period and the 100-year return period does not threaten water-vulnerable development. This is consistent with the GDSDS, being the relevant standard referred to in the Development Plan (section 2.2.4, Appendix 1). Section 2.5 of the report states that the storage system will treat run-off from rainfall events by allowing infiltration to ground and through the installation of a silt trap. It also states that the manholes on the network will provide a sump to trap silts and a hydrocarbon separator is proposed immediately upstream of the storage system.
- 7.5.11. The Planning Authority accepted the further information response, following clarification, and attached Condition 9 to their decision, as cited above. It requires on-site attenuation, volume reduction and emergency overflow in addition to source control of pollutants. Such measures are outlined in the drainage design and will ensure outflows are limited to greenfield rates to avoid surcharging of existing drains.
- 7.5.12. I am satisfied that there is sufficient capacity within the existing and proposed infrastructure to ensure that stormwater would be managed within the appeal site and would not give rise to, or exacerbate, flooding in 'The Tyndles' or adjacent urban areas. In this regard, I note that the appeal site is sufficiently removed from flood zones around the Derry River corridor and tributaries and the additional outfall from the storm network, based on greenfield rates, would be negligible. The proposal therefore accords with CPO 13.21. The siting of the attenuation tank below public open space is acceptable having regard to the site constraints, including topography, and arising from the phased nature of development. The proposal thus accords with CPO 14.14.

Conclusion on Drainage

- 7.5.13. Having regard to the above, I am satisfied that the proposal will not give rise to adverse public or environmental health impacts as a result of the proposed drainage systems.

7.6. Appropriate Assessment – Screening

Compliance with Article 6(3) of the Habitats Directive

- 7.6.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

7.6.2. An AA Screening report was not submitted in support of the proposed development.

Screening for Appropriate Assessment – Test of likely significant effects

7.6.3. The project is not directly connected with or necessary to the management of a European site and, therefore, it needs to be determined if the development is likely to have significant effects on European sites.

7.6.4. The proposed development is examined in relation to any possible interaction with European sites designated as Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European sites in view of the conservation objectives of those sites.

Submissions and Observations

7.6.5. Uisce Éireann, then Irish Water, have indicated that connection to the Tinahely WWTP is feasible subject to upgrades to the foul network and treatment plant.

7.6.6. DHLGH raised concerns in relation to potential damage to the Slaney River Valley SAC caused by sediment and pollution loads arising during the construction phase and sediment, pollution, hard surface flood/water run off etc. in the operational phase.

European Sites

7.6.7. The appeal site is not located in a European site. Having regard to the source-pathway-receptor (S-P-R) model, a summary of 4 no. European sites that occur within a possible zone of influence of the proposed development are outlined in Appendix 2, 3 no. of which have been excluded at preliminary screening for the reasons stated.

Conservation Objectives

7.6.8. Conservation Objectives for the Slaney River Valley SAC (000781) are detailed below:

- To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

I note that the status of the freshwater pearl mussel (*Margaritifera margaritifera*) as a qualifying Annex II species for the Slaney River Valley SAC is currently under review.

Identification of Likely Effects

7.6.9. The appeal site is hydrologically connected to the Slaney River Valley SAC. On this basis, I consider that potential impacts associated with the construction and

operational phase of the development relate to potential impacts on water quality including the following:

1. Deterioration of water quality as a result of sediment and pollution loads arising during the construction phase; and
2. Deterioration in water quality as a result of sediment, pollution loads, hard surface flood/water runoff etc. during the operational phase.

7.6.10. During the construction phase there is potential for surface water runoff from site works to temporarily discharge to the Derry River (600m to the west), which forms part of the Slaney River Valley SAC. However, in the absence of rivers, streams or drainage ditches on, or bounding, the appeal site, the hydrological connection is indirect and extremely weak. Intervening land uses and the separation distance means that water quality in this European site will not be negatively affected by any contaminants, such as sediment from site clearance and other construction activities, if such an event were to occur, due to dilution and settling out over such a distance. Moreover, a CEMP condition, requiring typical best standard construction methods for managing construction surface water runoff will ensure that any such events are contained on the appeal site. The construction phase will not therefore result in significant environmental impacts that could affect European sites within the wider catchment.

7.6.11. All foul and surface water runoff once the houses are occupied will be contained on site and discharged to urban drainage systems. Surface water proposals include outflow to an existing drainage network at greenfield runoff rate, following SuDS treatment as detailed in section 7.5.10. This network, which is in the charge of the Local Authority, ultimately outfalls to a watercourse in the catchment of the Derry River, part of the Slaney River Valley SAC. Wastewater will discharge to Tinahely WWTP, which also discharges, under licence, to the Derry River. Recent Uisce Éireann Annual Environmental Reports (2021 and 2022) note that the treatment plant is compliant with the Emission Limit Values in the Wastewater Discharge Licence. The Derry River WFD Status for 2016-2021 is 'good', up from 'moderate' for 2013-2018. As stated above, impact on overall discharge would be negligible in the context of the WWTP, having regard to the number of units committed on the overall site from 2007.

7.6.12. Other extant development is similarly served by urban drainage systems and the WWTP and has been screened out for AA. A NIR was prepared for the Development

Plan incorporating the Tinahely Town Plan, which included the residential zoning objective for the site. No likely significant effects on the water quality of any European sites were identified. No likely significant in-combination effects are identified here.

- 7.6.13. The appeal site is not located adjacent or within a European site, therefore there is no risk of habitat loss or fragmentation or any effects on QI species directly or ex-situ. The existing environment includes a WWTP and urban drainage systems. The significant distance between the appeal site and any European sites, and the weak and indirect stormwater pathway is such that the proposal will not result in any likely changes to the European sites that comprise part of the Natura 2000 network.

Mitigation Measures

- 7.6.14. Whilst typical best practice construction methods are referenced these are not required to avoid or reduce any effects on a European site. These measures are not relied upon to reach a conclusion of no likely significant effects on any European site.

Screening Determination

- 7.6.15. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually, or in combination with other plans and projects, would not be likely to give rise to significant effects on Slaney River Valley SAC (000781) or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a Natura Impact Statement) is therefore not required.

7.7. Legal and Procedural Issues

- 7.7.1. The appellant submits that the site notices were not erected and visible to the public.
- 7.7.2. In terms of procedural matters and the alleged irregularities regarding the nature and timing of the erection of the site notices, I note that these matters were considered acceptable by the Planning Authority. I am satisfied that this did not prevent the concerned party from making representations. The above assessment represents my *de novo* consideration of all the planning issues material to the subject appeal.

8.0 Recommendation

- 8.1. I recommend that permission be **granted** for the reasons and considerations below.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Wicklow County Development Plan 2022-2028 (as varied), incorporating the Tinahely Town Plan 2022-2028, the location of the proposed development on zoned and serviced lands within the built-up footprint of Tinahely, the infill nature, scale, design and density of the proposed development and the prevailing pattern and character of development in the area, 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 property in the vicinity, would provide an acceptable standard of amenity for future residents, and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 11th day of July, 2022, and 9th day of September, 2022 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>All WC's, bathroom and ensuite windows shall be fitted and permanently maintained with obscure glazing.</p> <p>Reason: In the interest of residential amenity.</p>

4.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
5.	<p>(a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory</p>

	<p>documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.</p> <p>Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
6.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.</p> <p>Reason: In the interests of amenity and public safety.</p>
7.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility.</p>
8.	<p>(a) Screen walls shall be provided along the side and rear boundary of unit no. 29 to screen the rear garden from public view. Such walls shall be two metres in height above ground level.</p> <p>(b) The screen walls shall be constructed in concrete block or similar durable materials and, if in concrete block, shall be suitably capped and rendered on both sides in a finish that matches the external finish of the dwelling on the side facing public areas.</p>

	<p>(c) All other boundary treatment shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development.</p> <p>Reason: In the interest of visual and residential amenity.</p>
9.	<p>The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.</p> <p>Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.</p>
10.	<p>A landscaping plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All landscaping works shall be completed, within the first planting season following commencement of development, in accordance with the agreed plan. Any trees and hedging which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of biodiversity and the visual and residential amenity of the area.</p>
11.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual amenity.</p>

12.	<p>All of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points.</p> <p>Reason: In the interest of sustainable transportation.</p>
13.	<p>The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the requirements of the Design Manual for Urban Roads and Streets (DMURS) and the detailed construction standards of the planning authority for such works.</p> <p>Reason: In the interests of pedestrian and traffic safety.</p>
14.	<p>Site development and building works shall be carried out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
15.	<p>The construction of the development shall be managed in accordance with a Construction Environmental Management Plan (CEMP), which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p> <ul style="list-style-type: none"> (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; (b) Location of areas for construction site offices and staff facilities; (c) Details of site security fencing and hoardings; (d) Details of on-site car parking facilities for site workers during the course of construction;

	<p>(e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;</p> <p>(f) Measures to obviate queuing of construction traffic on the adjoining road network;</p> <p>(g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>(h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;</p> <p>(i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>(j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>(k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>(l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains in accordance with the requirements of CIRIA C532, <i>Control of water pollution from construction sites</i>.</p> <p>A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
16.	<p>The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p>

	Reason: To prevent flooding and in the interests of sustainable drainage.
17.	<p>Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann, formerly Irish Water.</p> <p>Reason: In the interest of public health.</p>
18.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>
19.	<p>The development hereby permitted shall be carried out and completed at least to the construction standards set out in Wicklow County Council's <i>Taking in Charge & Completion of Developments Policy</i>, or any superseding document. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.</p> <p>Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.</p>
20.	<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 Contributions Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the</p>

<p>planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</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.

Philip Maguire
Planning Inspector
20th October 2023

Appendix 1

Form 1 – EIA Pre-Screening

Case Reference	ABP-314981-22		
Proposed Development Summary	11 no. houses comprising of 9 no. 4-bed, detached, dormer units and 2 no. 3-bed, semi-detached, dormer units and ancillary works		
Development Address	Bramble Hill, Lugduff Td., Tinahely, Co. Wicklow		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
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]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	No EIAR or Preliminary Examination required
Yes	X	Class 10 (b)(i)/Construction of more than 500 dwelling units.	Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No		X	Preliminary Examination required
Yes			Screening Determination required

Inspector: _____

Date: _____

Form 2 – EIA Preliminary Examination

Case Reference	ABP-314981-22	
Proposed Development Summary	11 no. houses comprising of 9 no. 4-bed, detached, dormer units and 2 no. 3-bed, semi-detached, dormer units and ancillary works	
Development Address	Bramble Hill, Lugduff Td., Tinahely, Co. Wicklow	
<p>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.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</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>	<p>The appeal site has a stated area of 1.2981ha and forms part of a larger landholding of c. 2.41ha which is occupied by 14 no. houses and 5 no. houses under construction and nearing completion.</p> <p>The construction of 11 no. houses is proposed.</p> <p>Removal of topsoil etc. and other construction wastes will be relatively minimal and managed in accordance with a CEMP. Localised construction impacts will be temporary. Connection to the WWTP is feasible and capacity is available.</p>	No
<p>Size of the Development</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 and/or permitted projects?</p>	<p>The construction of 11 no. houses on zoned and serviced residential lands and adjacent to existing low-density housing in Tinahely is not considered to be exceptional in the context of the existing environment.</p> <p>Construction is ongoing and nearing completion for unit nos. 15-19 (phase 4). The phasing of the proposed development will commence as a subsequent phase using the same construction access and compound, insofar as practical.</p> <p>Construction will be managed in accordance with a CEMP. There is no real likelihood of significant cumulative effects with the existing and permitted houses.</p>	No

<p>Location of the Development</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>	<p>The majority of the site is previously disturbed ground associated with the adjoining 'Bramble Hill' development.</p> <p>There are no ecologically sensitive locations in the immediate vicinity of the appeal site. The nearest European site is located c. 600m to the east – Slaney River Valley SAC (000781). The appeal site is hydrologically connected to this European site via surface water and wastewater.</p> <p>Having regard to the scale of the proposal, intervening land uses and separation distance, the proposed SuDS measures and CEMP, there is no potential to significantly impact on the ecological sensitivities of this European site or other significant environmental sensitivities in the area.</p>	<p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____

Appendix 2

European Sites within Zone of Influence

European Site (Code)	Qualifying Interests <i>*indicates a priority habitat under the Habitats Directive</i>	Distance	Connections	Considered further in Screening
Slaney River Valley SAC (000781)	1029 Freshwater Pearl Mussel <i>Margaritifera margaritifera</i> 1095 Sea Lamprey <i>Petromyzon marinus</i> 1096 Brook Lamprey <i>Lampetra planeri</i> 1099 River Lamprey <i>Lampetra fluviatilis</i> 1103 Twaite Shad <i>Alosa fallax</i> 1106 Atlantic Salmon <i>Salmo salar</i> (only in fresh water) 1130 Estuaries 1140 Mudflats and sandflats not covered by seawater at low tide 1355 Otter <i>Lutra lutra</i> 1365 Harbour Seal <i>Phoca vitulina</i> 3260 Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> <i>and Callitriche-Batrachion</i> vegetation 91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles 91E0 *Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno- Padion, Alnion incanae, Salicion albae)	0.6km	Yes. Hydrological connections via (i) surface water which ultimately discharges to the Derry River, which forms part of this SAC and (ii) wastewater from the appeal site which passes through Tinahely WWTP and also discharges to the Derry River. Old sessile oak woods [91A0] and alluvial forests habitats are located c. 3.2km and 12.9km southwest (downstream) of the appeal site.	Yes

<p>Wexford Harbour and Slob SPA (004076)</p>	<p>A004 Little Grebe <i>Tachybaptus ruficollis</i> wintering A005 Great Crested Grebe <i>Podiceps cristatus</i> wintering A017 Cormorant <i>Phalacrocorax carbo</i> wintering A028 Grey Heron <i>Ardea cinerea</i> wintering A037 Bewick's Swan <i>Cygnus columbianus</i> wintering A038 Whooper Swan <i>Cygnus cygnus</i> wintering A046 Light-bellied Brent Goose <i>Branta bernicla hrota</i> wintering A048 Shelduck <i>Tadorna tadorna</i> wintering A050 Wigeon <i>Anas penelope</i> wintering A052 Teal <i>Anas crecca</i> wintering A053 Mallard <i>Anas platyrhynchos</i> wintering A054 Pintail <i>Anas acuta</i> wintering A062 Scaup <i>Aythya marila</i> wintering A067 Goldeneye <i>Bucephala clangula</i> wintering A069 Red-breasted Merganser <i>Mergus serrator</i> wintering A082 Hen Harrier <i>Circus cyaneus</i> post-breeding/roost A125 Coot <i>Fulica atra</i> wintering A130 Oystercatcher <i>Haematopus ostralegus</i> wintering A140 Golden Plover <i>Pluvialis apricaria</i> wintering</p>	<p>34.6km</p>	<p>Yes. Extremely weak hydrological connection via surface water which enters Wexford Harbour by the Derry River and River Slaney and treated wastewater via the same pathway, as noted above. The pathway is however significantly remote and due to this distance, and lack of any relevant ex-situ factors of significance to these species, this SPA can be excluded at preliminary screening.</p>	<p>No</p>
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	<p>A141 Grey Plover <i>Pluvialis squatarola</i> wintering</p> <p>A142 Lapwing <i>Vanellus vanellus</i> wintering</p> <p>A143 Knot <i>Calidris canutus</i> wintering</p> <p>A144 Sanderling <i>Calidris alba</i> wintering</p> <p>A149 Dunlin <i>Calidris alpina</i> wintering</p> <p>A156 Black-tailed Godwit <i>Limosa limosa</i> wintering</p> <p>A157 Bar-tailed Godwit <i>Limosa lapponica</i> wintering</p> <p>A160 Curlew <i>Numenius arquata</i> wintering</p> <p>A162 Redshank <i>Tringa totanus</i> wintering</p> <p>A179 Black-headed Gull <i>Chroicocephalus ridibundus</i> wintering</p> <p>A183 Lesser Black-backed Gull <i>Larus fuscus</i> wintering</p> <p>A195 Little Tern <i>Sterna albifrons</i> breeding</p> <p>A395 Greenland White-fronted goose <i>Anser albifrons flavirostris</i> wintering</p> <p>A999 Wetlands</p>			
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<p>The Raven SPA (004019)</p>	<p>A001 Red-throated Diver <i>Gavia stellata</i> wintering A017 Cormorant <i>Phalacrocorax carbo</i> wintering A065 Common Scoter <i>Melanitta nigra</i> wintering A141 Grey Plover <i>Pluvialis squatarola</i> wintering A144 Sanderling <i>Calidris alba</i> wintering A395 Greenland White-fronted goose <i>Anser albifrons flavirostris</i> wintering A999 Wetlands</p>	<p>41.4km</p>	<p>Yes. Extremely weak hydrological connection via surface water which enters Wexford Harbour by the Derry River and River Slaney and treated wastewater via the same pathway, as noted above. The pathway is however significantly remote and due to this distance, and lack of any relevant ex-situ factors of significance to these species, this SPA can be excluded at preliminary screening.</p>	<p>No</p>
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Raven Point Nature Reserve SAC (000710)	1140 Mudflats and sandflats not covered by seawater at low tide 1210 Annual vegetation of drift lines 1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) 2110 Embryonic shifting dunes 2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> ('white dunes') 2130 *Fixed coastal dunes with herbaceous vegetation ('grey dunes') 2170 Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) 2190 Humid dune slacks	46.5km	Yes. Extremely weak hydrological connection via surface water which enters Wexford Harbour by the Derry River and River Slaney and treated wastewater via the same pathway, as noted above. The pathway is however significantly remote, and this SPA can be excluded at preliminary screening.	No
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