



An
Bord
Pleanála

Inspector's Report ABP-315977-23

Development	New vehicular entrance gate to the Lauderdale Estate and the lowering of the existing boundary wall to a height of 1.8m
Location	2 Oldcourt , Vevay Road , Bray, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	221305
Applicant(s)	Conor Murray
Type of Application	Permission
Planning Authority Decision	Grant with Condition
Type of Appeal	Third Party
Appellant(s)	Joan Delaney
Observer(s)	None
Date of Site Inspection	24 th of June 2023
Inspector	Adrian Ormsby

1.0 Site Location and Description

- 1.1. The site comprises a house which is located at the end of a narrow cul de sac within an established residential area of Bray, County Wicklow. The site benefits from an existing vehicular entrance and can be described as a backland single storey house with a high rear boundary wall fronting onto the Lauderdale housing estate. The wall is not uniform in height, is plastered and finished with security style railing atop.
- 1.2. Lauderdale is an existing mature housing estate with houses generally fronting a large green area with the access roads serving the rear of houses. The road to the front of the proposed entrances is a cul de sac serving the rear elevations of house No's 19-30 and benefits from a public footpath.
- 1.3. The site has a stated site area of 0.0465 ha.

2.0 Proposed Development

- 2.1. The application comprises of permission for-
 - 3.5m wide vehicular entrance
 - 1.8m gate and
 - lowering of the existing boundary wall to 1.8m

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission on the 08/02/23 subject to one standard condition.

4.0 Planning Authority Reports

4.1. Planning Reports

The planning report generally reflects the final decision of the Planning Authority. The following points are noted-

- The site is zoned RE Existing Residential . The proposal to an existing house is acceptable in principle.
- The proposal will not materially affect the estate road or materially alter the character of the area.
- Lauderdale estate serves rear parking and rear access points.
- It would not be visually discordant or detract from visual amenities.
- The proposal will not have a materially adverse impact upon residential amenity such as privacy, noise, overbearing, overshadowing, overlooking , security nuisance and odour.
- The proposal has been discussed with the Executive Engineer of the Roads section who has no objections to the proposal on traffic safety grounds.
- The Traffic speeds are low and sightlines would be acceptable.
- An autograph assessment has been conducted and turning movements can be accommodated without materially impacting the road.
- The proposal is not likely to have a significant effect on Natura 2000 sites.

4.2. Other Technical Reports

- Transportation, Water & Emergency Services-
 - 31/01/23- Autotrack drawings

4.3. Prescribed Bodies

- None

4.4. Third Party Observations

- Three third party submissions have been received and include matters generally raised in the Appeal and as set out in section 7.1 below.

5.0 Planning History

- None recent

6.0 Policy Context

6.1. Wicklow County Development Plan 2022-28 (CDP)

- 6.1.1. The CDP was adopted on the 12th of September 2022 and became effective on the 23rd of October 2022. Section 1.2 details that separate Local Area Plans (LAP) are in place for certain towns/areas including the Bray Municipal District, which will be reviewed after the adoption of the CDP.
- 6.1.2. The CDP provides the key parameters for these LAPs such as the future population and housing targets and sets out the broad strategy for the future economic and social development of these towns.
- 6.1.3. Volume 3 is titled 'Development & Design Standards'. Section 2.1.9 deals with 'Entrances & sight lines' and states-
- *In all areas, new entrances shall be designed having regard to the design speed, function and traffic volumes on the adjoining public road as well as pedestrians, cyclists and vulnerable road users;*
 - *Clear sightlines will be required to be available or provided at new junctions and entrances. The sight distance required shall be calculated using the applicable road design manual having regard to the following criteria:*
 - *The designation of the road, its function in the road hierarchy and existing / projected volumes of traffic;*
 - *The typical speed (not the speed limit) of the road;*
 - *The vertical and horizontal alignment of the road;*
 - *And any other such factors that may be pertinent to the specific location or as may be set out in road design manuals.*
 - *When locating new entrances and proposing increases in traffic movements at existing entrances, it must be shown that vehicles turning right into the*

entrance do not obstruct or cause a hazard to other road users. Sufficient forward sight distance must be available to

(a) cars approaching an entrance in case a car is waiting on the road carriageway to turn right,

(b) for cars waiting to turn right at an entrance. Right turning lanes may be required and these shall be designed in accordance with the applicable road design manual.

6.2. The Bray Municipal District Local Area Plan 2018-2024

6.2.1. The site is zoned RE: Existing Residential with an Objective-

To protect, provide and improve residential amenities of existing residential areas.

This zoning and objective are further described as-

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.....

6.3. Ministerial Guidance

6.3.1. Development Management Guidelines for Planning Authorities June, 2007-

- Section 5.13- Issues relating to title to land

‘The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not entitled solely by reason of a permission to carry out any development.’

6.4. Natural Heritage Designations

- Not relevant

7.0 The Appeal

7.1. Grounds of Appeal

A third party appeal has been received from Joan Delaney of 30 Lauderdale, Vevay Road Bray on behalf of an attached list of residents of the Lauderdale estate. The grounds of appeal can be summarised as follows-

- Lauderdale is characterised by a significant level of on street car parking for residents without garages including the part of the estate opposite the proposed entrance.
- The existing laneway accessing 2 Oldcourt is wide enough to facilitate two way traffic.
- No reasonable and valid justification was provided by the applicant for the proposed new access.
- There are no other accesses from other developments to Lauderdale
- The proposal would set a highly undesirable precedent contrary to proper planning and sustainable development.
- The applicant does not have the legal right to implement the permission. The historical context and provisions of an Indenture/lease arrangement of the estate is detailed.
- The council have not taken ownership of the roads, pathways or open space, they have merely taken them in charge and regulate them.
- It is considered the proposal diminishes the amenity of the estate contrary to provisions of the historical lease arrangements.
- The entrance is proposed through a boundary wall is likely to be in part ownership. The other owners are the residents of the hesitate who do not consent.
- The width of the access at 3.5m is significantly overscaled. It provides no sightlines. The 1.8m footpath does not facilitate sightlines.

- Section 2.1.9 of the County Development Plan requires entrances to have regard to design speed, function and traffic volumes.
- A 2.4m set back is required and sightlines are significantly deficient being only 6m. A diagram is shown.
- The proposed entrance removes a safe environment for pedestrians and children.
- No auto track or swept path analysis was undertaken as part of the application.
- The development will have a profoundly negative impact on the amenity of the area and estate contrary to the RE zoning.
- The proposal would be seriously injurious to the residential and visual amenities of the area.

7.2. Applicant Response

The first party response to the appeal can be summarised as follows-

- No copy of the indenture for Lauderdale estate has been submitted despite been referred to a number of times in the appeal.
- It is clear the public areas of the estate have been taken in charge by the council many years ago.
- There will be no adverse impacts on existing traffic.
- The proposal provides a significant improvement on existing access arrangements.
- It will result in no loss of amenity to existing dwellings in the estate.
- It will provide passive surveillance to the relevant public area.

7.3. Planning Authority Response

- None

7.4. Observations

- None

8.0 Assessment

8.1. Introduction

8.1.1. I have examined the application details and all other documentation on file, including the appeal. I have inspected the site and have had regard to relevant local/regional/national policies and guidance.

8.1.2. I consider that the main issues for this appeal are as follows-

- Principle of Development
- Legal Entitlement
- Traffic and Road Safety
- Appropriate Assessment

8.2. Principle of Development

8.2.1. The application proposes a second vehicular entrance to service an existing dwelling. The site is zoned 'RE' Existing Residential with an objective to '*protect, provide and improve residential amenities of existing residential areas*'.

8.2.2. The description for this objective details' developments such as house improvements and alterations in accordance with principles of good design and protection of existing residential amenity can be facilitated. I am satisfied the proposed development is consistent with the 'RE' zoning objective.

8.3. Legal Entitlement

8.3.1. The Appellant's grounds of appeal contest the legal entitlement of the Applicants to carry out the works required to open an entrance into the Lauderdale housing estate including physical works to the boundary wall.

- 8.3.2. The Applicant indicates in question 10 of the application from that he is the owner of the land or structure concerned. The Council's planning report states the Lauderdale estate has been taken in charge by the Council and there are no concerns in this regard. I did not observe anything during my inspection to suggest the housing estate was in private ownership with public access clearly evident.
- 8.3.3. It is not within the remit of An Bord Pleanála to adjudicate on the ownership claims between the parties. This dispute is clearly a civil matter. In this regard Section 5.13 of the Development Management Guidelines 2007 states-

'The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not be entitled solely by reason of a permission to carry out any development'

8.4. Traffic and Road Safety

- 8.4.1. The Appellants consider the proposed development would represent a road and traffic hazard by virtue of the 'overscaled' entrance which does not facilitate sightlines. They refer to section 2.1.9 of the CDP which requires entrances to have regard to design speed, function and traffic volumes. They contend that no Autotrack analysis has been carried out to demonstrate traffic turning manoeuvres can be achieved.
- 8.4.2. I agree with the Appellants that the design speed, function and traffic volumes are important considerations for the proposed development. However it is clear the proposal simply provides a second vehicular entrance to one house. This will contribute limited traffic volumes onto an internal residential estate road which serves a cul de sac where the design speed is evidently low and traffic should not be travelling at significant speeds given the nature of the estate and the proximity of the bend just south of the entrance.
- 8.4.3. Section 2.1.9 of the CDP details that clear sightlines will be required to be available or provided at new entrances. I acknowledge that sightlines are not shown on the submitted drawings and they will be somewhat restricted given the height of piers and the reduction of the wall to 1.8m.

8.4.4. However the application proposes a 3.5m wide entrance which I do not consider over scaled. The entrance is set back from the edge of the road carriageway and an existing footpath adjoins the site boundary. The Council have raised no concerns in terms of sightlines and noting the design speed of the cul de sac road, the function of the residential entrance and the insignificant traffic volumes associated with one house, I am satisfied, subject to condition that the proposed development would not create a significant traffic hazard or endanger road safety to an extent warranting refusal in this context.

8.5. Other Matters

- The existing boundary wall with safety railing atop is considered an unattractive feature within the established residential estate. The proposed entrance gate, reduction in wall height and removal of railing would contribute positively to the visual amenity of the area and improve passive surveillance at this point.
- Subject to a condition in relation to working hours I am satisfied the proposed development would not have a significant impact on existing residential amenity that warrants refusing the proposal.

8.6. Appropriate Assessment

8.6.1. Having regard to the nature and scale of the proposed development and the distance from the nearest 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.

9.0 Recommendation

9.1. I recommend a grant of permission subject to the following conditions.

10.0 Reasons and Considerations

10.1. It is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential or visual amenities

of properties in the area. The proposed development would, therefore, be in accordance with the RE Existing Residential zoning objective for the site as set out in the Bray Municipal District Local Area Plan 2018-2024 and to the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health.

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

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

4. The site entrance, access driveway, dishing of kerb and roadside boundary treatment serving the proposed development shall comply with the detailed requirements of the planning authority for such works. Proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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.

Adrian Ormsby
Planning Inspector

24th of June 2023