



An  
Bord  
Pleanála

## Inspector's Report ABP-317752-23

<b>Development</b>	Demolition of derelict house and walls, construction of 9 houses and all associated site works
<b>Location</b>	At junction of Belmont & Pinewood Close, Boghall Road, Bray, Co. Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	23/338
<b>Applicant(s)</b>	Marise Moy
<b>Type of Application</b>	Permission (S. 34)
<b>Planning Authority Decision</b>	Grant Permission with Conditions
<b>Type of Appeal</b>	Third Party (S. 37)
<b>Appellant(s)</b>	Caroline Burrell and Eve & Chris Burrell MacCaughey
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	4 <sup>th</sup> October 2024
<b>Inspector</b>	Philip Maguire

## 1.0 Site Location and Description

- 1.1. The appeal site is located immediately north of an area of open space serving both Belmont and Riddlesford, two suburban estates in Bray, Co. Wicklow. Both estates are accessed separately off the Southern Cross Road (R768), west of the R761, but have pedestrian permeability to Boghall Road to the north, via Pinewood Close. These estates form part of an established residential area either side of the R768, northwest of Kilruddery House and Gardens and c. 1.7km south of Bray town centre and train station. Due north, the area is characterised by industrial, commercial and retail uses.
- 1.2. The appeal site has a stated area of 0.289ha, is rectangular shaped and relatively flat. It consists of a derelict building, last used as a dwellinghouse, and some wallsteads. All the structures and the appeal site generally are heavily overgrown. Vehicular access to the site is via Pinewood Close to the north, albeit currently blocked via parked cars and a locked gate adjacent to Unit 1 (Boghall Tyre Centre). Similarly, high palisade gates, which provide site access, were also locked at the time of inspection. The adjoining section of estate road / cul-de-sac serves nos. 162 to 165 Belmont.
- 1.3. Site boundaries are generally overgrown but include a high block wall along the northern boundary between industrial units at Pinewood Close and the appeal site. There are mature trees along the western boundary, adjacent to the access point. There is extensive vegetation along the southern boundary beside the open space associated with Belmont and Riddlesford, in addition to some mature trees on the open space. A low railing separating the access and the footpath to Pinewood Close was also observed in addition to informal parking in the turning head of the cul-de-sac.

## 2.0 Proposed Development

- 2.1. Planning permission is sought to demolish a derelict house and construct 9 houses.
- 2.2. The proposed development is described in the statutory notices as:
  1. *demolition of existing derelict house and walls;*
  2. *the construction of 9 houses comprising, one detached two storey two bedroom house with covered parking, five detached three storey three bedroom houses with covered parking and three detached three storey three bedroom houses and*
  3. *alterations to vehicle area and new internal access road;*

4. *connection to public sewer;*
5. *removal of existing fence to southern boundary and*
6. *all associated site works.*

2.3. The following table summarises the key elements of the proposed development:

Site Area	0.289ha or 2,890sq.m
Dwelling Units	9 no. houses (1 no. two-bed and 8 no. three-bed)
Density	31dph
Building Height	2-3 storey (c. 6.00m-8.60m)
Floor Demolition Areas Proposed (sq.m)	131sq.m 1,030.02sq.m
Site Coverage	12% (calculated as 275.8sq.m)
Plot Ratio	0.36
Part V	11% (1 of 9 no. units)
Open Space	c. 9% (measured as c. 250sq.m)
Car Parking Spaces	21 (2 per residential unit, plus 3 no. visitor spaces)

**Table 1 – Key Figures**

2.4. In addition to a supporting planning statement (Dreyer Associates, April 2023), planning application documents include:

- Construction Engineering Report
- Tree Survey and Report
- Surface Water Report

2.5. The applicant made an unsolicited further information response on 8<sup>th</sup> May 2023 in relation to two third-party submissions, namely Burrell and others, and J. O'Byrne.

2.6. The applicant's further information response of 22<sup>nd</sup> June 2023, included:

- layout revisions incorporating marginal revisions to open space (grading), reduction in visitor spaces (to 3 no.) and clarification of boundary treatment; and

- site section details at various chainage points along the existing/proposed road.

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. Permission was granted on 13<sup>th</sup> July 2023, subject to 21 no. conditions.

3.1.2. The conditions are generally of a standard nature; however, the following are of note:

Condition 3 – precludes any development until contributions/submissions/agreements required by the various conditions are submitted and agreed with the planning authority.

Condition 8 – requires submission of full engineering details prior to commencement, including details of traffic calming features; a road safety audit (Stages 2 and 3); and the omission of the internal visitor parking space.

Condition 9(c) – requires the results of a CBR<sup>1</sup> test and the exact specification of the road to be submitted and agreed in writing with the planning authority prior to the commencement of development.

Condition 9(d) – requires the road construction materials tested at a laboratory and the results available for inspection if requested.

Condition 14 – sets out measures for the protection of trees and shrubs, including the use of stout paling around trees etc. to be retained and maintenance of the original drainage to trees where possible.

Condition 16(c) – requires the developer to maintain the open space for one year following completion of the houses and enter into a licence (in a prescribed manner) to ensure that the amenity space will be available for the residents of the estate.

Condition 21 – requires archaeological monitoring.

#### 3.2. Planning Authority Reports

3.2.1. The Planning Officer's Report (22/05/23) can be summarised as follows:

##### *Background*

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<sup>1</sup> California Bearing Ratio.

- Refers to the previous refusal on site (PA ref. 20/293) where concerns were raised regarding the lack of open space, the access road along the northern boundary, houses backing on to the existing area of open space, pedestrian linkages. Overall, it notes that the proposal was found to be creating a traffic hazard.

#### *Principle*

- States that the principle of development is acceptable on the Bray LAP zoning and considers that the site is underutilised and the proposal for housing is positive.

#### *Density*

- Considers the density (32dph) acceptable having regard to the scale and pattern of development in the area.

#### *Layout & Design*

- Considers the layout facing towards the existing Bellmont Estate and 'green space' to be appropriate and overcomes previous concerns.
- Raises concerns regarding the retaining wall (600-700mm) along the southern boundary and requires further information in respect of same.
- States that the boundary treatment is unclear and requires further information.

#### *Open Space*

- Notes that the 'green space' serving the Belmont estate has been taken in charge by the local authority and agrees that it could be used by the proposed units and therefore accepts a relaxation in standards.
- Considers the private amenity space to be appropriate with all units in excess of 60sq.m and >50% with over 75sq.m.

#### *Trees*

- Notes that the road design and wastewater infrastructure (foul and surface) has been designed to take account of the root areas.
- States that the design has been carefully considered to ensure no damage to mature trees of value and suggests that protective measures can be conditioned.

#### *Access & Road Layout*

- Notes the LAP objective for a footpath/cycle-way improvement between Pinewood Close and Belmont and refers to the previous refusal where it was determined that the applicant had no legal interest in the laneway but did over the existing railed area. In this regard, it suggests that it is unclear whether the layout will impact on access/egress to the existing houses in the absence of a swept path analysis.
- Queries whether the 4 no. visitor parking spaces are required and considers that further information is required in this regard.
- Notes the concerns raised by the roads section in relation to the parking bay dimensions and the connectivity between the shared surface and the existing footpaths at Belmont. Also notes the further information requested by the roads section in respect of access geometry for bin trucks/fire tender but considers that larger vehicles will reverse from the entrance given the existing cul-de-sac layout.

#### *Residential Amenity*

- Considers the concerns raised by the third parties. With respect to scale and density, considers it appropriate to this urban area with design generally in line with the standards.
- In relation to traffic safety, doesn't consider 9 no. additional units will negatively impact traffic flows in the area.
- Regarding ownership issues, notes that the applicant is only proposing works within the redline boundary.
- Notes the concerns raised regarding the new residents availing of the existing 'green amenity space' but reiterates that this area is in the charge of the local authority and therefore acceptable.
- Does not consider the proposal would have a long-term negative effect on existing residents subject to appropriate construction measures/conditions.

#### *AA & EIA*

- No AA or EIA issues arise.

3.2.2. The Planning Officer's Report (10/07/23) can be summarised as follows:

#### *Item 1 of the Further Information Request*

- Considers that the southern boundary detail, which includes a section of railing and terracing/steps to the open space, is appropriate in terms of visual and residential amenity, connecting the proposed dwellings to the existing open space.
- Notes that the tree roots can be protected by this style of boundary treatment but suggests that the level changes have not been made entirely clear.

*Item 2 of the Further Information Request*

- Notes that the northern and eastern boundaries will be provided with a 2.1-2.8m high masonry wall that will ensure residential amenity protection for the residents.

*Item 3 of the Further Information Request*

- Considers that the reduction in the quantum of visitor parking is acceptable but suggests that it does not address the concerns in relation to the proposed visitor parking in the existing Belmont cul-de-sac.
- Notes 'cross section 6' details of the cul-de-sac showing a 2m footpath, a 1.3m cross over and a 5.5m wide road and considers that the layout is likely to operate safely given the available width, following discussion with the roads section.

*Item 4 of the Further Information Request*

- States that the details illustrate that there is sufficient width for safe movements.
- Notes that there is no footpath provided in the shared surface area but considers it likely that this route will operate safely for pedestrians and cyclists given the widths and sightlines available.

*Item 5 of the Further Information Request*

- States that the parking bay size has been resolved by omitting 2 no. spaces.
- Notes that sightlines have been shown at the entrance with an appropriate line of vision over the cycleway to Pinewood Close.
- States that car parking for unit nos. 7 and 8 is detailed to be 2.7m wide and incorporated into an open garden surface with sufficient room on the house side.

### 3.2.3. Other Technical Reports

- Fire (02/05/23): No objection subject to condition.
- Housing (03/05/23): No objection.

- Roads (10/07/23): Non-committal observations.

### 3.3. Prescribed Bodies

- Uisce Éireann (09/05/23): No objection.

### 3.4. Third Party Observations

- 3.4.1. The planning authority received a total of 6 no. third-party observations.
- 3.4.2. The issues raised are similar to the grounds of appeal – see section 6.1 below.

## 4.0 Planning History

### 4.1. Relevant to appeal site:

- 4.1.1. PA ref. 20/293 – in February 2021, the planning authority refused permission for the demolition of the existing derelict house etc. and construction of 9 no. houses for the following reasons:
  1. *Having regard to: (a) the proposal for 9 large four-bedroom houses on a constrained infill site; (b) the constrained nature of the ground level private outdoor amenity space; (c) the restricted nature of the on-parking parking [sic.], it is considered that the proposed development would result in a substandard development that would injure the amenities of the future residents and would result in traffic hazard due to haphazard parking. The proposed development would be therefore contrary to the proper planning and sustainable development for the area.*
  2. *Insufficient information has been submitted in relation to the usability of the on-site parking, the impact of the grass build outs on the curtilage parking, the adequacy of pedestrian facilities and adequacy of the proposed turning area. To permit the proposed development in the absence of such information would be contrary to the proper planning and sustainable development.*
  3. *Having regard to: (a) the lack of information provided in relation to the proposed siting of public services infrastructure; (b) the lack of detailed information in relation to the existing and proposed levels of the road and houses having regard to the proposed circular confinement tree protection measures, it is considered that the*



*impact of the development on the existing trees in the Riddlesford public open space is not clear. In the absence of this information, to permit the proposed development would be contrary to objectives set out in the Wicklow County Council Development Plan 2016- 2022 that aims to discourage the felling of mature trees and would be contrary to the proper planning and sustainable development of the area.*

- 4.1.2. PA ref. 98/8822 – in September 1998, the planning authority granted permission for a modified hammerhead, erection of railing, and closing off Pinewood-Belmont access. Condition 2 required the railings to be erected in such a way as to preserve the 4m right of way on the northern side in order to *inter alia* allow more room for vehicle movements in and out of that site. Condition 4 related to the proposed turning bay.

## **5.0 Policy Context**

### **5.1. Local Planning Policy**

#### ***Wicklow County Development Plan 2022-2028***

- 5.1.1. The current Development Plan, as varied, came into effect on 23<sup>rd</sup> October 2022. The planning authority decision of 13<sup>th</sup> July 2023 was made under the provisions of this Plan. This appeal shall also be determined under the current Development 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) and 17 (Natural Heritage and Biodiversity) of Volume 1 (Written Statement).
- 5.1.3. The following sections are relevant to the proposed development:
- 3.4 – Population & Housing Allocations
  - 3.5 – Zoning
  - 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 6.5 Requires new development to be of the highest quality design, contributing to a coherent urban form and attractive built environment.
- 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. Table 6.1 seeks a minimum density of 35-50dph in the outer suburban sites of large towns and discourages net densities of less than 30dph.
- CPO 6.14 Seeks to densify existing built-up areas subject to the adequate protection of existing residential amenities.
- CPO 6.15 Requires higher density proposals to be of a high standard, incorporating a mix of housing and delivering compact urban forms that enhance the local built environment, with an appropriate design response to the site and adequate protection for neighbouring residential amenity.
- 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 6.18 Seeks to ensure that building height within future development makes a positive contribution to the built form of the area, is not obtrusive and does not adversely impact on the streetscape, local amenity or views.

- CPO 6.21 Notes that whilst new developments shall have regard to the protection of the residential and architectural amenities of the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and forms), to provide for visual diversity.
- 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 6.25 New housing or other non-community related uses will not normally be permitted in existing residential areas on the areas of open space permitted, designated or dedicated solely to the use of the residents.

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

- Section 2.1.4 notes that the design of new local roads and new means of access onto local roads shall generally comply with the guidance set out in the *Design Manual for Urban Roads and Streets, Traffic Management Guidelines and Recommendations for Site Development Works for Housing Areas* as necessary.
- 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. Minimum private open space for 1-2 bed houses is 50sq.m and 60-75sq.m for 3+ bed houses.
- Section 3.1.5 (Car parking) notes that 2 no. off-street spaces shall normally be required for all dwelling units over 2-bed in size. For every 5 no. units provided with only 1 space, 1 visitor space shall be provided (6m by 2.5m for parallel bays).
- Section 3.1.6 (Infill development etc.) notes that house design should complement the area, but more flexibility can be applied where an area is a 'mixed-bag' of styles.

***Bray Municipal District (MD) Local Area Plan (LAP) 2018-2024***

5.1.6. The Bray MD LAP came into effect on 10<sup>th</sup> June 2018. Section 1.1 of the LAP states that it shall have a duration of 6 years, but the residential land zoning provisions have

been made on the basis of providing enough housing land to meet the 2025 population and housing target. The Bray MD LAP 2025 is at the pre-draft, consultation stage.

- 5.1.7. The appeal site is zoned 'Existing Residential' with a zoning objective '*To protect, provide and improve residential amenities of existing residential areas.*' The description for this zoning includes for the provision of appropriate infill residential development in accordance with principles of good design and protection of residential amenity. Uses generally appropriate for this zoning include houses and open space.
- 5.1.8. Map no. TO1 details 'foot / cycleways improvements' to the west of the appeal site.
- 5.1.9. The main policy objectives relevant to the proposal are set out in chapters 3 (Residential Development), 8 (Infrastructure) and 9 (Built and Natural Heritage) of the Written Statement. I note the following policy objectives:
- R1 Requires that all new housing developments accord with the housing objectives and standards set out in the County Development Plan.
  - R4 Seeks to encourage infill housing and the use of underutilised and vacant sites and facilitate higher residential densities at appropriate locations, subject to a high standard of design, layout and finish.
  - GI4 Seeks to promote the preservation of trees, groups of trees, and trees associated with demesne planting, where considered to be viable, in line with sound arboricultural management and in the interest of amenity.
- 5.1.10. Table 3.1 of the LAP sets out the land zoned for residential development and the potential housing yield. I note that the potential number of residential 'infill' units 'on other TC / RE lands' is stated as 200 no. for the Bray and Environs area.

## 5.2. Regional Planning Policy

### ***Regional Spatial and Economic Strategy (RSES)***

- 5.2.1. The Eastern and Midland RSES (EMRA, 2019) sets the regional policy context.
- 5.2.2. Section 4.6 identifies Bray as one of three Key Metropolitan Towns with the capacity and future growth potential to accommodate above average growth. Regional Policy Objective (RPO) 4.37 seeks to support the continued development of Bray. RPO 4.39 seeks to promote the consolidation of the town centre with a focus on placemaking

and regeneration to provide for enhanced town centre functions and public realm, in order to increase Bray's attractiveness as a place to live, work, visit and invest in.

- 5.2.3. Having regard to Bray's location within the Dublin MASP boundary, I note that one of the guiding principles is to promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve this stated target of 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. Also, to support a steady supply of sites and to accelerate housing supply, in order to achieve higher densities in urban built-up areas, supported by improved services and public transport. In this regard, the RSES acknowledges the significant role of the planned LUAS extension to Bray.

### 5.3. National Planning Policy and Guidelines

#### ***National Planning Framework (NPF)***

- 5.3.1. Acknowledging demographic trends, Project Ireland 2040, the National Planning Framework (DHLGH, 2018), seeks a 50:50 distribution of growth between the Eastern and Midland region and other regions. It places an emphasis on developing existing settlements including a delivery target of at least 40% of all new housing within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites.
- 5.3.2. The NPF also signals 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. It emphasises that general restrictions on building height may not be applicable in all circumstances in urban areas and should be replaced by performance-based criteria appropriate to the general location.
- 5.3.3. In this regard, National Policy Objective (NPO) 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. NPO 35 seeks to increase residential density in settlements, through a range of measures including infill development schemes, area/site-based regeneration and increased building heights.

#### ***Guidelines for Compact Settlements***

- 5.3.4. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (DHLGH, 2024) sets out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable

residential development and the creation of compact settlements. They are accompanied by a non-statutory Design Manual, albeit unpublished at time of writing.

- 5.3.5. Section 2.2 notes that these Guidelines should be read in conjunction with other guidelines where there is overlapping policy and guidance. Where there are differences between these Guidelines and other previously issued Section 28 Guidelines, it is intended that the policies and objectives and specific planning policy requirements (SPPR's) of the Compact Settlements Guidelines will take precedence.
- 5.3.6. In this regard, section 3.0 of the Guidelines deals with settlement, place and density. Section 3.3.1 relates specifically to the five cities and MASP areas. Amongst the key priorities is to deliver brownfield and infill development within the existing built-up footprint and in a sequential manner closest to the urban core. Table 3.3 states that it is a policy and objective of these Guidelines that net residential densities in the range of 35-50dph shall generally be applied in the suburban areas of Metropolitan Towns.
- 5.3.7. Section 5.0 of the Guidelines sets out the standards for new housing, including SPPR 1 (separation distances), SPPR 2 (private open space) and SPPR 3 (car parking).

#### **5.4. Other National Policy and Guidance**

##### ***Housing for All***

- 5.4.1. Housing for All, a New Housing Plan for Ireland (DHLGH, 2021) is the government's housing policy to 2030. In this regard, it notes that Ireland needs an average of 33,000 homes built per annum until 2030 to meet the NPF targets. These homes need to be affordable, built in the right place, to the right standard and in support of climate action.

##### ***Climate Action Plan 2024***

- 5.4.2. The Climate Action and Low Carbon Development Act 2015, as amended, ('the Climate Act'), commits the State to a legally binding 51% reduction in overall GHG emissions by 2030 and to achieving net zero emissions by 2050. Section 15 places an obligation on the Board to make all decisions in a manner consistent with this Act.
- 5.4.3. The Climate Action Plan 2024 (CAP24) follows the commitment in the Climate Act, and sets out the range of emissions reductions required for each sector to achieve the committed targets. Measures to reach a 50% reduction in transport emissions include a 20% reduction in total vehicle kilometres and a 50% increase in daily active travel.

##### ***National Sustainable Mobility Policy***

- 5.4.4. The National Sustainable Mobility Policy (Dept. of Transport, 2022) sets out a policy framework to 2030 for active travel and public transport to support Ireland's overall requirement to achieve a 51% reduction in greenhouse gas emissions by 2030.

***Cycle Design Manual***

- 5.4.5. Guidance relating to the design of both on-road and off-road cycle facilities for both urban and rural locations is set out in this manual (NTA, 2023). Section 2.6 states that the absolute minimum width of a cycle track at pinch points, over short lengths only, is 1.25m and the desirable minimum width is 2m for less than 300 peak hour flows.

***Design Manual for Urban Roads and Streets (DMURS)***

- 5.4.6. 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/cyclable 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.
- 5.4.7. Section 4.3.4 notes that shared surface streets and junctions are particularly effective at calming traffic, and highly desirable where movement priorities are low and there is a high value placed on promoting more liveable streets, such as on local streets within neighbourhood; and pedestrian activities are high, and vehicle movements are only required for lower-level access or circulatory purposes. It states that the key condition for the design of any shared surface is that drivers, upon entering the street, recognise that they are in a shared space and react by driving very slowly i.e. 20kph or less.
- 5.4.8. Section 4.4.1 notes that the standard carriageway width on local streets should be between 5 and 5.5m (i.e. lane widths of 2.50-2.75m) and states that total carriageway width on local streets where a shared surface is provided should not exceed 4.8m.
- 5.4.9. Section 4.4.4 indicates that the stopping sight distance (SSD) for a road design speed of 50kph is 45m; 40kph is 33m; and 30kph is 23m. Section 4.4.5 notes that priority junctions in urban areas should have a maximum X-distance of 2.4m but this can be reduced to 2m where vehicle speeds are slow and flows on the minor arm are low. The Y-distance should correspond to the SSD while adjustments should be made for certain streets e.g. arterial and link streets with higher frequency bus routes.

5.4.10. Whilst DMURS is not prescriptive over cul-de-sac length, I note that the UK *Manual for Streets* (2007) is referred to throughout section 4.4 of DMURS. In this regard, section 6.8.3 of that guidance states that for cul-de-sacs longer than 20m, a turning area should be provided for vehicles that regularly need to enter the street.

5.4.11. Similarly, section 6.8.9 of the UK guidance, referencing building control regulations, states that waste collection vehicles should be able to get to within 25m of the waste storage point and residents should not be required to carry waste more than 30m.

#### ***Recommendations for Site Development Works for Housing Areas***

5.4.12. Section 2.6 of the *Recommendations for Site Development Works for Housing Areas* (DELG, 1998) states that turning bays should be provided at the end of cul-de-sacs. It notes that the dimensions required for turning bays depends both on the maximum size of vehicle to be accommodated and on the frequency with which the turning bay would be used by that vehicle. Figure 2.2 illustrates suitable turning bay geometry.

#### ***Traffic and Transport Assessment (TTA) Guidelines (TII, PE-PDV-02045)***

5.4.13. Section 2.1 considers the thresholds at which the production of a TTA in relation to planning applications is recommended. Table 2.1 details the relevant thresholds, including where traffic to/from the development exceeds 5% of the traffic flow on the adjoining road where congestion exists, or the location is sensitive and residential development (200+) dwellings. Table 2.3 sets out sub-threshold criteria for TTA.

#### ***Road Safety Audit (RSA) Guidelines (TII, GE-STY-01027)***

5.4.14. Section 4.3 of this TII standard notes that deferring an RSA to a post decision condition is inappropriate and does not allow for the full road safety implications to be addressed.

#### ***National Biodiversity Action Plan 2023 – 2030***

5.4.15. Ireland's 4<sup>th</sup> National Biodiversity Action Plan (NBAP) was launched on 25<sup>th</sup> January 2024. It sets the national biodiversity agenda until 2030 and aims to deliver the transformative changes required to the ways in which we value and protect nature.

### **5.5. Other Guidance**

#### ***Trees in Relation to Design, Demolition and Construction***



- 5.5.1. This British Standard publication (BS 5837:2012) came into effect on 30<sup>th</sup> April 2012. Clause 7 deals specifically with demolition and construction close to existing trees. Subclause 7.4 relates to permanent hard surfacing within the Root Protection Area (RPA), but it does not apply to ‘veteran’ trees<sup>2</sup>, where it is recommended that no construction, including the installation of new hard surfacing, occurs within the RPA.
- 5.5.2. It notes that where permanent hard surface within the RPA is considered unavoidable, site-specific and specialist arboricultural and construction design advice should be sought to determine whether it is achievable without significant adverse impact on trees to be retained (Subclause 7.4.1). New permanent hard surfacing should not exceed 20% of any existing unsurfaced ground in the RPA (Subclause 7.4.2.3).

## 5.6. Natural Heritage Designations

- Bray Head SAC and pNHA (000714) – c. 0.9km east, northeast
- Dargle River Valley pNHA (001754) – c. 2.4km west
- Ballyman Glen SAC and pNHA (000713) – c. 2.8km west, northwest
- Kilmacanoge Marsh pNHA (000724) – c. 2.9km southwest
- Great Sugar Loaf pNHA (001769) – c. 3.3km southwest
- Powerscourt Woodland pNHA (001768) – 4.1km west
- Knocksink Wood SAC and pNHA (000725) – 4.3km west
- Glen of the Downs SAC and pNHA (000719) – c. 4.9km south, southwest
- Rockabill to Dalkey Island SAC (003000) – c. 6.8km north, northeast
- The Murrough SPA (004186) – c. 6.8km southeast
- Dalkey Islands SPA (004172) – c. 9.1km north, northeast

## 5.7. EIA Screening

- 5.7.1. Having regard to the nature and scale of the proposed development, which is for 9 no. houses in an established and serviced urban area, and its proximity to the nearest

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<sup>2</sup> A tree that, by recognized criteria, shows features of biological, cultural or aesthetic value that are characteristic of, but not exclusive to, individuals surviving beyond the typical age range for the species concerned (Subclause 3.12)

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 stage 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 Caroline Burrell and, Eve and Chris Burrell MacCaughey. Other individuals are listed in the appeal submission (see Appendix 2).
- 6.1.2. The grounds reflect the observations made to the planning authority. They can be generally summarised as follows:
- The scale and density of the proposal is unnecessary given there is already land zoned for this type of development with similar development underway in the area.
  - The proposal does not take traffic, resident safety and other environmental factors and impacts into account.
  - There are inaccuracies, errors and omissions in the application relating to ownership, boundaries, local infrastructure, ecological and environmental assessment, visual impact and housing demand.
  - Issues previously raised by the Council have not been addressed and a planning precedent has been set.
  - The proposed development is the same as previous proposals, apart from the removal of terraced housing and the inclusion of a tree survey.
- 6.1.3. In relation to connections to Pinewood and Belmont, the appellants submit/state:
- The applicant does not own the lane from Pinewood Close to Belmont estate or have any access to the site.
  - The cul-de-sac, with railings, is a permanent barrier between the site and Belmont estate.
  - The site has its own entrance and gates onto Pinewood Close and therefore does not require the removal of the barrier.

- The current cul-de-sac arrangement was a factor in purchasing their house.

6.1.4. In relation to private open space, the appellants submit/state:

- The site does not have access to, or potential to share, the open space to the south which was provided for the use of Belmont and Riddlesford residents in 1995/96.
- The application has not addressed the issue of open space provision.

6.1.5. In relation to landscaping, the appellants submit/state:

- The Habitats Directive should be applied to the site, Article 6.3 in particular, in relation to the removal of the boundary ditch/hedgerow between the site and Belmont/Riddlesford open space.
- No evidence of anti-social behaviour or dumping of garden waste has been submitted to support the proposition that houses to the north of the open space will provide additional passive surveillance.
- No ecological impact study has been submitted with the application.

6.1.6. In relation to roads, the appellants submit/state:

- The road within Belmont estate is barely able to cope with the existing volume of traffic and does not have capacity for additional traffic that would be generated.
- The applicant has not addressed the further information request with regards to car parking nor the traffic issues previously highlighted by the Council.
- No engineering/traffic impact assessment in relation to *inter alia* roads, parking and turning areas, noting that there is already a vehicular access via Pinewood Close.
- The applicant has not considered the loss of the existing parking spaces beside the barrier provided for residents and any through-traffic would be a danger for cars reversing from their driveways.
- There is no turning head provided for refuse vehicles and all large vehicles must reverse to exit the cul-de-sac.

6.1.7. In relation to site ownership, the appellants submit/state:

- There is no requirement to remove the barrier or provide access through Belmont estate as there is already an access available.

- The site was originally accessed via Beechwood Close and infers inaccuracies in respect of the boundary layout.

6.1.8. In relation to design, the appellants submit/state:

- There are no three-storey houses in the area and the proposal would be out of keeping with its character, noting that no visual impact assessment was submitted.
- The development is overbearing and likely to result in a high visual impact and would overlook to an unacceptable degree on existing houses in the area.
- The density of the development could result in anti-social behaviour, light and noise pollution and the site is unsuitable for such higher density.
- The applicant has not addressed objectives in the Development Plan relating to housing mix/type, universal design or residential density and is contrary to national, regional and local policy.
- The proposal is not appropriate, well-designed infill development that is in keeping with the low-density housing in the area and the proposal would have a negative impact on the ambience of the neighbourhood and on traffic and resident safety.

6.1.9. In relation to property value and consultation, the appellants submit/state:

- The proposal will permanently alter the character and diminish the value of adjacent houses in Belmont.
- Neither the applicant nor the architects discussed the proposal with adjacent residents, particularly in relation to the site access through Belmont estate.

6.1.10. In relation to planning precedent and issues noted in the Council decision, the appellants submit/state:

- The planning conditions do not address any specific concerns of the residents.
- No. 5 – it is unclear where the barrier removal is to take place.
- No. 6 – the specific location of junction works is not clearly stated.
- No. 14 – boundary hedgerow/ditch removal has not been mentioned and the proposal will impact heavily on local wildlife.
- There is no merit to the proposal and the applicant has not addressed all of the previous concerns raised by the Council, thus a precedent for refusal has been set.

## **6.2. Applicant Response**

6.2.1. Dreyer Associates responded on behalf of the applicant, Marise Moy. In addition to providing some context to the existing barrier and access arrangement via Pinewood Close, and the framing of the application in response to the previous refusal reasons (PA ref. 20/293), the applicant's appeal response can be summarised as follows.

6.2.2. In relation to connections to Pinewood and Belmont, the applicant submits/states:

- They control the locked gate and have an exclusive vehicular right of way over the lane, and this will be transferred to a cycleway, not the existing footpath.
- They also control the barrier to be removed as it was erected on foot of a court order for the benefit of the site owner, the applicant's father.
- They are seeking to connect to a public road (Belmont estate road) which has been taken in charge by Wicklow County Council and this is better than serving a residential development through an industrial area.

6.2.3. In relation to private open space, the applicant submits/states:

- The appeal submission does not deal with private open space, and instead addresses public open space, repeating an incorrect statement that the open space was provided for the use of Belmont and Riddlesford residents.

6.2.4. In relation to landscaping, the applicant submits/states:

- Rejects the suggestion that the dumping of garden waste amounts to composting.
- Passive supervision would be a positive impact.
- The boundary between the site and open space is neglected where laurel has established, as opposed to a green corridor as submitted by the appellants.

6.2.5. In relation to roads, the applicant submits/states:

- The anticipated extra daily traffic movements (72 no.) are not significant, will not contribute to parking on both sides of the 6m wide road and will be easily absorbed.
- There is no proposal for a 'through road' and it will continue to be a cul-de-sac.
- There will be no loss of parking.

- The proposed turning area is 'based on Type (iii) as detailed in paragraph 2.7 of the Recommendations for Site Development Works for Housing Areas', whilst also noting that large vehicles generally reverse up cul-de-sac roads in housing areas.

6.2.6. In relation to site ownership, the applicant submits there is no evidence of the purported boundary discrepancies, and the historical context is explained i.e., the entrance to Kilruddery from the Boghall Road was rerouted through Pinewood Close, and preserved this as a right of way, when the industrial estates were developed.

6.2.7. In relation to design, the applicant submits/states:

- The proposed three-storey houses are appropriate given the distance to the nearest house and thus are not overbearing nor will give rise to overlooking given the separation distance and screening effect of the trees.
- Contiguous elevations have been submitted to enable a visual assessment.

6.2.8. In relation to property value and consultation, the applicant submits/states:

- This is based on a proposed 'through road' and high density which is not the case.
- There is no statutory requirement to meet with the residents.

6.2.9. In relation to planning precedent and issues noted in the Council decision, the applicant submits/states that the referenced numbers do not relate to the conditions in the Notification to Grant and the previous refusals are not axiomatic of precedent.

## **7.0 Assessment**

### **7.1 Preliminary Points**

7.1.1. Having examined the application details and all other documentation on the appeal file, including the appeal submissions and observations, 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:

- Land Use and Development Principle
- Density
- Residential Amenity

- Visual Amenity
- Traffic and Transport
- Natural Heritage
- Other Issues

## 7.2. Land Use and Development Principle

- 7.2.1. The appellants submit that the scale and density of the proposal is unnecessary given there is already land zoned for this type of development with similar development underway in the area. The applicant, on the other hand, submits that such an argument, which implies that no infill development would be permissible on the basis that there is sufficient zoned land elsewhere in a given settlement, is unsustainable.

### *Status of the Bray MD LAP 2018-2024*

- 7.2.2. It is therefore important to clarify the status of the Bray MD LAP, which is the most recent land use zoning plan for the area. As noted, the LAP has a stated operative period of 6 years from 10<sup>th</sup> June 2018 and is therefore evidently expired. This does not support the appellants position regarding the availability of alternative zoned lands but equally does not preclude the proposed housing development on the appeal site.
- 7.2.3. In this regard, I note that the County Development Plan provides the population and housing targets for all 21 settlements in Wicklow up to 2031, and whilst it only provides land use zoning plans for 13 settlements, noting that the remainder “have their own stand-alone Local Area Plans”, it incorporates the housing unit requirements for all LAP towns and the housing unit capacity of lands zoned in those LAPs in the Core Strategy. The Development Plan therefore provides a statutory basis for the proposal.
- 7.2.4. Table A of the Development Plan (Core Strategy – LAP Towns) identifies a housing unit target of 4,897 for Bray to 2031 with a development capacity of 2,000 units within the built-up area, based on the zoning provisions of the expired Bray LAP. Therefore, lands within the built-up area alone, cannot deliver this Core Strategy housing target.
- 7.2.5. Of these 2,000 units, I note that a potential yield of 200 no. infill units is identified on ‘other TC / RE lands’ in Table 3.1 of the LAP, and whilst I accept that a surplus of housing land has been identified in Bray overall, this relates primarily to strategic sites outside the built-up areas including those identified in Table 3.1 and Map No. 2.

- 7.2.6. Based on the foregoing, it is reasonable to conclude that insufficient zoned land has already been identified within the town to accommodate future population and housing growth. Thus, whilst I acknowledge the timeline of the 2018-2024 LAP, I consider that the NPF, RSES and Development Plan continue to reinforce the role of Bray as a Key Town at the apex of the settlement hierarchy in Wicklow, with the subject lands remaining 'Tier 1 serviced' and having capacity to accommodate infill development.
- 7.2.7. Given that the aforementioned LAP is the most recent land use zoning plan pertaining to the appeal site and that the planning authority has not sought to amend the zoning of these lands in the interim, including during the Development Plan process, I am satisfied that the 'Existing Residential' zoning, where houses and open space are permitted in principle, remains a relevant consideration until such time as this land use zoning may be changed through the LAP process or Development Plan variation.
- 7.2.8. In this regard, I note that the Bray MD LAP 2025 is at pre-draft stage and I consider that it would be manifestly unreasonable for the interregnum period to be devoid of a land use strategy for the town. This is particularly acute given the ambitious housing unit target to 2031, where the proposed development represents just 0.18% of the total housing requirement for Bray and just 0.45% to be delivered in the built-up area.

#### *Conclusion on Land Use and Development Principle*

- 7.2.9. Therefore, in the absence of a replacement, I consider that the land use zonings in the LAP remain the guiding land use strategy for Bray. I specifically note that residential zonings were made on the basis of providing enough housing land to meet the 2025 population and housing target. To this I attach significant and determinative weight.
- 7.2.10. I also note that there is significant national and regional policy support for infill residential development, particularly on underutilised, vacant brownfield lands, in order to promote sustainable consolidated growth in the Dublin MASP, including Bray.

### **7.3. Density**

- 7.3.1. Planning permission has been sought for 9 no. houses on a 0.289ha site. This equates to a density of 31dph. As noted, the appellants suggest that this density and scale is excessive, unsuitable for the site and contrary to national, regional and local policy.



- 7.3.2. Whilst the applicant has not explicitly addressed density as a standalone issue, I note that they address the scale of the proposal in terms of amenity impacts. These impacts, in terms of residential amenity and visual amenity, are addressed fully below.
- 7.3.3. Table 6.1 of the Development Plan sets out the density standards as per the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas* (DEHLG, 2009) i.e., 35-50dph for outer suburban/greenfield sites and a minimum of 50dph for public transport corridors. Those guidelines have since been replaced by the Compact Growth Guidelines as set out in section 5.3 above, and these guidelines have been incorporated into the Development Plan by virtue of policy objective CPO 6.13, which makes provision for 'any subsequent Ministerial guidelines'.
- 7.3.4. As noted above, Table 3.3 of the Guidelines for Compact Settlements outlines the appropriate density ranges for Metropolitan Towns and Villages such as Bray. It states that it is a policy and objective of these guidelines that net residential densities in the range of 35-50dph shall generally be applied in the suburban / edge locations of Metropolitan Towns, and in this regard the CPO 6.13 provisions are largely unaffected.
- 7.3.5. There is no basis, therefore, to suggest that the density is contrary to planning policy nor am I convinced of the argument that higher density leads to anti-social behaviour. If anything, I agree with the applicant that the proposal will aid passive surveillance and is therefore likely to reduce any anti-social behaviour that could cause concern.
- 7.3.6. Moreover, the new guidelines provide that net densities of up to 100dph shall be open for consideration at 'accessible' suburban / urban extension locations. These are lands within 500m ('up to 5-6 minute walk') of existing or planned high frequency ('10-minute peak hour frequency') urban bus services. Whilst I note a number of bus services and stops along the R768 and Boghall Road, they are not high frequency. I am therefore satisfied that the site is not an 'accessible' suburban location according to the Compact Settlement Guidelines, where greater than 50dph could be achieved.
- 7.3.7. The appropriate density range is therefore 35-50dph, however this is subject to the express objectives of the Development Plan. In this regard, I note that policy objective CPO 6.14 seeks to densify existing built-up areas subject to the adequate protection of existing residential amenities and policy objective CPO 6.15 seeks to encourage and facilitate high quality well-designed infill/brownfield development that is sensitive to context, enables consolidation of the built environment and enhances streetscape.

- 7.3.8. In this context, I note that the adjacent houses in Belmont (nos. 128-131 and 162-165) and Riddlesford (nos. 101-103) estates, equate to a density of c. 28dph. Similar residential densities of sub-30dph would appear prevalent throughout these estates and I accept that either side of the R768 is generally low-density and car orientated.
- 7.3.9. The appeal site is evidently underutilised and serviced and given the fact that it is an archetypal 'infill site', it is capable of accommodating higher residential density in my opinion. This density should not be curtailed by the prevailing densities in Belmont and Riddlesford however, as such densities are an inefficient use of zoned and serviced land, but determined having regard to the impact on established amenities.
- 7.3.10. As noted, these impacts are fully considered below but suffice to say that there is no requirement to insist upon a minimum density of 35dph given the specific site context, and notwithstanding the objective of Table 3.3 of the Compact Settlement Guidelines.

#### *Conclusion on Density*

- 7.3.11. On balance, I am satisfied that 31dph is a sustainable residential density subject to further consideration of visual and residential amenity impacts, as discussed below.

### **7.4. Residential Amenity**

- 7.4.1. The appellant submits that the proposal is overbearing and would overlook to an unacceptable degree on existing houses in Belmont and Riddlesford, altering the character and diminishing the value of adjacent houses. Traffic impact concerns are also raised in the context of residential amenity and addressed separately below. The appellants also raised concerns regarding access to the existing area of open space.
- 7.4.2. The applicant, on the other hand, states that the proposed houses are appropriate given the distance to the nearest house, and thus are not overbearing nor will give rise to overlooking given this separation distance and screening effect of the existing trees.
- 7.4.3. The appeal site is linear with a roughly east-west alignment. Vehicular access is to be taken from the existing cul-de-sac north of a turning head opposite nos. 164-165 Belmont. This turning head is currently utilised as an informal parking area, however having reviewed the planning conditions and layout associated with PA ref. 98/8822, I am satisfied that this turning head was not permitted as residential parking spaces.
- 7.4.4. The internal access road, a 4.80m wide shared surface, runs from west to east with a gentle incline and a 3% crossfall from south to north. It terminates in a Y-shaped

turning head between unit nos. 8 and 9 which both have a finished floor level (FFL) of 49.65mAOD. The remaining units address the access road and follow the incline from unit no. 1 at 49.30mAOD to a high point of 49.75mAOD at unit nos. 6 and 7. All units back onto a common boundary with the industrial estate to the north. In this regard, the existing boundary wall will be retained and augmented with a new 2.1m high wall where required around unit nos. 8 and 9. The southern boundary will be largely removed to open up access to the existing open space and the majority of trees will be retained in order to preserve the silvan setting and character of the neighbourhood.

- 7.4.5. All house-types, 5 no. in total, are contemporary in design, incorporating flat and mono-pitch roof structures, a modern palette of finishes and external balconies. The separation distance from the rear walls to the northern boundary vary between 2.4m (unit no. 8) and 5.4m (unit no. 2). The nearest house in Belmont estate is no. 162, which is 29.2m west, southwest of unit no. 1, and orientated due east. The appellant's property is some 51m south, southwest of unit no. 1. The nearest house in Riddlesford estate is no. 101, which is 21m south, southeast of unit 8, and orientated due south.

#### *Overbearing*

- 7.4.6. Whilst I accept that the introduction of mostly three-storey units represents a departure from the existing pattern of two-storey units in Belmont and Riddlesford, I note that these units are limited to 8.60m in height and not significantly higher than existing houses. Moreover, the units are detached and will not read as imposing structures.
- 7.4.7. I also note that whilst the layout does not illustrate the FFL for the appellant's house or indeed other houses in Belmont or Riddlesford, which would have been helpful, I am satisfied that only a marginal increase in ground level is required having regard to the existing site plan drawing. In such circumstances and noting the significant separation distances to neighbouring houses and notwithstanding the noticeably shallow rear garden depths along the industrial estate boundary, I am satisfied that no issues of overbearing arise. Residential amenity is therefore unimpacted in this regard.

#### *Overlooking*

- 7.4.8. Bearing in mind that 'adequate separation' is traditionally considered as 22m between opposing upper floor rear windows, and all rear windows address the adjacent industrial estate to the north whereas the appellants rear windows face due west, I am fully satisfied that the proposal is adequately removed from the appellant's house to ensure their privacy and enjoyment is not negatively impacted upon. Moreover,

section 5.3.1 of the Compact Settlement Guidelines notes that this traditional approach does not account for modern design and construction methods and states that separation distances should be determined based on considerations of privacy and amenity, informed by the layout, design and characteristics of the specific proposal.

- 7.4.9. In this regard, I agree with the applicant that no issues of overlooking arise given the substantial separation distances and screening afforded by the existing belt of trees.

#### *External Terraces*

- 7.4.10. I note that south-facing external terraces are proposed to the front of all units, and at first and second floor level in the case of unit nos. 2-6. The application documentation includes the terrace areas within the overall private amenity space figure (per unit), given the perceived shortfall in rear garden space and overall reduced garden depth.
- 7.4.11. I note that the planning authority have not raised any issue regarding the quantum of private open space or the use of external balconies but having regard to SPPR 2 of the Compact Settlement Guidelines, which specifies a minimum of 30sq.m and 40sq.m of private open space for 2- and 3-beds respectively, I query their need for inclusion.
- 7.4.12. External terraces have the potential to impact on residential amenity and are not required to meet private open space requirements in this instance. The Board may wish to condition out the terraces or restrict their use in the event of a grant of permission but given the separation distances and screening I have no major concern.

#### *Public Open Space*

- 7.4.13. As noted, the proposed development will link into the existing open space to the south which currently serves the Belmont and Riddlesford estates. In this regard, the applicant suggests that no public open space is being provided and whilst this is strictly true in relation to formalised and useable spaces, I do note pockets of open space either side of the access point from the Belmont estate road and along the southern boundary where grading up to the existing open space is proposed. This amounts to c. 9% of the overall site area and the purported shortfall is overstated, in my opinion.
- 7.4.14. Nevertheless, it is access to this open space, as opposed to the quantum of proposed open space, that is of concern to the appellant. In this regard, I note that the planning authority have indicated that this open space has been taken in charge by the Council and have not raised any concerns regarding access or the relaxation in standards

below the usual 15% of site area. This is reasonable and provides future occupants with useable open space whilst they, in return, provide additional passive surveillance.

#### *Conclusion on Residential Amenity*

- 7.4.15. Having regard to the above, I do not consider that the proposed development 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, or resulting from an overbearing impact.
- 7.4.16. 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.
- 7.4.17. I do however recommend restricting exempted development provisions for extensions (Class 1) and sheds (Class 3) for each of the houses given limited rear garden depths.

#### **7.5. Visual Amenity**

- 7.5.1. Allied to concerns regarding residential amenity, the appellant submits that the proposal is not in keeping with the area, which consists mainly of two-storey houses and suggests that it will have a negative visual impact. In this regard, they specifically highlight a lack of visual impact assessment, which I do not consider warranted in this case. In this regard, I am satisfied that the drawings provide a sufficient level of detail.
- 7.5.2. As noted, the houses in Belmont estate, including the appellant's, are two-storey semi-detached units, some with attic conversions. A similar pattern of development prevails in Riddlesford, save for a linear form of detached units north of the Riddlesford estate road, and east, southeast of the appeal site. As I suggested above, the introduction of mostly three-storey units represents a departure from the existing pattern of two-storey units in Belmont and Riddlesford, in terms of scale and form. I am however satisfied that the proposed height is modulated through the use of flat and mono-pitch roof structures and will largely be screened by the existing mature trees to the south.
- 7.5.3. On this basis, I am not convinced that the proposal represents an entirely significant departure from the established character of the area. Indeed, I consider that the proposed houses will adequately navigate what is undoubtedly a difficult linear site to develop, with minimal use of retaining structures, and without negative visual impact.

#### *Conclusion on Visual Amenity*

- 7.5.4. The layout of the proposal represents a suitable transition between the lower-density form of Belmont and Riddlesford estates and the Pinewood Close industrial estate.
- 7.5.5. The houses are of a height and scale that are generally consistent with the prevailing height and scale of the area, and whilst the marginal differences in design and form are acknowledged, it will not militate against the successful integration of the proposal subject to appropriate landscaping, boundary treatment and tree retention conditions.
- 7.5.6. The proposal is appropriate infill development which consolidates the built-up footprint of Bray, and the contemporary layout and design does not detract from the character and identity of the area. I particularly note that it successfully responds to the site-specific context 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.

#### **7.6. Traffic and Transport**

- 7.6.1. Much of the appeal submission is given over to traffic and transport concerns. The appellants submit that the proposal does not take traffic and resident safety into account, suggesting that the Belmont estate road is almost at capacity. In addition to the loss of parking spaces, they also raise concerns regarding a lack of turning head.
- 7.6.2. I also note that the appellants raise concerns regarding the applicant's ability to access the site and question why the existing access from Pinewood Close cannot be utilised, suggesting that there is no requirement to remove the existing turning head barrier. The applicant's ability to access the site is considered further under 'other issues' but I do note they consider an access through Belmont preferable to an industrial estate. This, in my view, is entirely reasonable given Belmont is in the charge of the Council.
- 7.6.3. As noted, the planning authority sought further information in relation to a number of traffic and transport related issues, the majority of which appear to be resolved to their satisfaction. I do note some residual concerns regarding the proposed visitor parking in the existing Belmont cul-de-sac, but this did not preclude a grant of permission.

##### *Traffic Impacts*

- 7.6.4. As noted, the appeal site is located off Belmont estate road, where it terminates in a cul-de-sac. The existing road is c. 5.5m wide and the footpath along the western side, to the front of unit nos. 162-165, is c. 2m wide. A similar sized footpath runs on a

north-south alignment to the south of the proposed shared surface access point. I note that the carriageway of the Belmont estate road further west is some 6.2m wide.

- 7.6.5. Sightlines at the access point are shown as c. 2.4m by 19m in a northerly direction and c. 2.4m by 45m in a southerly direction. These sightlines are deemed acceptable.
- 7.6.6. Two visitor parking spaces are proposed immediately north of the access point and measure roughly 2.4m by 6m. An additional space is provided along the southern side of the shared surface. Each dwellinghouse will have 2 no. in-curtilage parking spaces.
- 7.6.7. In terms of traffic impacts, the applicant anticipates that the proposal will generate an extra 72 no. daily traffic movements, suggesting that this is not significant and will be easily absorbed. They also state that it will not contribute to parking on the estate road, noting that there is no proposal for a 'through road' and a cul-de-sac will remain.
- 7.6.8. The proposed development does not warrant the submission of a traffic and transport assessment having regard to the TII guidance outlined in section 5.4 above. I note that the suggested 72 no. daily traffic movements are based on 8 no. movements per day, per house. I consider this an overestimation given the proximity to high capacity and high frequency public transport in Bray town centre, albeit a 13-minute cycle away.
- 7.6.9. Given the low-speed environment, which has been dictated by what is effectively a staggered junction with the Belmont estate road and having regard to the adequate sightlines in accordance with DMURS and subtle deflections along the shared surface carriageway, I do not consider any significant traffic impacts will arise. I do however consider that the construction phase could cause some level of disruption, which could impact on amenity and safety, and therefore recommend that the Board include a construction traffic management plan (CTMP) in the event of a grant of permission. In this regard, the applicant has suggested a construction access via Pinewood Close and I consider this acceptable having regard to their stated and evidential right of way.

#### *Parking*

- 7.6.10. As noted, the existing turning head opposite unit nos. 164-165 Belmont is currently used as an informal parking area. This informal arrangement has capacity for 3 no. spaces as observed during my inspection. The appellant's have raised concerns regarding the removal of these informal spaces; however, I note that the applicant has proposed 2 no. replacement spaces to the north of the proposed access point. This is acceptable and whilst I note that the minimum width of a parallel bay should be

2.5m, this can be addressed by planning condition. I therefore have no concerns regarding the proposed car parking other than related to unit nos. 7 and 8, as considered below. Moreover, the existing turning head appears largely unaltered.

#### *Turning Head*

- 7.6.11. As detailed above, the proposed shared surface has a west-east alignment and terminates in a Y-shaped turning head between unit nos. 8 and 9, at chainage 97m. I note the turning head would facilitate access to parking spaces for unit nos. 7 to 9.
- 7.6.12. The applicant has stated that this turning head is based on 'Type (iii)' as detailed in 'paragraph 2.7' of the *Recommendations for Site Development Works for Housing Areas*. Section 2.7 relates to road gradients whereas section 2.6 relates to cul-de-sac ends. In this regard, I note the geometry of the proposed turning head generally reflects Type (iii), as suggested, however the depth of turning head is significantly below 10m, and the internal angle is less than 120°. In my opinion there is insufficient turning area for larger vehicles and the alternative reverse distance is not acceptable.
- 7.6.13. Similarly, I am unconvinced of the merits of 'in-line' parking spaces in a housing development served by a shared surface. To my mind, the obvious solution is to remove one of the units which will free up sufficient space for 'side-by-side' parking for all houses and an unimpeded turning head for larger vehicles, including refuse trucks.
- 7.6.14. I therefore recommend that the Board condition out unit 8 in the event of a grant of permission and all subsequent road geometry should be agreed with the planning authority by way of condition. Whilst I acknowledge the resultant reduction in density to 28dph, I consider it is warranted in the interests of public and road safety. The latter condition would also address the swept-path issue for larger vehicles at the entrance.

#### *Planning Authority Conditions*

- 7.6.15. As noted in section 3.1.2, the planning authority have attached a number of conditions relating to traffic and transport. Condition 8 requires full engineering details prior to commencement, including a Stage 2 and 3 road safety audit (RSA), and the omission of the internal visitor parking space. I note that TII RSA guidance advises against post-decision RSA. I consider residual issues can be addressed by standard condition.
- 7.6.16. Condition 9 requires *inter alia* the bearing value of the road ('a CBR test') and the exact specification be submitted and agreed in writing with the planning authority prior to the



commencement, along with the construction materials test results made available, if requested. I consider that these details can also be addressed by standard condition.

#### *Conclusion on Traffic and Transport*

- 7.6.17. On balance, I do not consider that 9 no. houses served by just 18 no. car parking spaces and 3 no. visitor spaces would significantly increase traffic volumes in the area or endanger public safety by reason of a traffic hazard on this basis alone. However, given the abovementioned concerns regarding the inadequacy of the turning head and the reliance of larger vehicles reversing in to, and out of, the cul-de-sac, I recommend that unit no. 8 be omitted, and provision be made for an enhanced turning head.
- 7.6.18. I also acknowledge the provision of the cycle track as a significant planning gain beyond the traditional development contribution system, and whilst the roads section had some residual concerns regarding the gap from the entrance point to the proposed bollards, which will delineate the start of the cycle track, I have no particular concerns. In this regard, I note the low traffic volume and speeds and short bridging distance.

### **7.7. Natural Heritage**

- 7.7.1. The appellant has raised concerns regarding the removal of the boundary between the appeal site and the open space. In this regard, they suggest that the proposal will adversely impact on wildlife. The applicant, on the other hand, submits that this boundary is neglected and does not form a green corridor as the appellant suggests.

#### *Trees and Landscaping*

- 7.7.2. I was unable to access the appeal site during my inspection, but I was able to make comprehensive observations from the exterior of the site, including from, and of, the existing open space. In this regard, I note that the majority of vegetative removal along the southern boundary relates to low level and low ecological value trees and shrubs, including non-native species such as laurel (*Laurus nobilis*), as noted by the applicant. However, I also note that the root protection areas (RPAs) of the trees south of the boundary overlap with part of the shared surface and this does warrant consideration.
- 7.7.3. Having regard to the submitted tree survey and report (Austen Associates, March 2023) and my site observations, I agree with the applicant that 'tree 0050' and 'tree group 02' are of little or no value and their removal is acceptable. I also note that the

majority of surveyed trees, including tree 0050, are outside the site boundary and I agree that the most important of these are 'veteran', albeit Category A, high quality.

- 7.7.4. As noted, the site layout drawing illustrates that the majority of these trees would be retained, including 'tree group 01', which are Category C, low quality, but provide a screening function between proposed unit no. 9 and no. 101 Riddlesford. These retained trees will be augmented with ornamental planting and new grassed areas. However, given the restricted nature of the site, comprehensive landscaping is limited.
- 7.7.5. I also note the arboricultural method statement contained within the tree report, and protection measures illustrated on the submitted tree protection drawing. The protective barriers referenced in the method statement are illustrated on this drawing.
- 7.7.6. In this regard, I am satisfied that, subject to a suitably worded condition requiring detailed measures in relation to works within the RPAs of the trees to be retained (similar to Condition 14 of the planning authority decision), there will be no significant adverse impact on trees and the proposal will not materially impact on retained trees. I also recommend tree bond and arboricultural supervision conditions be attached.

#### *Planning Authority Conditions*

- 7.7.7. As noted, Condition 9 of the planning authority decision relates to *inter alia* the road construction details. In this regard, I note the submitted engineering report provides a technical recommendation regarding a no-dig, no-compaction road construction methodology to ensure the RPAs of the trees to be retained are unaffected. As noted, I am satisfied that detailed construction standards can be addressed by condition.
- 7.7.8. I also note that Condition 16(c) requires the developer to maintain the open space for one year following completion of the houses and enter into a licence, in a prescribed manner, to ensure that the amenity space will be available for the residents. I recommend that the Board attach the standard open space condition in this regard.

#### *Conclusion on Natural Heritage*

- 7.7.9. I am therefore satisfied that the proposed development would not have any unacceptable impacts on natural heritage and no significant impacts are likely to arise.
- 7.7.10. Whilst I note the appellants concerns regarding the impact of the proposal on local wildlife, I am mindful that the appeal site is an urban infill site, which is evidently of limited ecological value. Issues regarding the Habitats Directive are considered below.

## 7.8. Other Issues

### *Legal and Procedural*

- 7.8.1. As noted, the appellants have suggested that the applicant has no legal access to the existing area of open space, and whilst this is primarily a civil matter to be resolved between the parties having regard to the provisions of Section 34(13) of the Planning Act, I accept that the open space and Belmont estate road are in the charge of the local authority. Therefore, I do not consider any legal prohibition arises in this case.

### *Planning Authority Conditions*

- 7.8.2. Other than the non-standard conditions previously addressed in this report, the planning authority have precluded any development until development contributions, submissions and agreements required by the various conditions are submitted and agreed with the planning authority in accordance with Condition 3. I do not consider this condition necessary having regard to Section 34(4) of the Planning Act and the standard wording in respect of matters to be agreed prior to commencement of works.

### *Archaeology*

- 7.8.3. I also note that Condition 21 requires archaeological monitoring, and whilst there is no specific commentary in the planning authority reports outlining a rationale for this condition, I note from the applicant's submission and having reviewed historical mapping that the site formed part of the Kilruddery Demesne and included a gate lodge. I therefore recommend that such archaeological monitoring be conditioned.

### *Property Value*

- 7.8.4. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusions set out above, I am satisfied that the proposal would not seriously injure the amenities of the area to an extent that it would adversely affect the value of property in the area.

### *Part V*

- 7.8.5. Notwithstanding my conclusion in respect of the Bray MD LAP and having regard to the provisions of CPO 6.9, which relates to Part V obligations in respect of "land zoned for residential use", I recommend that the Board attach a standard Part V condition in the event of a grant of permission. I note this condition allows for certain exemptions.

## 8.0 AA Screening

8.1. Having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the proposed development, alone, or in combination with other plans and projects on any of the designated European sites. I have carried out a full screening determination for the development and it is attached to this report (Appendix 3). For completeness, the sites included in the potential Zone of Influence (Zol) are as follows:

- Bray Head SAC (site code 000714)
- Ballyman Glen SAC (site code 000713)
- Knocksink Wood SAC (site code 000725)
- Glen of the Downs SAC (site code 000719)
- The Murrough SPA (site code 004186)
- Rockabill to Dalkey Island SAC (site code 003000)
- Dalkey Islands SPA (site code 004172)

8.2. In accordance with Section 177U of the Planning and Development Act 2000, as amended, and on the basis of objective information provided by the applicant, I conclude that the project individually, or in combination with other plans and projects, would not be likely to give rise to significant effects on the Bray Head SAC, Rockabill to Dalkey Island SAC, Dalkey Islands SPA or any other European site, in view of the site's Conservation Objectives. It is therefore determined that appropriate assessment of the proposal (Stage 2) [Section 177V of the Act] is not required. Measures intended to reduce/avoid significant effects have not been considered in the screening process.

## 9.0 Recommendation

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

## 10.0 Reasons and Considerations

10.1. Having regard to the provisions of the Wicklow County Development Plan 2022-2028, as varied, the location of the proposed development on Tier 1 serviced lands within the built-up footprint of Bray, 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 traffic safety or public health or adversely impact on the natural environment. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 22<sup>nd</sup> day of June, 2023 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:
  - (a) The dwelling referenced as 'house 8' shall be omitted.
  - (b) The resultant area between 'house 7' and 'house 9' shall be reconfigured to provide an unimpeded turning head in accordance with Condition 3, and this may include revisions to associated dwelling curtilage and orientation.
  - (c) The residual area shall be incorporated into public open space.

For clarity, the permitted development shall relate to eight houses only.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs shall comply with the

detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS). Details of all locations and materials to be used shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.

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

4. (a) 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.

(b) All WC's, bathroom and ensuite windows shall be fitted and permanently maintained with obscure glazing.

**Reason:** In the interest of visual and residential amenity, and to ensure an appropriate high standard of development.

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

**Reason:** In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings and to ensure no development is carried out within the root protection areas of retained trees.

6. (a) No walls, fences or other boundary treatment shall be constructed around the front gardens of the dwellings, and front gardens shall be kept as "open plan".

(b) All rear gardens shall be bounded by block walls, 1.8 metres in height, capped and rendered, on both sides, to the written satisfaction of the planning authority.

**Reason:** To ensure that the proposed scheme remains open plan in nature/appearance, and in the interest of visual and residential amenity.

7. 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. The proposed name(s) shall be based on local historical or topographical

features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

8. 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 transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of Section 94(4) and Section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of Section 94(4) and Section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under Section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which Section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.

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

9. (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 house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant 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.

(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 specified 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.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant 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.

**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.

10. 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.

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

11. (a) Detailed measures in relation to the protection of trees on and adjoining the site, including an arboricultural method statement, shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

(b) All demolition and construction works shall be carried out under the supervision of a suitably qualified arborist.

**Reason:** To ensure the protection of the natural heritage on site.

12. 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.

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

13. A landscaping and boundary treatment 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.

**Reason:** In the interest of biodiversity and the visual and residential amenity of the area.

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

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

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

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

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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

15. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

16. 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.

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

17. A construction and environmental management plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

**Reason:** In the interest of residential amenities, public health and safety and environmental protection.

18. A detailed construction traffic management plan (CTMP) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

**Reason:** In the interest of sustainable transport, amenity and safety.

19. 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 for the written agreement of the planning authority.

**Reason:** To prevent flooding and in the interests of sustainable drainage.

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

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

21. The development hereby permitted shall be carried out and completed at least to the construction standards set out in Wicklow County Council's *Taking in Charge & Completion of Developments Policy*, 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.

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

22. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion 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.

**Reason:** To ensure the satisfactory completion of the development.

23. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on (and adjacent to the) site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on (and adjacent to) the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To secure the protection of the trees on the site.

24. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development 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 planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the scheme.

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

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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Philip Maguire

Senior Planning Inspector

28<sup>th</sup> November 2024

## Appendix 1

### Form 1 – EIA Pre-Screening

<b>Case Reference</b>	ABP-317752-23		
<b>Proposed Development Summary</b>	Demolition of derelict house and walls, construction of 9 houses and all associated site works		
<b>Development Address</b>	At junction of Belmont & Pinewood Close, Boghall Road, Bray, Co. Wicklow		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	No EIAR or Prelim. Exam. Required
<b>Yes</b>	X	Class 10(b)(i) Class 10(b)(iv)	Proceed to Q.4
<b>4. Has Schedule 7A information been submitted?</b>			
<b>No</b>	X	Preliminary Examination required (Form 2)	
<b>Yes</b>		Screening Determination required (Form 3)	

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

### Form 2 – EIA Preliminary Examination

Case Reference	ABP-317752-23	
Proposed Development Summary	Demolition of derelict house and walls, construction of 9 houses and all associated site works	
Development Address	At junction of Belmont & Pinewood Close, Boghall Road, Bray, Co. Wicklow	
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.		
	Examination	Yes/No/ Uncertain
<b>Nature of the Development</b> Is the nature of the proposed development exceptional in the context of the existing environment?  Will the development result in the production of any significant waste, emissions or pollutants?	<p>The construction of 9 no. houses on serviced lands and adjacent to other residential uses is not considered to be exceptional in the context of the existing environment.</p> <p>The development will involve demolition wastes in the form of tarmac, brick, blocks and concrete in addition to excavated soils, boulder clay and rock. Construction activities will require the use of potentially harmful materials, such as fuels, concrete and other such substances and give rise to waste for disposal. Such wastes will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be localised and temporary in nature and implementation of a CEMP will satisfactorily mitigate potential impacts. Connection to the WWTP is feasible and capacity is available. Significant wastes, emissions or pollutants are therefore not anticipated.</p>	No
<b>Size of the Development</b> Is the size of the proposed development exceptional in the context of the existing environment?  Are there significant cumulative considerations having regard to other existing	<p>The appeal site has a stated area of 0.289ha and consists of a derelict two-storey house and wallstead. It is bounded to the north and east by industrial units and to the south by mature trees and open space. The construction of a 9 no. houses (1 no. two-storey and 8 no. three-storey) is proposed. This is not considered exceptional in this context nor do significant cumulative effects arise.</p>	No

and/or permitted projects?		
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>There are no ecologically sensitive locations in the immediate vicinity of the appeal site. The Swan Stream, a tributary of the Dargle River, is c. 490m west, northwest of the appeal site. The nearest European site is located c. 0.9km to the east, northeast – Bray Head SAC. Bray Head is also a proposed Natural Heritage Area (pNHA), as is the Dargle River, c. 2.4km west.</p> <p>The appeal site is previously developed brownfield land. Having regard to the scale of the proposal, intervening land uses and separation distance, the proposed SuDS measures, there is no potential to significantly impact on the ecological sensitivities of these European sites or other significant environmental sensitivities in the area.</p>	No
<p><b>Conclusion</b></p>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>		

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

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

## **Appendix 2**

Ms Carol Darby, Secretary & Ms. Aisling Ferguson, Treasurer, Belmont & Oak Glen Resident's Association

Mr Pat Hannon

Mrs Eileen Hannon

Mr David McGowan

Mrs Emma McGowan

Mr John O'Byrne

Mrs Emer O'Byrne

Mr Robert Spencer

Ms Steph Spencer

Ms Deirdre Smith

Mr Edwin Aanstoot

Ms Tara Mangan

Ms Emer O'Dowd

Ms Jenny Murphy

Mr Rowland Griffin

Mr Niall Vickers



## Appendix 3

### Screening the need for Appropriate Assessment Finding of likely significant effects

#### Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

##### *Compliance with Article 6(3) of the Habitats Directive*

Article 6(3) of the Directive requires that any plan or project not directly connected with or necessary to the management of a European site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. This proposal is not directly connected to, or necessary to the management of any European site, and therefore is subject to these provisions.

Having examined the application details and all other documentation on the appeal file, I am satisfied that I have sufficient information before me to allow for a complete examination and identification of any potential significant effects of the proposed development alone, or in combination with other plans and projects, on Natura sites.

#### **Description of the Proposed Development**

It is proposed to demolish a derelict house and walls and construct 9 no. houses along with associated works, including connection to water and wastewater services.

#### **Consultations and Submissions**

As noted, the appellants state that 'the Habitats Directive should be applied to the site', referring to "Article 6.3" in particular, and in relation to the removal of the boundary ditch/hedgerow between the site and Belmont/Riddlesford open space.

Uisce Éireann have no objection subject to standard conditions including those relating to connection agreements and compliance with their codes and practices. I have reviewed Uisce Éireann's water supply and wastewater Capacity Registers. I note that there is capacity in water supply to meet the 2032 population targets with a level of service improvement. I also note there is capacity available at Shanganagh-Bray WWTP. I have reviewed the foul drainage and water supply proposals as detailed and I am fully satisfied that these issues can be addressed by planning condition, in addition to the attenuation and disposal of surface water.

Having regard to the nature, scale and location of the proposal, the Planning Officer's Report dated 22<sup>nd</sup> May 2023 considered that the proposal would not give rise to any adverse impacts on the Qualifying Interests (QI's) and Conservation Objectives (CO's) of Natura 2000 sites in the vicinity and would, therefore, not necessitate the carrying out of appropriate assessment in accordance with Article 6(3).

## **European Sites**

The appeal site is not located in a European site. Having regard to the source-pathway-receptor (S-P-R) model, a summary of seven European sites that occur within a possible Zone of Influence (Zol) of the appeal site are outlined in the tables below, four of which have been excluded at preliminary screening. The excluded sites either have no pathway or hydrologically, the combination of distance, dilution and dispersal would have no significant impact on these sites. There are, however, pathways, albeit tenuous, to the Bray Head SAC, Rockabill to Dalkey Island SAC and Dalkey Islands SPA and these require further consideration in this assessment.

### *SCI Birds*

In general, SCI species have potential to occur in the environs of the proposed development given the foraging and migratory ranges. SCI bird species are susceptible to habitat loss, noise and human presence during the construction phase and susceptible to collision risk with buildings during the operational phase. That said, and for the reasons outlined above, I am not inclined to agree with the appellant that the habitat impacted by the proposal is of notable value. It certainly does not represent suitable foraging or roosting habitat for SCI bird species, particularly the waders and waterfowl associated with the SPA's on the eastern seaboard. The inclusion of any other SPA's beyond those in Table 2 is not, therefore, warranted.

### *QI Habitats / Species*

No other habitats or species of relevance to any SAC's were recorded in the tree survey or observed during my site inspection. Having regard to the spatial scale of the potential project impacts and the distance to other SAC's, coupled with the fact that there are no mobile conservation interests and no realistic connectivity (physical or hydrological), I do not consider it appropriate to include any further SAC sites.

I have therefore included those European sites with a possible ecological connection or pathway in this screening determination. These sites are considered in Tables 1 and 2 below. Those with identifiable ecological connections/continuity through the S-P-R model are considered further in terms of the likely impacts/significant effects.

European Site (Code)	Qualifying Interests / Special Conservation Interest <i>*indicates a priority habitat under the Habitats Directive</i>	Distance / Direction	Connections	Considered further in Screening
<b>Table 1 – Special Areas of Conservation (SAC's)</b>				
Bray Head SAC (000714)	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030] <a href="https://www.npws.ie/protected-sites/sac/000714">https://www.npws.ie/protected-sites/sac/000714</a>	0.9km – closest point to site boundary  East, northeast	Yes.  Potential hydrological connections via (i) surface water run-off to the Swan Stream-Dargle River-Bray Harbour, upcoast of this SAC, during the construction phase (ii) surface water run-off to the existing drainage network during the construction phase (iii) wastewater from the appeal site which passes through Shanganagh-Bray WWTP and discharges to a coastal waterbody via the Shanganagh outfall, upcoast of this SAC, during the operational phase. Potential deterioration of water quality impacting on habitats / species susceptible to change.	Yes

<p>Ballyman Glen SAC (000713)</p>	<p>*Petrifying springs with tufa formation (Cratoneurion) [7220] Alkaline fens [7230] <a href="https://www.npws.ie/protected-sites/sac/000713">https://www.npws.ie/protected-sites/sac/000713</a></p>	<p>2.8km – closest point to site boundary  West, northwest</p>	<p>No.</p> <p>There is no direct connection between the appeal site and this SAC.</p> <p>Uncontrolled surface waters from the appeal site flow towards Bray Harbour and there is no indirect connection between it and this SAC via watercourses, drains, ditches etc.</p> <p>The location, scale and duration of the project is such that it will not contribute to direct, indirect or in-combination impacts for which this SAC is designated.</p>	<p>No</p>
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Knocksink Wood SAC (000725)	<p>*Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p>*Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p><a href="https://www.npws.ie/protected-sites/sac/000725">https://www.npws.ie/protected-sites/sac/000725</a></p>	4.3km – closest point to site boundary  West	<p>No.</p> <p>There is no direct connection between the appeal site and this SAC.</p> <p>Uncontrolled surface waters from the appeal site flow towards Bray Harbour and there is no indirect connection between it and this SAC via watercourses, drains, ditches etc.</p> <p>The location, scale and duration of the project is such that it will not contribute to direct, indirect or in-combination impacts for which this SAC is designated.</p>	No
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<p>Glen of the Downs SAC (000719)</p>	<p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] <a href="https://www.npws.ie/protected-sites/sac/000719">https://www.npws.ie/protected-sites/sac/000719</a></p>	<p>4.9km – closest point to site boundary  South, southwest</p>	<p>No.</p> <p>There is no direct connection between the appeal site and this SAC.</p> <p>Uncontrolled surface waters from the appeal site flow towards Bray Harbour and there is no indirect connection between it and this SAC via watercourses, drains, ditches etc.</p> <p>The location, scale and duration of the project is such that it will not contribute to direct, indirect or in-combination impacts for which this SAC is designated.</p>	<p>No</p>
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Rockabill to Dalkey Island SAC (003000)	Reefs [1170] <i>Phocoena phocoena</i> (Harbour Porpoise) [1351] <a href="https://www.npws.ie/protected-sites/sac/003000">https://www.npws.ie/protected-sites/sac/003000</a>	6.8km – closest point to site boundary  North, northeast	Yes.  Potential hydrological connections via wastewater from the appeal site which passes through Shanganagh-Bray WWTP and discharges to a coastal waterbody via the Shanganagh outfall, c. 1.5km inshore from this SAC, during the operational phase. Potential deterioration of water quality impacting on habitats / species susceptible to change.	Yes
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**Table 2 – Special Protection Areas (SPA's)**

The Murrough SPA (004186)	<p>Red-throated Diver (<i>Gavia stellata</i>) [A001]</p> <p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Little Tern (<i>Sterna albifrons</i>) [A195]</p> <p>Wetland and Waterbirds [A999]</p> <p><a href="https://www.npws.ie/protected-sites/spa/004186">https://www.npws.ie/protected-sites/spa/004186</a></p>	<p>6.8km – closest point to site boundary</p> <p>Southeast</p>	<p>No.</p> <p>There is no direct connection between the appeal site and this SPA. There is no indirect connectivity between the project and this SPA via watercourse, drains or ditches etc. The project is sufficiently remote that there is no risk of disturbance to waders and wildfowl using the SPA.</p> <p>Whilst a number of SCI species do feed in fields in the wider area, given the nature of the appeal site, the impacts on such species, such as displacement or disturbance from foraging or roosting is highly unlikely. The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA is designated.</p>	No
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<p>Dalkey Islands SPA (004172)</p>	<p>Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] <a href="https://www.npws.ie/protected-sites/spa/004172">https://www.npws.ie/protected-sites/spa/004172</a></p>	<p>9.1km – closest point to site boundary  North, northeast</p>	<p>Yes.  Potential hydrological connections via wastewater from the appeal site which passes through Shanganagh- Bray WWTP and discharges to a coastal waterbody via the Shanganagh outfall, c. 3.1km downcoast of this SPA, during the operational phase. Potential deterioration of water quality impacting on habitats / species susceptible to change.</p>	<p>Yes</p>
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## **Likely impacts of the Project**

The appeal site is hydrologically connected to the Bray Head SAC, Rockabill to Dalkey Island SAC and Dalkey Islands SPA, albeit weakly. On this basis, I consider that potential impacts associated with the construction and operational phase of the proposed development primarily relate to potential impacts on water quality including:

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.

### *Construction Phase*

A surface water drainage network serves the appeal site. During the construction phase there is potential for surface water runoff from site works to temporarily discharge to the existing drainage network. There is also potential for discharge to the Swan Stream, c. 490m away, which discharges to the Dargle River, with further, albeit tenuous, connection to the Bray Head SAC. However, in the absence of rivers, streams or drainage ditches on, or bounding, the appeal site, the uncontrolled hydrological connection between this SAC and site 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 pollutants such as silt, hydrocarbons etc. from demolition, 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 standard construction methods for managing construction surface water runoff, including silt traps, fences, and bunded areas will ensure that any such uncontrolled events are contained within the appeal site and would not discharge overland nor to the local stormwater drainage network.

I consider that the construction phase will not therefore result in significant environmental impacts that could affect European sites within the wider catchment.

### *Operational Phase*

I note that SuDS measures, including an attenuation cell is proposed adjacent to the existing surface water manhole at the proposed site entrance. The total impermeable area is stated as 1203.48sq.m and the attenuation volume appears to be appropriately sized, and includes a 20% adjustment to the 100-year return period to account for climate change. The local authority has not raised any concerns.

I also note that surface water discharge will be restricted to an equivalent rate of 3.81 l/s, and this would be achieved with the provision of a flow control device before discharging to the existing surface water sewer along the Belmont estate road.

A new foul system is proposed through a Ø150mm connection to the existing sewer along Belmont estate road. Wastewater will then discharge to Shanganagh-Bray WWTP, which discharges under licence, to the southwestern Irish Sea (Killiney Bay).

Uisce Éireann Annual Environmental Report (AER) for 2023 notes that the Shanganagh-Bray WWTP was compliant with the Emission Limit Values (ELV) in the Wastewater Discharge Licence. The AER also confirms that the facility has a surplus organic capacity of 47,328 PE and will not be exceeded within the next 3 years.

The proposed 9-unit housing development is anticipated to generate 44 PE. This is well within the surplus capacity at Shanganagh-Bray WWTP. The 2022 AER indicates that the WWTP was non-compliant in respect of BOD and dissolved inorganic nitrogen (as N) however it also indicates that the Killiney Beach Bathing Water Monitoring Results for 2022 were 'excellent' through the survey period and similar monitoring results were achieved for 2023 as detailed in the 2023 AER.

The river waterbody WFD status for 2016-2021 for the Swan Stream is 'good', which was the same status for 2013-2018. The transitional waterbody WFD status for 2016-2021 for Dargle Estuary (Bray Harbour) is 'moderate', which was the same for 2013-2018. Similarly, the southwestern Irish Sea (Killiney Bay) coastal waterbody WFD status for 2016-2021, is 'high', which was the same for the 2013-2018 period.

In such circumstances, I am satisfied that the impact of overall discharge from the proposal would be negligible in the context of the Shanganagh-Bray WWTP. Thus, any potential deterioration of water quality impacting on habitats / species susceptible to change can be excluded on the basis of this objective information.

I consider that the operational phase will not therefore result in significant environmental impacts that could affect European sites within the wider catchment.

#### *Consideration of residual impacts*

Airborne pollution during construction, namely dust particles, is unlikely to affect Bray Head SAC, which consists of European dry heaths and vegetated sea cliffs. The distribution of heath is not mapped for this SAC and the sea cliffs (Conservation Objectives Series – Map 2) are more than 1km away, and dust would have settled out before this point. Rockabill to Dalkey Island SAC and Dalkey Islands SPA are sufficiently remote. Dust is unlikely to be a factor during the operational phase.

Noise disturbance on bird species that occur in the SPA's as a result of the proposed construction phase can also be ruled out due to distance from their favoured habitat and such noise is highly likely to be absorbed within the suburban noise environment.

I also note that the appeal site generally offers no supporting habitat, *ex situ* or otherwise, for such SCI species, including those whose populations are in decline, notwithstanding its silvan setting and the appellants submissions in this respect.

In this regard, I note that the appeal site is remote within the overall SPA context and noise from suburban traffic is likely to deter bird activity. Whilst three SCI species, namely grey heron, herring gull and mallard, appear in the National Biodiversity Data Centre 1km grid around the appeal site (O2616), none of the Dalkey Islands SPA species are present, which is notable given its proximity to the site. The herring gull record is possibly associated with The Murrough SPA, but it was screened out at preliminary examination given the distance to surface and wastewater discharge points and the general lack of suitability of the appeal site for roosting and foraging.

#### *Consideration of in-combination effects*

Other extant development is similarly served by urban drainage systems and the WWTP. A NIR was prepared for the Development Plan which incorporated the Core Strategy of the LAP. No likely significant effects on the water quality of any European sites were identified. No likely significant in-combination effects are identified here.

The site is not immediately adjacent to, 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 acceptable distance between the proposed development 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 network.

#### *Mitigation measures*

In terms of operation, I note that the proposal connects to a drainage system which incorporates SuDS. I accept that this may be designed to remove contaminants and may therefore have the effect of reducing the harmful effects of the project on the SAC's and SPA, or other European sites. However, having regard to the recent *Eco Advocacy CLG* judgement (C-721/21), I am satisfied that these and other measures are features that are incorporated as standard features inherent in the construction of such schemes, irrespective of any effect on such sites, and are not therefore relied upon to reach a conclusion of no likely significant effects on any European site.

#### **Likely significant effects on European sites in view of Conservation Objectives**

Having regard to the likely impacts of the project, no likely significant effects arise in the case of Bray Head SAC, Rockabill to Dalkey Island SAC, Dalkey Islands SPA or any other European site, in view of their Conservation Objectives.

### **Overall Conclusion**

#### **Screening determination**

In accordance with Section 177U of the Planning and Development Act 2000, as amended, and on the basis of objective information provided by the applicant, I conclude that the project individually, or in combination with other plans and projects, would not be likely to give rise to significant effects on the Bray Head SAC, Rockabill to Dalkey Island SAC, Dalkey Islands SPA or any other European site, in view of the site's Conservation Objectives. It is therefore determined that appropriate assessment of the proposal (Stage 2) [Section 177V of the Act] is not required. Measures intended to reduce/avoid significant effects have not been considered in the screening process.

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