



An
Bord
Pleanála

Inspector's Report ABP-318287-23

Development

Retention of revisions to as built Adare Close housing development, previously granted under Pl. Ref. 19/952 (ABP-306754-20) including:

1. Revised estate road / parking layout & boundaries to front of unit Nos. 5-9;
2. Revised open space/ landscape layout.

Location

Adare Close, Killincarrig, Greystones, Co. Wicklow

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

2360203

Applicant(s)

HX Properties Limited

Type of Application

Retention

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Hugo Hynes

Observer(s)

None

Date of Site Inspection

12/06/2024.

Inspector

Paula Hanlon

1.0 Site Location and Description

- 1.1. The appeal site (0.304ha) relates to a recently developed extension to Adare Close residential scheme located within a built, urban area in the townland of Killincarrig, Greystones, Co Wicklow. The site is served by an internal access road which connects with the eastern side of the R761 Regional Road.
- 1.2. The subject site (as delineated) encompasses a pair of semi-detached two storey dwellings, known as Derrymore and Clonbur and an adjoining detached dwelling, each of which front directly onto the street (R761) and 5(no) dwellings in linear form which are setback to the rear, NE of the site. A 6m wide wayleave which forms part of an enclosed open space area and which itself encompasses a fall in levels towards adjoining lands to the south, lies at the southern end of the internal access road.
- 1.3. The site is surrounded predominantly by residential properties to the north, east and south and a commercial property (hair salon) which fronts directly onto the R761 adjoins the estate's vehicular access (northern side). The internal access road serves 9(no) residential units in linear form overall within Adare Close, inclusive of the residential units which are the subject of this appeal case.
- 1.4. The site's topography slopes downwards in a southerly direction from the northern to southern end of the site. A detached two storey vernacular dwelling on a large mature site (Kenville) with significantly lower ground levels to adjoining houses in the subject housing scheme is sited on adjoining lands to the southern boundary of the site. The site's southern boundary is comprised of a rendered retaining wall with no screen planting.
- 1.5. The appeal site is not located within an area of conservation status.

2.0 Proposed Development

- 2.1. Retention permission is sought for revisions carried out to the as built Adare Close housing development from that which was previously granted under Planning Reference Number 19/952 (ABP-306754-20) comprising the following:
 - Retention of revised estate road / parking layout to front of House Numbers 5-9, including the lengthening of the internal estate road by 2.5 metres in a southerly direction and provision of 2(no) in-curtilage car parking spaces to front of House 5.

Revised open space area/landscape layout, which is slightly reduced in area from that previously permitted. This space includes a gabion wall, access and steps from road level to the flat area of this open space/wayleave and landscaping (including the planting of portuguese laurel at the end of cul-de-sac.

The space encompasses a 6m wayleave required by Uisce Eireann.

2.2. The application was accompanied by the following documentation of note –

- Individual Letters of Consent from the occupants of Nos. 5 - 9 Adare Close in regard to the making of this application and support on development works sought.
- Autotrack Analysis for parking spaces allocated to No. 9 Adare Close
- Level Survey – As Built Levels (COB/23-02-01)
- Site Layout – As Built (20047/C10) dated 280623
- Proposed Site Layout Plan (H-001-PL-110) REV A dated 230723.

3.0 Planning Authority (PA) Decision

3.1. Decision

By Order dated 26 September 2023, Wicklow County Council (WCC) issued a notification of decision to grant planning permission, subject to 3 conditions which included:

- Condition 1: The permission refers to the development as described in the documents lodged, save as required by condition(s) of this permission.
- Condition 2: Landscaping Requirements
 - (a) Within 6 months of the date of final grant of this permission
 - i. The stepped approach to the lower level open space shall be developed as detailed on the 'proposed site layout plan' submitted on 04/08/2023.
 - ii. The developer shall submit for the written agreement of the Planning Authority a revised landscaping plan which includes tree planting provision on the southern boundary of the 'lower level open space area' as labelled

on the proposed site layout plan submitted on 04/08/2023. A mixture of deciduous trees shall be planted at not less than <4-5 years old/2m high > and evergreen species planted not more than 900mm high. The plan shall show the species and location of the proposed tree planting. Where any tree fails it shall be removed and replaced by a tree of similar species.

(b) The landscaping and tree planting shall be carried out before or during the first planting season. Any plants, which become seriously damaged, shall be replaced by others of similar size and species.

- Condition 3: Requires that the development be carried out and completed in accordance with the parent permission (Pl. Ref.19/952/ABP-306754-20) except where permitted in this application and clarifies the duration of the permission granted.

3.2. Planning Authority Reports

3.2.1. Planning Reports

One Planning Report, completed on 22/09/2023 is attached to the file. It refers to road safety matters which resulted in amendments to the road layout and parking layout (sought under this application) and deems the proposal to be satisfactory from a road safety and a visual perspective. Furthermore, it considers that the level variations sought are “quite minor” from previously permitted levels and will not detrimentally impact on the area and raises no issue on the lack of open space at this urban infill location. Conditions in regard to accessibility to southern open space area (wayleave) and with regard to landscaping works along the southern boundary of the site are recommended.

The planning report concludes that the proposed development, subject to conditions would accord with objectives of the Plan, would not have an adverse impact in terms of amenity, noise, traffic and environment, and would accord with proper planning and sustainable development.

3.2.2. Other Technical Reports

MDE (18/08/23): Further details sought which clearly denote the differences between the site’s permitted road/parking and those sought for retention.

3.2.3. Conditions

In recommending that permission be granted, the PA attached a specific condition in regard to landscaping requirements (Condition 2) which is set out within Section 3.1 above in this report. Consideration will be given to the attachment of these conditions within my assessment below [Refer Section 7].

A condition in relation to the duration of the permission granted, which is consistent with the parent permission is also noted (Condition 3). Given that the works sought in this case pertain solely to retention of development and that all houses are now occupied, I am of the view that this condition is not necessary in this case and that appropriate timeframes should be stated in regard to the carrying out and/or completion of development works (where appropriate) should the Board be minded to grant permission.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

The PA received one third-party submission during the course of their determination from Mr. H. Hynes, a concerned resident who adjoins this site (south). The matters raised predominantly relate to the site's open space (wayleave), boundary treatment along the site's southern boundary and impacts arising (notably on residential amenities) due to constructed site levels. Many of the concerns raised are reflected in this appeal case, which is summarised and addressed within Section 6 of this report.

4.0 Planning History

Pl. Ref. 19/952 / ABP PL27.306754: In 2020, permission was granted and upheld on appeal for the construction of 6 houses with associated works which included the widening of existing road, access road, car parking, revised boundaries and other works, subject to conditions including the following of particular note to the current appeal case:

Condition 2: Required that the site's southern boundary treatment comprise a 1.8m high block wall that is capped, and rendered, on both sides and extends to the NW corner of adjoining residential property. Detailed design to be agreed in advance.

Condition 3: Required that all existing trees and shrubs be maintained on site where possible, except to allow for the construction of the footprint of the proposed dwellings. Precise details of all boundary treatment to be agreed in advance.

Condition 4: Required that a Comprehensive Landscaping Scheme be agreed.

Condition 6: Requirement for the registration of wayleave in advance of any sale and that no development (incl. exempted development) take place within the wayleave.

Condition 11: Required that water and waste-water connection agreements be entered into with Irish Water in advance of development.

Condition 15: Security Bond.

Pl. Ref. 19/157: In 2019, permission was refused by the PA for the construction of 9 residential units (1(no) bungalow, 6(no) 2-storey houses & 2(no) apartments) and associated works including the reconfiguration of access road serving Adare Close, car parking, boundary treatment, pedestrian access and connection to public services. The reasons for refusal relate to design and layout which was deemed would unduly impact on the existing streetscape and detract from the historical and architectural merit and setting of adjacent dwellings, provide a sub-standard quality of amenity for future residents and would seriously injure the amenities of adjoining properties (overbearance). The PA in its reasons for refusal also makes reference to the need for further engineering details to allow for a full assessment of the proposed development.

Pl. Ref. 17/333: In 2017, permission was refused by the PA for the demolition of 2(no) houses and the construction of 7(no) houses, car parking, internal access road and footpaths with junction onto the R761. The reasons for refusal relate to the demolition works sought and its impact on the architectural character of the area, visual impacts in term of inappropriate design proposed, contrary to the objectives of the Greystones, Delgany and Kilcoole LAP 2013. Other reasons included in the PA's refusal relate to

a substandard quality of amenity for future residents, seriously injurious to adjoining residential amenities (overbearance) and traffic hazard due to excessive number of entrances onto the R761 and that it was not demonstrated that the proposed new entrance was necessary.

Pl. Ref. 16/141 / ABP PL27.246530: In 2016, permission was refused by the PA and upheld on appeal for the demolition of 2(no.) houses and the construction of 7(no.) three-storey houses, access road and paths and ancillary site works. The two reasons for refusal relate to design & scale proposed which was deemed to be out of keeping with the character of the area, seriously injurious to the visual amenities of the area and seriously injurious to the residential amenities of adjoining properties (north and south) due to overbearance and overlooking.

5.0 Policy Context

5.1. Development Plan

5.1.1 The Wicklow County Development Plan 2022-2028 (CDP) is the operative Development Plan for the county.

5.1.2 Greystones-Delgany is designated as a Level 3 self-sustaining growth town. Chapter 4 states that the focus for the settlement of Greystones-Delgany during the period of the CDP will be on infill development and consolidation of the built-up area. It is a policy objective to prepare a new local plan for Greystones-Delgany during the lifetime of the CDP (CPO 4.8).

5.1.3 Policy, Objectives and Sections of particular relevance include:

CPO 6.3 New housing development shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.

CPO 6.4 Provides that all new housing developments...shall achieve the highest quality of layout and design, in accordance with the standards set out in the Development and Design Standards including Appendix 1 which is relevant to this case.

Appendix 1 CDP: Section 3 Housing Development (including):

- 3.1.3 Privacy (Residential developments shall be so designed and constructed to ensure maximum privacy for residents)
- 3.1.4 Open Space (waiver if the development specifically achieves other overriding aims of the CDP Plan; Open Spaces less than 10m in width or 200sqm in area or excessively sloping is not counted as usable open space); landscaping proposals (incorporate biodiversity)
- 3.1.5 Car parking – requirement for 2 space per dwelling, proximate to the dwelling served.

5.2. National Planning Guidelines

Having considered the nature of the proposal, the receiving environment and the documentation on file, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024).
- Design Manual for Urban Roads and Streets (2013, updated 2019).

5.2.1 Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities' (2024)

SPPR 1 - Separation Distances

...Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and

where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces... In all cases, the obligation will be on the project proposer to demonstrate to the satisfaction of the planning authority or An Bord Pleanála that residents will enjoy a high standard of amenity and that the proposed development will not have a significant negative impact on the amenity of occupiers of existing residential properties.

Policy and Objective 5.1 [Public Open Space]

The requirement in the development plan shall be for public open space provision of not less than a minimum of 10% of net site area and not more than 15% of net site area except in exceptional circumstances and the PA may seek a financial contribution in lieu of provision.

SPPR 3 - Car Parking

(iii) In intermediate and peripheral locations, defined in Chapter 3 (Table 3.8) the maximum rate of car parking provision for residential development, where justified is 2(no.) spaces per dwelling.

Policy and Objective 4.1

That PA's implement the principles, approaches and standards set out in DMURS (including updates) in carrying out their functions under the PDA (as amended) and as part of an integrated approach to quality urban design and placemaking.

5.3. Natural Heritage Designations

The site is not located within any designated Natura 2000 site or NHA/pNHA with Glen of The Downs SAC & pNHA (000719) being the nearest, located circa 1.6km west, and The Murrough SPA (004186) & (pNHA 000730) located approximately 1.7km east and The Murrough Wetlands SAC (002249) c. 3.1km SE of the site.

5.4. EIA Screening

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, or an EIA determination therefore is not required.

6.0 The Appeal (Third Party)

A Third-Party appeal (the appellant) made by an adjoining resident (Mr. Hugo Hynes) to the south of the appeal site has been received in relation to the PA's decision to grant permission. The appellant reiterates matters raised to the PA at application stage and requests that the Board refuse permission or materially amend the proposal on the grounds that the revisions sought for retention in this case will seriously injure their residential amenities. A summary of the grounds submitted within the appeal submission is provided below.

6.1. Grounds of Appeal

- The extent of works undertaken on this site which do not comply with the parent permission and the extent of communication carried out in addressing these non-compliance works are outlined.
- A prohibition by Irish Water affects the construction of a retaining wall within wayleave area contained with this site and the inclusion of a gabion wall within wayleave is raised as an issue in the context of condition 7 of the parent permission [PL.27.306754].
- The extension to access road sought and its excessive elevation will impact on the appellant's private amenities due to overbearance and overlooking.
- The planting of trees that are 2m in height will not provide sufficient screening along the southern boundary.
- The wording provided in the description of development and similarly incorporated into the planner's report and decision of the PA is not acceptable.

- The proposal would result in unwarranted injury to the appellant's residential amenity, security and privacy.
- The extensive development to the area associated with wayleave, brought about in large part by the provision of a gabion retaining wall has resulted in enhanced elevation of the ground, obliterating screening and resulted in overlooking and overbearance of the appellant's property. The altered configuration of the area associated with the wayleave is detailed and concerns are raised regarding changes to natural soakage due to works carried out (soil cover removal/trees removed). Other associated development works carried out within the wayleave are highlighted as a concern and it is stated that ground levels were raised and levelled at the roadside end to a height above the boundary wall, with the wall now used as support to car parking spaces provided.
- Reference is made to the absence of details on levels shown within wayleave and it is contended that the elevation "as built" exceeds any requirements necessitated by the foul water pipe system.
- Inaccuracies are raised in relation to details shown with the applicant's submitted 2(no) site layout maps which gives rise to confusion and associated concerns in regard to the way in which the elevation of the wayleave area is referenced within the planner's report to an adjoining FFL measurement and other associated matters of concern on fencing are highlighted.
- An issue regarding the capping of boundary wall is raised.
- The deviations from the parent permission as set out within the appeal, in particular, the wayleave area, do not accord with the objectives of the plan and are unnecessary and impact on the appellant's amenities.
- Copies of various correspondence documentation that relates to non-compliance works along with a copy of the appellant's submission and the planners report at application stage is attached to the appeal.

6.2. Applicant Response

- The response, received 13 November 2023, contains a written response to the grounds of appeal with an appended copy of compliance submission (dated 22 October 2021) that relates to conditions attached to the parent permission notably,

southern boundary treatment (No. 2), existing trees & shrubs (No. 3), CMP (No. 8) and insurance bond (No. 16).

- The appeal refers to the extent in which the issues raised by the appellant are relevant in this case and details the specific items in which retention permission is now sought. Reference is also made to the relevance of elements of the parent permission to this application, including conditions 2, 3 and 4.

- Boundary Wall/Southern Boundary Treatment:

A synopsis on the required works in constructing the southern boundary wall in accordance with the parent permission is provided and relevant correspondence submitted to the PA at development stage in regard to this matter and communication with the appellant is outlined. The applicant provides their view on the appropriateness of the inclusion of 2m high trees in the context of Condition 2(ii) of the current decision by the PA and invites the Board to attach similar in the event of a grant of permission.

- Overlooking from cul-de-sac road

The existing road level is very close to that within the parent permission, as shown in drawing H-0010 (As built levels)) submitted with the current application, and the recent planting of portuguese laurel will provide adequate screening.

- Wayleave

The contention that the gabion wall renders the wayleave agreement as invalid is unsubstantiated given that no details are provided in support of same and the matter should be dismissed in this appeal as it is not a planning matter.

- Level of the foul sewer and consequent impact on 'as built levels'

No changes were made to foul sewer levels which were constructed in accordance with the parent permission and in agreement with Irish Water, and this had no bearing on the as built ground levels.

- Inaccuracies in submitted Plans and Particulars

The applicant acknowledges and considers that the different details shown within two site layout maps submitted with this application regarding gabion wall and internal steps within POS are not of material consequence to the application and confirms that the Site Layout Map (BBA drawing) is of relevance in this case.

- Capping of Boundary Wall

This matter is not under consideration in the subject application.

- Other Matters

A number of issues raised are not grounds of appeal, but relate to historical matters, the parent permission, compliance with conditions, correspondence/interaction with the appellant and exempted development works undertaken by homeowners which lie outside of this appeal process.

6.3. Planning Authority Response

None.

6.4. Observations

None.

7.0 Assessment

I have examined the application details and all other documentation on file, including the third-party submission (the subject of this appeal) and I undertook a site inspection which included a visual inspection of the site's southern boundary and open space/wayleave area from both sides (i.e. subject site and the appellant's property). Accordingly, having regard to relevant policy objectives, standards & guidelines, I am satisfied that the main issues to be considered in determining this appeal are as follows:

- Procedural Matters - Accuracy of Plans and Particulars
- Scope of Works Proposed/Impacts on Residential Amenities
- Other Matters

7.1. Procedural Matters - Accuracy of Plans and Particulars

In the outset, I note that the matter of clarity in regard to the extent of retention works sought and conflicting details shown within drawings submitted is raised within the third party's appeal submission.

Having examined the plans and particulars submitted in the context of the development description provided in this case and also in terms of the parent permission (PL27.306754), I consider that the submitted details are vague and somewhat misleading in terms of clearly detailing the extent of works now sought for retention. I note that details shown on site layout plan titled 'Proposed Site Layout Plan' drawing number H-001-PL-110 REV A conflict with details shown on an additional site layout map titled 'Site Layout – As Built', drawing number 20047/C10 attached to this application, most notably in regard to works undertaken within the site's open space area.

Following an on-site inspection, I also noted that there are inconsistencies in terms of development works completed out on the ground vis-à-vis the plans and particulars provided, most notably that the development's public open space (POS) which includes a wayleave was fully fenced off and planted along its northern boundary, thereby restricting any possible direct access into this space and there is no level open space provision north of the constructed fence line (as shown on drawings submitted). I am further concerned in regard to the lack of sufficient details provided in regard to this open space area and wish to highlight to the Board that the documentation provided does not denote the constructed (or previously permitted) site levels associated with the POS area and those of the appellant's property which adjoin the subject site, no drainage details are shown and no section is provided for this element of the development, in which retention permission is now sought.

In my opinion, given that the development description provided in this case incorporates 'landscape layout' in the retention works sought, coupled with the site's planning history which required that a Comprehensive Landscaping Scheme be submitted for approval as part of the parent permission and that constructed site levels and those of the adjoining site (being the appellant's property) are unclear, I consider that the detailed anomalies shown which relate to the landscaping of the site are of material consequence and relevant in the assessment of this case and that the details shown cannot be fully relied upon.

7.2 Scope of Works Proposed/Impacts on Residential Amenities

I submit to the Board that the development description provided in this case provides for the following:

Retention planning permission for revisions to as built Adare Close housing development previously granted under Pl. Ref. 19/952 (ABP 306754-20). Retention items include the following: 1. Revised estate road / parking layout and boundaries to front of units 5 - 9 Adare Close. 2. Revised open space / landscape layout.

A site layout map attached to this application (Dwg. No. H-001-PL-110) denotes areas contained within the site boundary which are excluded from this application, notably the footprint and private gardens of Nos. 5-9 Adare Close, the established site's of Clonbur, Derrymore and No. 10 Adare Close and a portion of the site's internal access road which encompasses the entrance off the R761 Regional Road to the NE end of existing roadway.

The First Party's submission to the Board provides further clarity in relation to the extent of works sought for retention within the public notices and outlines that the proposal includes:

- revisions to the estate road/cul-de-sac serving houses 5-9 which include its lengthening in a southerly direction by approximately 2.5 metres, the removal of on-street parking and inclusion of 2(no) in-curtilage parking spaces.
- alterations to the open space 'which is an area approximately 2m below the level of the road', including a gabion which was deemed necessary to provide structural stability to the cul-de-sac instead of its grading at a slope of 1:1.6 from end of road to site boundary as previously permitted. This space is then a flat area to the site boundary which adjoins the appellant's property and the flat area forms part of the wayleave which continues along the site boundary to the public road.
- revisions associated with the 'as built' element of the proposed retention works include additional landscaping and the provision of steps from road level to that of the flat area of open space/wayleave area as shown on Site Layout Map H-001-PL-

110 and as referenced within letter which accompanied the application (BBA Architecture) which includes hedging along the boundary wall facing Houses 5-9, tree at an identified location and portuguese laurels along the end of the road.

In the outset, as stated in paragraph 7.1 above, there are anomalies shown within the plans and particulars submitted and the details provided are not wholly accurate in reflecting the development works undertaken for which retention is sought.

7.2.1 Revised estate road / parking layout & boundaries to front of unit Nos. 5-9.

I have examined the site layout plans submitted in this case. In my view, the details provided in respect of the revised estate road are unclear in terms of clearly detailing the extent of retention works sought. Whilst I note that the first party outlines in its written response that the internal cul-de-sac access road has been lengthened by approximately 2.5m in a southern direction and 2(no) in-curtilage car spaces provided to No.10 Adare Close, I consider that the drawings provided do not clearly denote same as the plans are not so marked or coloured so as to distinguish between the estate road (as permitted under the parent permission) and the extent of the revisions now sought in this case. I have examined this application in accordance with the road layout permitted under the parent permission and solely in regard to its extension at its southern end.

The applicant contends that the retention works sought are required to address traffic safety and vehicular movement associated with No. 8 Adare Close (referenced No. 4), as movement was impeded by cars parked in the designated on-street parking spaces for No. 9 Adare Close (referenced No. 5), however the appellant is concerned that the extended roadway (and its excessive elevation) impacts on their private residential amenities due to overbearance and overlooking and is unwarranted.

I note that the details provided within a site level survey attached to this application show that road levels at this point and along the extent of road which adjoins Nos. 5 to 9 Adare Close are generally consistent with those permitted by way of compliance under the parent permission. However, I consider that further clarity is required on the details shown, given that the levels shown as being permitted by compliance on the submitted level survey Dwg. No. COB/23-02/01 appear to encompass the extended road area for which retention permission is now sought.

In assessing the appellant's concerns regarding the potential for impacts on their residential amenities due to overlooking and overbearance, I wish to highlight that the applicant has recently planted portuguese laurel (c.1.1m high) at the southern end of the cul-de-sac and on ground levels which are generally consistent with the adjoining levels of the cul-de-sac road. In my opinion, this planting which is evergreen and moderately fast growing (up to 0.5 metres per year) located along the northern side of the open space/wayleave area forms a natural screening barrier between the extended cul-de-sac and the appellant's property. Notwithstanding the lack of clarity in regard to levels, having inspected the site, I am satisfied that the stated 2.5m increase in length of road, a distance of approximately 8.4 metres (at its nearest point) from the southern party boundary which is shared with the appellant and constructed road level is not so significant as to result in overbearance or undue overlooking and loss of amenity of the appellant's property. However, the landscaping and fencing undertaken on site, as evidenced on site inspection is not accurately reflected within the submitted application drawings and I cannot confirm that 2.5m is the actual extended length of roadway now sought for retention given inaccuracies contained within the submitted drawings. I wish to also note that the affects of the site's (outer) southern boundary treatment on residential amenities is considered further in my assessment below.

In regard to the removal of on-street parking and the inclusion of in-curtilage car parking at No. 9 Adare Close (referenced No. 5), I am of the view that a precedent of in-curtilage car parking within adjoining houses in this scheme is established under the parent permission and I am generally satisfied that the applicant has justified the need for the revised parking layout to No. 9 Adare Close on traffic safety grounds, given the findings of the auto-track analysis attached to this application. It is my view that the proposed revised parking will not unduly impact on the character or visual amenities of the area or pose a risk to traffic safety.

Therefore, I consider that the need for the extended length to the existing roadway which will be utilised by very low levels of traffic in accessing adjoining dwellings at the end of the cul-de-sac has been sufficiently justified and that it will not pose a risk to traffic safety or detrimentally impact on the visual amenities of the area.

In regard to boundary treatment, based on the documentation submitted, the Site Layout maps (H-001-PL-110 REV A and 20047/C10) show open site frontage along

the roadside boundary to unit Nos. 5-9 which is generally consistent with the parent permission, and I note that no planting is sought. Given the scale and layout of this infill site which includes the provision of in-curtilage car parking, I consider that the details shown are generally satisfactory and that there are no further issues in this regard.

7.2.2 Revised open space/ landscape layout.

Revised Open Space

Under the parent permission, the grading of the public open space area (POS) as shown on site layout map includes a two-tier level space with steps down to southern most end of the POS. The applicant states that the grading of this POS was permitted at a slope of 1:1.6 from the end of the cul-de-sac road to the site's southern boundary. The POS layout shown under the parent permission differs from the POS now proposed in terms of its overall configuration, boundary treatment, location of steps (stated for maintenance purposes) and provision of gabion wall.

The applicant's submission to the Board clarifies the extent of revisions sought and refers to the POS as an area approximately 2m below the level of the road which includes a gabion as it was deemed necessary to provide structural stability to the cul-de-sac instead of the grading of this space as permitted under the parent permission. It also refers to an associated 'flat area to the site boundary which adjoins the appellant's property'.

I have inspected the site and examined the Site Layout Map (H-001-PL-110) submitted which the applicant in its submission to the Board contends as representing the revisions sought in this case. Whilst I am satisfied that a reduction in open space provision in principle is permissible under the Compact Guidelines (2024), I have a number of concerns regarding the proposal as submitted.

Firstly, I am concerned about the extent of retention works sought in this case given that the works carried out on the ground (refer para 7.1 of this report) which I evidenced on site inspection are not as per the plans and particulars submitted and that access into this space is currently restricted.

Secondly, I note that the applicant outlines that the POS has lowered ground levels which are not material to the consideration of this appeal and that the level of the foul sewer and associated “as built” ground levels have been constructed in accordance with the parent permission. However, given the invert level F4 of foul sewer located within the POS is shown at 39.32 on drawing no. H.005-09 of the parent permission with the adjoining “as built” road level shown at 41.1 on level survey attached to the subject case (drawing no. COB/23-02/01), I am of the opinion that levels stated are not wholly accurate and therefore, I cannot confirm that the POS area is approximately 2m below the level of the road, as stated by the applicant.

Under the parent permission, Drawing No. H00512 ‘Proposed Road & Finished Floor Levels and Public Lighting Layout’ shows pre-development contour levels associated with the POS which fall in a southerly direction. Whilst I noted on site inspection that there is a significant level difference between the appellant’s site (being considerably lower) and site levels contained within the northern most part of the POS, I am unable to confirm the extent of level differences for which retention permission is now sought. No site level survey, section plan or supporting documentation for same have been provided for the POS and the actual levels in regard to the tiering of the POS are not shown (save for limited details provided in relation to stairway steps within the open space) within the submitted plans. The site levels of the appellant’s adjoining property are also not provided within any of the submitted plans in this case or as part of the parent permission.

Thirdly, whilst the applicant makes reference to the lowered levels associated with the ‘flat area’ of the open space area which adjoins the southern boundary wall, the sloping levels contained within the entirety of the POS have not been adequately addressed within the submitted application. In this context, it is important to note that previous mature trees and vegetation which provided screening to the residential amenities of the appellant’s property adjoining this southern boundary have been removed and whilst a 1.8m high wall is normally sufficient in providing sufficient screening, I am concerned in this instance that the proposal has not sufficiently mitigated the potential for overlooking given the variance in levels within the upper area (northern area) of the POS and the appellant’s private residential amenities. I wish to highlight that the planted portuguese laurel as evidenced on site is not consistent with the details shown

on the submitted site layout map and that the planting undertaken aligns the northern boundary of the POS with insufficient screening demonstrated along the southern boundary of the POS which adjoins the appellant's rear garden.

Finally, given that ground levels fall substantially in a southerly direction towards the party boundary wall and in considering the appellant's concerns regarding the area's natural soakage due to the removal of mature trees and planting along the southern boundary, I note that no clarity has been provided in regard to storm drainage associated with the POS despite re-grading works and the extended road and parking area immediately adjacent. In light of this, given the lack of clarity in regard to level changes, I am of the view that changes in drainage cannot be determined with certainty.

Landscaping Layout

I note that the concerns raised in this appeal are predominantly associated with the site's southern boundary and the constructed site levels. The Board in its decision on the parent permission attached 3 conditions of relevance to the southern boundary in terms of its landscaping and layout, notably;

Condition 2 required a 1.8m high wall with detailed design to be agreed in advance, Condition 3 required that all existing trees and shrubs be maintained where possible, except to allow for the construction of the footprint of the proposed dwellings and that precise details of all boundary treatment be agreed in advance, and Condition 4 required that a Comprehensive Landscaping Scheme be agreed.

The relevant site layout map shows access into the development's POS, however I noted on site inspection that the planting of portuguese laurel coupled with fencing along the entirety of the POS's northern boundary has fully enclosed this space and restricts any means of access (whether for amenity or maintenance purposes). In my view, the siting, extent and overall height of the established planting and also of that shown within the submitted plans results in the delivery of a non-passive and non-integrated POS that reduces the level of amenity (passive or otherwise) to be enjoyed by residents. It is also relevant to note that both site layout maps submitted by the applicant inaccurately reflect the configured POS as constructed as I observed on-site

inspection that there is no level open space area outside (north of) the existing portuguese laurel planting and boundary fencing as shown on the submitted drawings for which retention permission is sought.

Due to site levels and the overall configuration of the site and as previously discussed, I consider that there is insufficient screening provided between the actual POS and the appellant's private rear garden which immediately adjoins this space. In noting that the PA included a condition in its decision on this case regarding landscaping, including tree planting on the southern boundary of the 'lower level open space area' and in acknowledging that legal matters lie outside of the Board's remit in deciding on this case, I note that there are some restrictions in the planting of trees contained within the deed of easement for wayleave. I am also unclear as to the location of tree which is referenced in the applicant's cover letter as part of the development works which are sought for retention.

7.3 Other Matters.

7.3.1 Wayleave

There are a number of matters raised within the appeal which relate to wayleave located within the POS of the subject site.

In the outset, I wish to highlight to the Board that the area delineated in yellow on the submitted site layout plan does not accurately reflect the overall length of wayleave. Having examined land registry details, I note that the wayleave extends further across the POS and along a portion of the internal cul-de-sac road. I further note that the siting and inclusion of gabion wall shown on the submitted plans in the subject appeal case does not oversail the wayleave area as denoted in the parent permission (PL.306754.20), but it does oversail the registered wayleave. Given that the requirements prescribed within condition 7 of PL27.306754 relate to the details shown on the site layout plan, drawing number 01a of the parent permission, I consider that the works sought at this time in the inclusion of a gabion wall, if permitted, would not contravene the permission as granted and that any further matters in this regard do

not fall under S.34 of the PDA and therefore lie outside of the Board's remit in deciding on this application.

7.3.2 Unauthorised Works

In noting the appellant's concerns regarding unauthorised development that oversails the wayleave (domestic shed) and in the form of design issues raised associated with dwelling on site (patio doors) and capping of boundary wall, I consider that such works fall outside of the scope of this application and therefore are not within the Board's remit in deciding this application. It is my view that any disputes in regard to these unauthorised works are a matter for the PA and the First Party.

This assessment represents my de novo consideration of all planning issues material to the proposed development.

8.0 AA Screening

I have considered the proposed retention works including retention of revised estate road/parking layout to front of units 5-9 Adare Close along with revised open space and landscape layout in light of the requirements S177U of the Planning and Development Act 2000 as amended. The appeal site is not located within any designated Natura 2000 site(s). The subject site is located a distance of circa 1.6km east of Glen of The Downs SAC (Site Code 000719) and circa 1.7km west of The Murrough SPA (Site Code 004186), and The Murrough Wetlands SAC (Site Code 002249) being the nearest European site(s). No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The nature of the works and development including revised estate road/parking layout, revised open space and landscape layout (with an established connection to public services) are small scale
- The site is located a distance of c.1.6km from the nearest European site and there are no hydrological or other ecological connections to any European site
- I have taken into account the AA screening determination by the PA which determined that the proposed development is not likely to give rise to adverse impact on the qualifying interests and conservation objectives of any nearby Natura 2000 sites.

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that planning permission be refused for the following reasons and considerations.

10.0 Reasons and Considerations

1. The design and layout of public open space does not provide a satisfactory level of amenity for residents and would, further, result in negative impacts on an adjoining residential property by reason of overlooking due to site levels and lack of appropriate screening along the site's southern boundary. Accordingly, the proposed development, if permitted would be contrary to objective CPO 6.3 of the Wicklow County Development 2022-2028 which outlines that new housing development shall enhance and improve the residential amenity of any location and shall not reduce to

an unacceptable degree the level of amenity enjoyed by existing residents in the area and would therefore be contrary to the proper planning and sustainable development of the area.

2. Following an on-site inspection and having regard to discrepancies between the applicant's submitted drawings and in the absence of clarity regarding the extent of retention works sought within the submitted application relative to works undertaken on this site, and lack of detail, particularly in regard to site levels, drainage requirements, access into public open space area and landscape features, the Board is not satisfied that the proposed development would result in a satisfactory level of residential amenity. To permit the development proposed at this time would therefore be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Paula Hanlon
Planning
Inspector

30 July 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	318287-23		
Proposed Development Summary	Revisions to as built "Adare Close" housing development, granted under reg. ref. 19/952 (ABP-306754-20). Retention of revised estate road / parking layout to front of units 5-9 Adare Close, revised open space and landscape layout.		
Development Address	Adare Close, Killincarrig, Greystones, Co. Wicklow		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			
No		X	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No			
Yes	X	Class 10 (Infrastructure Projects)	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	318287-23	
Proposed Development Summary	Revisions to as built "Adare Close" housing development, granted under reg. ref. 19/952 (ABP-306754-20). Retention of revised estate road / parking layout to front of units 5-9 Adare Close, revised open space and landscape layout.	
Development Address	Adare Close, Killincarrig, Greystones, Co. Wicklow	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site is located in an urban area and on serviced lands. The proposed development is not exceptional in the context of existing environment.</p> <p>The proposed development will not result in the production of any significant waste, emissions or pollutants.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having</p>	<p>No. The site area is 0.304ha.</p> <p>There are no other developments under construction adjoining the site. All other developments are established uses.</p>	No

regard to other existing and/or permitted projects?		
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>No. The appeal site is not located on or within proximity to any designated Natura 2000 site(s). The nearest European sites are Glen of The Downs SAC (000719) located 1.6km west, The Murrough SPA (004186) 1.7km east and The Murrough Wetlands SAC (002249) located 3.1km SE.</p> <p>No. The proposal will connect to existing public services. There are no environmental sensitivities in the immediate vicinity of relevance.</p>	No
<p style="text-align: center;">• Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)