



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318718-23

#### Development

Retention of a visitor parking area and change of use from lawn/pasture area to a multi bay vehicular parking area with all associated ancillary site works and services.

#### Location

Kilruddery House, a Protected Structure, Southern Cross Road, Bray, Co. Wicklow.

#### Planning Authority

Wicklow County Council

#### Planning Authority Reg. Ref.

23736

#### Applicant(s)

Jack and Anthony Brabazon

#### Type of Application

Retention

#### Planning Authority Decision

Grant Permission with Conditions

#### Type of Appeal

Third Party

#### Appellant(s)

Conor Aherne

#### Observer(s)

None.

#### Date of Site Inspection

17<sup>th</sup> February 2024

**Inspector**

Rónán O'Connor

## Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	4
3.3. Prescribed Bodies .....	5
3.4. Third Party Observations .....	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations. ....	7
5.3. EIA Screening .....	7
5.4. Appropriate Assessment .....	7
6.0 The Appeal .....	8
6.1. Grounds of Appeal .....	8
6.2. Applicant Response .....	9
6.3. Planning Authority Response .....	9
6.4. Observations .....	9
7.0 Assessment .....	9
8.0 Recommendation.....	13
9.0 Reasons and Considerations.....	13
10.0 Conditions .....	13
Appendix 1 – Form 1: EIA Pre-Screening	

## **1.0 Site Location and Description**

- 1.1.1. The site is located within the wider landholding of the Kilruddery Estate, on the southern outskirts of Bray, Co. Wicklow. The site is accessed off the R768-60 (Southern Cross Road). The application site comprises a partially gravelled parking area. The stated site area is 0.637 ha.
- 1.1.2. To the west of the site are residential housing estates (Swanbrook and Hollybrook Park). To the south, east and north are areas within the wider Kilruddery estate.
- 1.1.3. There are 2 no. protected structures within the Kilruddery Desmesne, outside of the red line of the subject site, Kilruddery House (RPS Ref. No. 08-33) and Kilruddery House Gates (RPS Ref No. 08-34).

## **2.0 Proposed Development**

- 2.1. Retention of a visitor parking area and change of use from lawn/pasture area to a multi bay vehicular parking area with all associated ancillary site works and services.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Grant permission subject to 2 no. conditions. Conditions of note include:
  - Condition No. 2: Dust suppression measures including watering of the gravelled roadways shall be carried out during dry periods.

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

- 3.2.1. Planning Reports
- 3.2.2. The Planner's report (dated 14<sup>th</sup> November 2023) is summarised below:
  - Notes that the provision of gravelled surface rather than tarmacadam is considered appropriate for the parking area given its setting

- Considered there was an adequate buffer between the housing estate and parking area to minimise any impacts to the dwellings that back onto Kilruddery Estate
- Notes majority of the proposed parking will be used during busy periods only and not every day of the week as it is not the most convenient parking area for those visiting the amenities
- Notes the contents of the archaeological report/development considered acceptable in relation to archaeology
- Recommendation was to grant permission subject to conditions

### 3.2.3. Other Technical Reports

MD Engineer [dated 13<sup>th</sup> November 2023] – No objection subject to continued use of permeable surfacing

### 3.3. Prescribed Bodies

3.3.1. None.

### 3.4. Third Party Observations

3.4.1. 1 no. third party submission was made at application stage. The issues are as summarised in the grounds of appeal below.

## 4.0 Planning History

21/1501 Grant permission for 34 dwellings [decision date 01/06/2022]

21/1543 Grant permission for 96 dwellings [decision date 15/06/2022]

ABP Ref 247501 (PA Ref 16/1) Grant permission for the retention of ticket sales office and visitor information centre, tearooms, toilet block, function room, farmers market and parking at Killruddery House. [ABP Decision Date: 15/03/2017]

15/421 Grant Permission for a tree adventure course (known as Squirrel Scramble) set in an area of woodland covering approx 0.74 ha [decision date 04/08/2016]

13/8611 Grant permission for the creation of the Nature Kindergarten will consist of change of use of 1.6 hectares approximately of woodland [decision date 27/02/2014]

## 5.0 Policy Context

### 5.1. Development Plan

Relevant Statutory Plans are the Wicklow County Development Plan 2022-2028 and the Bray Municipal District Local Area Plan 2018-2024.

#### Wicklow County Development Plan 2022-2028

Chapter 8 Building Heritage including Policies CPO 8.1, CPO 8.10 and CPO 8.13

Chapter 9 Economic Development including Policy CPO 9.1

Chapter 11 Tourism & Recreation including Policies CPO 11.1, CPO 11.2 and CPO 11.25

Appendix 1 – Development and Design Standards

Appendix 4 – Record of Protected Structures

Kilruddery House (RPS Ref. No. 08-33) and Kilruddery House Gates (RPS Ref No. 08-34) are included on the record of Protected Structures.

#### Bray Municipal District Local Area Plan 2018-2024

The site is zoned Kilruddery Demesne Conservation & Tourism Zone under the Bray Municipal District Local Area Plan 2018-2024 with the objective:

*‘To protect and enhance the distinctive historical character, setting and amenity value of Kilruddery Demesne and provide for appropriate and sympathetic conservation, amenity, tourism and community uses that enhance awareness, appreciation and accessibility of the area and to resist development that would detract from its integrity and setting’.*

Section 7.5 refers to Kilruddery House and Gardens and it is stated that it is an objective of the Council to:

- Support and facilitate appropriate use of the estate for tourism and recreation purposes, mindful of the impacts that can arise from sporadic intensive use, in particular impacts on neighbouring residences and traffic flows in the area;
- Allow for some additional development of the estate in order to support the ongoing viability of the estate.

AH5 - To maintain and protect the nationally significant demesne settings of the Powerscourt Estate and Kilruddery House, and to require all development proposals within or directly adjoining these demesnes to fully evaluate and address any impacts of the setting and character.

Specific Local Objective SLO 1: Kilruddery

## **5.2. Natural Heritage Designations.**

- 5.2.1. The nearest designated sites are the Bray Head pNHA (Site Code 007714) and the Bray Head SAC (Site Code 000714), both located approximately 1km to the east of the site.

## **5.3. EIA Screening**

- 5.3.1. 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, therefore, is not required.

## **5.4. Appropriate Assessment**

- 5.4.1. Having regard to the minor nature and scale of the proposed development, the site location outside of any protected site, the nature of the receiving environment and the proximity of the lands in question to the nearest European Site [Bray Head SAC (Site Code 000714) which is approximately 1km to the east], it is my opinion that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

## **6.0 The Appeal**

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

6.1.1. 1 no. third party appeal has been received [lodged on 14<sup>th</sup> December 2023] from Conor Aherne, 47 Swanbrook, Bray, Co. Wicklow. The grounds of appeal are summarised below:

- Has attached original observations and wish them to be re-examined
- Wicklow CC refused to carry out an enforcement order against the unauthorised gate with alarm on the grounds that it may be part of a future planning application for the car park
- Wicklow CC now state that because it was not included in the application that it won't be considered
- The removal of soil in 2020 does not correspond to the unauthorised works in Winter 2021 and monitoring of soil
- Properly planned drainage with tarmacadam surface should be required instead of rewarding unauthorised development, along the tree screening an removal of alarmed gated

6.1.2. Below is a summary of the appellant's original observations:

- Condition No. 5 of ABP's condition has been breached/very large volumes of water drain through Hollybrook form the stream and pond/requires hydrological and geotechnical investigations as per condition 5
- No dust suppression measures have been carried out in breach of ABP condition No. 3/Vehicles also track dust onto the asphalt roads creating more dust
- All existing and future vehicle pathways and parking should be tarmacadamed/asphalted
- The security gate and alarm has not been included in this retention application/request that it be moved further west along the farm path due to alarm noise so close to residential amenity



- Planned buffer zone with planting of trees was removed from the LAP/request that this be reinstated
- Ask that the pond and adjoining natural habitat be protected

## 6.2. **Applicant Response**

6.2.1. None received.

## 6.3. **Planning Authority Response**

6.3.1. None received.

## 6.4. **Observations**

6.4.1. None received.

## 7.0 **Assessment**

7.1. The main issues that arise in this appeal are as follows:

- Principle of Development
- Impact on residential amenity including impacts of dust
- Enforcement Issues
- Impact on the Protected Structure and the Wider Demesne
- Other Issues

## 7.2. **Principle of Development**

7.2.1. The site is zoned Kilruddery Demesne Conservation & Tourism Zone under the Bray Municipal District Local Area Plan 2018-2024 with the objective: *‘To protect and enhance the distinctive historical character, setting and amenity value of Kilruddery Demesne and provide for appropriate and sympathetic conservation, amenity, tourism and community uses that enhance awareness, appreciation and accessibility of the area and to resist development that would detract from its integrity and setting’*. Uses generally appropriate for the Kilruddery Demesne Conservation and Tourism Zone are visitor / tourism attractions, tourist accommodation, cultural /

sporting / recreational uses and events, recreational and community facilities. The car parking proposed for retention would facilitate visitors to the wider site and, as such, the proposed use is acceptable in principle, subject to the considerations below, including any impacts on the integrity and setting of the Kilruddery Demesne.

### **7.3. Impact on Residential Amenity**

- 7.3.1. The third party appellant has raised issues relating to residential amenity, namely the impact of dust arising from the use of gravel rather than an asphalt surface. In relation to same, I note that a previous permission (APB Ref 247501) has conditioned that Dust Suppression measures are imposed (Condition 3 of same), and in relation to this application, the Planning Authority have imposed a similar condition. The appellant has stated that this condition (and others) have not been complied with (see discussion of same below). In relation to the potential impact of dust, I note that the existence of a large mounded area between the car park and the nearest residential properties which is likely to limit any impacts of dust on surrounding properties. I also note the distance of the car park from the nearest residential property which is at least 35mm. Notwithstanding, and noting that a similar condition has been previous imposed on previous developments on the estate, I am of the view that the implementation of the dust suppression measures will be adequate to prevent the any material impacts on adjoining residential housing estates, including that of the appellants property, and in this regard should the Board be minded to grant permission, I recommend a condition in relation to same. In response to the appellant's view that tarmacadam should be used instead of gravel, I would note that the Council's Roads Department as specifically requested that a permeable surface be used, such as gravel, as this. As such I am not of the view that a tarmacadamed surface for the car parking area is desirable, from a surface water management perspective.
- 7.3.2. In relation to other potential impacts on amenity, the Planning Authority has ruled out any other impacts, citing the distance from the site to the nearest residential properties and the presence of the buffer between the site and the nearest housing estates. The appellant has raised the issue of the alarm noise emanating from the gate that has been installed. This gate was in place and there is an alarm noise that emanates from same (when the gate is closing). However, this gate does not form part of the application in this instance, and any potential unauthorised development

on the estate is appear to be a matter for the Council's Enforcement Department (see further discussion below).

- 7.3.3. Overall, I concur with the view of the Planning Authority and I do not consider that any other material impacts on residential amenity would result from this development, noting the nature of the application, the distance from the car to the nearest residential properties (which is at least 40m) and noting the large raised mound area which is likely to limit noise and visual impacts from the car parking area.

#### **7.4. Impact on the Protected Structure and the Wider Demesne**

- 7.4.1. Kilruddery House (RPS Ref. No. 08-33) and Kilruddery House Gates (RPS Ref No. 08-34) are included on the record of Protected Structures. In relation to the impacts on these protected structures, I note no works are proposed to same.
- 7.4.2. The provisions relating to Protected Structures are set out in Part IV of the Planning and Development Act 2000 (as amended). Section 57(10)(a) of the PDA 2000 (as amended) states, *inter alia*, that the Board, at appeal stage, should have regard to the protected status of a protected structure, or a proposed protected structure.
- 7.4.3. Chapter 6 of the Architectural Heritage Protection Guidelines for Planning Authorities (2011) considers development within the curtilage of a Protected Structure (Section 13.5 refers) and any impacts on historical gardens (Sections 13.4.19 to 13.4.21 refer). The guidelines also consider the curtilage and attendant grounds of a Protected Structure (Chapter 13 refers). In relation to same, there is no indication that the area that is proposed for retention of the car parking would have formed part of the formal gardens of Kilruddery House, with reference to the Figure 2 of the Archaeological Monitoring Report (dated August 2023), submitted with the application. although the area proposed for the car parking does form part of the setting of same, in my view, and may well lie within the curtilage, or within the attendant grounds, of same. Notwithstanding, I am of the view that the impact on the setting of the protected structures, including Kilruddery House, and on the wider Demesne is minimal, with the largely wooded nature of the setting being unaffected (no trees are proposed to be removed), and the car parking itself forming only a relatively small part of the wider demesne. There is already an existing (*albeit* smaller) area of car parking between Kilruddey House and this car parking are

proposed for retention. While there is some loss of undeveloped area, I am not of the view that this impact of same is significant, and is on balance acceptable, having regard to the need to facilitate visitors to the site, and to ensure continued capacity to accommodate same. In addition, I note that no party has raised any concerns in relation to the impact on the setting of the protected structures, nor on the integrity and setting of the Demesne.

- 7.4.4. In conclusion then I am satisfied that there will be no significant adverse impacts on the setting of the protected structures on the wider site nor will there be any significant adverse impacts on the integrity and setting of the wider Kilruddery Demense.

**7.5. Impact on the pond/adjoining natural habitat.**

- 7.5.1. I note that the third party appeal has raised the issue of the impact on the pond and the adjoining natural habitat. Having regard to the nature of the development proposed for retention, I am not of the view that there will be any significant impacts on the pond, noting in particular the permeable surface in place, which will minimise any surface run off to same. While there is some loss of pasture land to facilitate the car parking, I am not of the view that the impact on the wider natural habitat is significant.

**7.6. Enforcement Issues**

- 7.6.1. The third party appellant has stated that previous conditions have not been complied with including Conditions No. 3 and No. 5 of ABP ref 247501 (related to retention of ticket sales office and visitor information centre, tearooms, toilet block, function room, farmers market and parking). Condition 3 related to dust suppression measures and condition 5 relates to drainage issues. It is further stated that security gates with associated alarm have been erected on the site, without planning permission.
- 7.6.2. In relation to same, I would note that matters of enforcement are not within the remit of the Board, and are a matter for the Planning Authority in question, in this case Wicklow County Council.

## 8.0 Recommendation

8.1. I recommend that permission be granted.

## 9.0 Reasons and Considerations

The development proposed for retention is acceptable in principle, having regard to the zoning objective for the site. It is not considered that any adverse impacts on surrounding residential amenity would result from the development proposed for retention. Furthermore, it is not considered that the development proposed for retention would have an significant adverse impact on the setting of the protected structures on the site nor would it have a significant adverse impact on the integrity and setting of the wider Kilruddery Demesne, nor would it have a significant adverse impact on the existing pond area or the wider natural environment. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development proposed for retention shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. 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 agree particulars</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Dust suppression measures including the watering of the gravelled roadways shall be carried out during dry periods.</p> <p><b>Reason:</b> To control dust emissions that may arise from the car parking area and in the interest of residential amenity.</p>

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

---

Ronan O'Connor  
Planning Inspector

20<sup>th</sup> February 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	318718-23			
<b>Proposed Development Summary</b>	Retention of a visitor parking area and change of use from lawn/pasture area to a multi bay vehicular parking area with all associated ancillary site works and services.			
<b>Development Address</b>	Kilruddery House, a Protected Structure, Southern Cross 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>		
		<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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<del>Yes</del>		Class.....	EIA Mandatory EIAR required	
<del>No</del>			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>Conclusion</b>
<del>No</del>		N/A		No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....		Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

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

Date: 20<sup>th</sup> February 2024