



An  
Bord  
Pleanála

## Inspector's Report

### ABP-322005-25

<b>Development</b>	New 2-bedroom house, new vehicular entrance and all associated site works.
<b>Location</b>	'Two Ways', Killarney Road, Bray, Co. Wicklow, A98 D2H4
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	24/60282
<b>Applicant(s)</b>	Christina Meganety
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party v. Grant
<b>Appellant(s)</b>	Sean and Margaret Donnelly.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	30 <sup>th</sup> April 2025.
<b>Inspector</b>	Susan McHugh

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## **1.0 Site Location and Description**

- 1.1. The subject site is located to the east of Killarney Road, Regional Road R767, approx.500m to the south of Bray Mainstreet in Bray, Co. Wicklow.
- 1.2. Existing residential properties in the vicinity of the site are 1.5-2 storeys in height. The appeal site is bounded to the south by a detached residential property 'Roseair' home to the third-party appellants in this appeal.
- 1.3. The site contains a two-storey detached dwelling with pedestrian gate access to the front boundary with Killarney Road. An apron area in front of this pedestrian entrance gate provides room for a car to park.
  - 1.3.1. The existing house 'Two Ways' is partly in use as Bray Osteopathy and Sports Injury Clinic, with visitors on the day of my site visit parking to the front of the pedestrian gate along Killarney Road.
- 1.4. The front boundary of the site is bounded by a 1.5-metre-high wall, while a stone wall, piers and wooden fence mark the rear boundary of the site
  - 1.4.1. The rear of the appeal site is also accessible via Glenbrook (a private laneway) that runs partially parallel with Killarney Road. Parking for the existing house is provided to the rear of the property along the rear boundary with the laneway. A pedestrian gate from the laneway provides access to the rear garden of the appeal site.
  - 1.4.2. The appeal site has a stated area of 0.146ha. and slopes from east to west.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the construction of a new house to the side and rear of the existing dwelling 'Two Ways'.
- 2.2. It comprises a 2-bedroom (part two storey part single storey) dwelling with a stated area of 121sqm.
- 2.3. A new vehicular entrance to serve the existing house is to be provided from Killarney Road, while it is proposed to provide access to and parking for the proposed house from the Glenbrook laneway to the rear.
- 2.4. The proposed house will be connection to all public services.

- 2.5. The application is accompanied by a Roads & Traffic Report.
- 2.6. Revised plans drawings were submitted in response to a further information request which include amendments to the entrance design from Killarney Road, boundary treatments, finishes to Glenbrook Lane, the omission of balcony at first floor, surface water drainage proposals and revisions to the layout of the proposed dwelling.
- 2.7. The revised layout provides for an increase in the separation distance between the proposed structure and the existing mature oak tree within the boundary of the adjoining dwelling to the north, along with alternative pile and beam type foundation.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Permission was **granted** by Decision Order dated 07/02/2025 subject to 9 no. conditions.

- Condition 1:** Documents lodged and as revised 8<sup>th</sup> January 2025 etc.
- Condition 2:** Section 48 Development Contribution.
- Condition 3:** Height limitations of boundary walls.
- Condition 4:** Works to the public road and Road Opening Licence requirements.
- Condition 5:** Surface water drainage requirements.
- Condition 6:** Uisce Éireann requirements.
- Condition 7:** Protection of trees on site and on adjoining site.
- Condition 8:** Limitation on first occupation of residential unit to be by individual purchasers and not by a corporate entity.
- Condition 9:** Limitation on hours of construction.

#### 3.2. Planning Authority Reports

Planning Reports

3.2.1. **1<sup>st</sup>** Report of the Senior Executive Planner dated 09/07/2024 recommends Further Information as follows:

1. The Municipal District Engineer has raised concern that the proposed changes to the entrance to the existing dwelling do not take into account current NTA/Council plans to upgrade active travel facilities on the Killarney Road, abutting the property. Please address.
2. The applicant is requested to address the following aspects of the proposed development:
  - i) The height of the boundary wall between the front garden of the existing dwelling and the private open space of the proposed dwelling does not scale from the drawings at 1.8m, as annotated. Additionally, this wall is not indicated in the proposed street elevation. Please address, including revised drawings as appropriate.
  - ii) Details are required of the height and treatment of all boundaries enclosing the private open space of the proposed dwelling.
  - iii) The variety of facing materials proposed on the Glenbrook Lane is considered excessive for the scale of development proposed. Please address.
  - iv) Concern is raised that the proposed balcony at 1st floor level of the proposed dwelling will result in increased overlooking of adjoining properties, including the host dwelling. Please address.
  - v) Surface water should be dealt with on-site through soakaways and measures to limit surface water flowing onto both Killarney Road and Glenbrook Laneway. Please address.
  - vi) The Objectives of the County Development Plan 2022-2028 discourage the felling of mature trees to facilitate development. Having regard to the mature oak tree within the boundary of the dwelling to the north, and to the extent of excavation proposed to facilitate the development, the applicant is requested to provide details to demonstrate that this tree can be retained and protected during construction works.

3.2.2. The response to the further information submitted 08/01/2025 included revised drawings as significant further information and triggered revised public notices dated 16/01/2025.

3.2.3. 2<sup>nd</sup> Report of Executive Planner dated 05/02/2025 recommends a grant of permission subject to conditions.

3.2.4. Other Technical Reports

- **Bray District Engineer:** Report dated 27/05/2024 recommends further information. Report notes that the layout drawing appears to be the same as for application 24/60215, which is not consistent with the Traffic Assessment Report. The drawing needs to be accurately scaled and adequately dimensioned, including levels, to demonstrate that sufficient allowance has been made for the future cycle and pedestrian upgrade works on the Killarney Road at the proposed vehicular entrance.

3.2.5. Conditions

The PA have attached a number of bespoke conditions which include the following.

**Condition 3:** The southernmost boundary wall shall not exceed a height of 1.8m on its south-facing side and 2.635m on its north-facing side. The northernmost boundary wall shall not exceed a height of 1.8m on its south-facing side.

**Reason:** To safeguard the residential amenities of adjoining properties.

**Condition 4:** No works shall be carried out on, or excavation undertaken immediately adjacent to, the public road (roadways, footways and verges) without the written consent of the Planning/Roads Authority. Alterations to the public road, including landscaping, to facilitate a new/revised entrances and service connections shall be at the applicant's expense and be subject to the conditions of a Road Opening Licence.

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

**Condition 5:** All uncontaminated roof and surface water drainage shall be collected and attenuated on site in compliance with the requirements of the Greater Dublin Strategic Drainage Study (GDSDS), with a 20%

allowance for Climate Change. The design shall also include controls to regulate the flow of surface water from the site.)

The proposed driveways shall be laid to falls to ensure that surface water does not pond at the entrances or flow onto Killarney Road or Glenbrook Laneway. On no account shall surface water run-off be allowed to discharge onto the public road, or adjoining properties. A report from a suitable qualified engineer with professional indemnity insurance confirming that the development has been carried out in accordance with this condition shall be submitted to and agreed in writing by the Planning Authority prior to occupation of development.

**Reason:** To ensure satisfactory storm water drainage in the interest of traffic safety, proper planning and development.

**Condition 7:** All existing mature trees on site, and trees on adjoining sites which may be impacted by the proposed development, shall be retained and preserved against damage during construction work. The protective measures outlined in the covering letter submitted on 9th January 2025 shall be implemented in full.

**Reason:** To prevent damage to trees on the site and on neighbouring sites during construction work.

### 3.3. Prescribed Bodies

- **Uisce Éireann:** No report received.

### 3.4. Third Party Observations

A third-party observation was submitted to the PA from the owners of the adjoining house to the north and appellants in the current appeal. Issues raised are similar to those raised in the grounds of appeal and are summarised in section 6.1 of this report.



## 4.0 Planning History

**PA Reg.Ref. 24/60118** – Application **withdrawn** 08/04/2024 for: 1. New 2 Bedroom, part two storey, part single storey, 121 sq.m. dwelling to side of existing dwelling. 2. New vehicular Entrance onto Killarney Road and associated car parking to serve existing dwelling. 3. Connection to all public services. 4. All necessary ancillary works to facilitate this development by Christina Meganety.

**PA Reg.Ref. 23/60149** – Permission **refused** 05/09/2023 for: 1. New 2 Bedroom, part two storey, part single storey, 121 sq.m. dwelling to side of existing dwelling. 2. New vehicular Entrance onto Killarney Road and associated car parking to serve existing dwelling. 3. Connection to all public services. 4. All necessary ancillary works by Christina Meganety. The two no. reasons for refusal refer to the following:

1. Having regard to the inadequacy of the existing laneway from which the proposed new residential unit is to be accessed in terms of its structural condition, lack of lighting and pedestrian facilities, it is considered that the laneway is not suitable for additional residential development and that to allow this development would endanger public safety by reason of a traffic hazard.

2. Insufficient information has been submitted to demonstrate that adequate sight distance is available in both directions at the proposed entrance with Killarney Road, having regard to existing neighbouring boundary treatments. The proposed development would therefore endanger public safety by reason of a traffic hazard.

## 5.0 Policy Context

### 5.1. Wicklow County Development Plan 2022-2028

- 5.1.1. The County Development Plan (CDP) was adopted on the 12th of September 2022 and became effective on the 23rd of October 2022. Section 1.2 Structure of the Plan details that separate Local Area Plans (LAP) are in place for certain towns/areas including the Bray Municipal District, which will be reviewed after the adoption of the CDP.
- 5.1.2. Bray is designated as the Level 1 Key Town in the Core Strategy (Chapter 3), with a targeted population growth rate of c. 35% over the period of the plan. There is a

target of 4,026 additional housing units for Bray over the period of the plan; 48% of the total for the county (8,467).

5.1.3. The following policies and objectives are considered of particular relevance:

5.1.4. **Chapter 2:** Development Plan Strategy

*Strategic County Outcome SCO1 Sustainable Settlement Patterns and Compact Growth:* The delivery of compact growth in all towns and villages by capitalising on the potential for infill and brownfield development, moving away from a reliance on greenfield development and creating places that encourage active lifestyles is essential for the successful delivery of the development plan strategy.

5.1.5. **Chapter 4:** Settlement Strategy

**CPO 4.2** To secure compact growth through the delivery of at least 30% of all new homes within the built-up footprint of existing settlements by prioritising development on infill, brownfield and regeneration sites and redeveloping underutilised land in preference to greenfield sites.

**CPO 4.3** Increase the density in existing settlements through a range of measures including bringing vacant properties back into use, reusing existing buildings, infill development schemes, brownfield regeneration, increased building height where appropriate, encouraging living over the shop and securing higher densities for new development.

**CPO 4.5** To ensure that all settlements, as far as is practicable, develop in a self-sufficient manner with population growth occurring in tandem with physical and social infrastructure and economic development. Development should support a compact urban form and the integration of land use and transport.

**CPO 4.6:** To require new housing development to locate on designated housing land within the boundaries of settlements, in accordance with the development policies for the settlement.

5.1.6. **Chapter 6:** Housing

Table 6.1 Density Standards sets out that within 500 m walking distance of a bus stop, or 1 km of a light rail/rail station, sites in large towns such as Bray should have a minimum density of 50 units per hectare.

**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** All new housing developments (including single and rural houses) shall achieve the highest quality of layout and design, in accordance with the standards set out in the Development and Design Standards (Appendix 1) and the Wicklow Single Rural House Design Guide (Appendix 2).

#### *Existing Residential Areas*

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

**CPO 6.15** Higher density proposals should be designed to a high standard, incorporate a mix of housing types and sizes and deliver compact urban forms that enhance the local built environment and contribute towards a sustainable mix of housing options. Proposals should provide an appropriate design response to the site, be designed to a high quality and afford adequate protection for residential amenity of neighbouring properties.

**CPO 6.16** 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. Where necessary, performance criteria should be prioritised provided that the layout achieves well-designed high-quality outcomes and public safety is not compromised and the environment is suitably protected.

**CPO 6.21** In areas zoned 'Existing Residential' house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space, see CPO 6.25 below). While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.

**CPO 6.22** In existing residential areas, small scale infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties. However, on large sites or in areas where previously unserved, low-density housing becomes served by mains water services, consideration will be given to densities above the prevailing density, subject to adherence to normal siting and design criteria.

5.1.7. **Chapter 17: Natural Heritage and Biodiversity**

**CPO 17.22** To require and ensure the preservation and enhancement of native and semi-natural woodlands, groups of trees and individual trees, as part of the development management process, and require the planting of native broad-leaved species, and species of local provenance in all new developments.

5.2. **Bray Municipal District Local Area Plan 2018-2024**

The Bray Municipal District LAP was adopted on the 14th of May 2018 and became effective on the 10th of June 2018. Under this plan, the site was zoned 'Existing Residential' with the stated land use zoning objective "To protect, provide and improve residential amenities of existing residential areas."

The description for the zoning is:

"To provide for house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity. In existing residential areas, the areas of open space permitted, designated or dedicated solely to the use of the residents will normally be zoned 'RE' as they form an intrinsic part of the overall residential development; however new housing or other non-community related uses will not normally be permitted."

This Local Area Plan has expired and has not been extended.

5.2.1. **Bray Municipal District Local Area Plan 2025**

The Bray Municipal District (MD) Local Area Plan (LAP) 2025 is currently at pre-draft consultation stage. Pre-draft consultation on the preparation of a new plan commenced on 20<sup>th</sup> November 2024 and ran until 18<sup>th</sup> December 2024.

### **5.3. Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)**

- 5.3.1. The RSES provides a development framework for the region, including a specific Metropolitan Area Strategic Plan (MASP) for Dublin City and its wider suburbs. Bray is located within the MASP, designated as one of three 'Key Towns' (along with Maynooth and Swords), and located on the North-South Strategic Development Corridor. Key Towns are large economically active service and/or county towns that provide employment and high-quality transport links.
- 5.3.2. The strategy provides for the sustainable, compact, sequential growth and urban regeneration in the town core of identified Key Towns by consolidating the built footprint through a focus on regeneration and development of identified Key Town centre infill/brownfield sites.

### **5.4. Ministerial Guidelines**

The following Section 28 Ministerial Guidelines are of relevance to the application:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024);
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023);
- Development Plans: Guidelines for Planning Authorities (2022);
- DMURS (2019), and subsequent advice notes;
- Delivering Homes, Sustaining Communities (2007) and the accompanying Best Practice Guidelines - Quality Housing for Sustainable Communities.

### **5.5. Natural Heritage Designations**

The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The Bray Head Special Area of Conservation (Site Code:000714) which is located 1.5km to the east.

- The Ballyman Glen Special Area of Conservation (Site Code: 000713) which is located 1.8km to the west.

## **5.6. EIA Screening**

- 5.6.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

## **6.0 The Appeal**

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

- 6.1.1. A third-party appeal against the decision to grant planning permission has been lodged by a planning consultant on behalf of the appellant the owner of the neighbouring house to the south 'Roseair'. The appeal was accompanied by and alternative site layout plan.
- 6.1.2. The grounds of appeal can be summarised as follows;
- Principle - No objection in principle to an additional dwelling on site.
  - Proposed Design and Layout - Proposed design and irregular layout is unduly forced and contrived.
  - It would create an irregular and incongruous layout and relationship between the existing proposed dwellings on the appeal site and detrimentally impact on appellants residential amenity.
  - Submit a traditional layout is possible albeit some additional works-re-aligning drainage may also be required.
  - Existing site layout plan indicates a distance of 8.961m between the side (north) gable elevation of the existing house and the boundary wall of appellants property, and an overall plot depth of over 45m.

- Alternative Layout - Submit there is sufficient room to plan and design a two storey (or two storeys over basement) dwelling between the neighbouring properties with any single storey portion extending eastwards into the rear garden with the proposed off-street parking accessed off the private laneway to the rear per the proposed layout.
- A building footprint roughly in line with the front and rear building lines of exiting houses would be more suitable for a side garden dwelling than the L-shaped dwelling layout proposed.
- Allows for further infill development either through a mews type dwelling or an additional detached property across the rear of the site.
- Would also provide scope for the mooted exempted development provision of a detached 'shed' type dwelling on the overall property.
- Contend proposed layout has the potential to inhibit further development at the appeal site as opposed to planning for it.
- Residential Amenity – Submit proposal would negatively impact on their property.
- Submit it is a backland location relative to their home and rear garden which is to the north and introduces noise and other disturbances associated with a house at the rear garden of their home. Refer Board to Proposed Section Thro. B on Drawing No. 04A that shows the entire of the proposed dwelling behind the rear elevation of appellants house to the north, and existing house on site 'Two Ways'.
- Overshadowing/Overbearing - Due to its orientation, proximity, and height, the two-storey part of the proposal would overshadow the appellants property and rear garden. It would also create an overbearing visual impact being two storeys in height, c. 1.5m from the common boundary, and behind the rear building line of 'Roseair'. Both of these injurious residential amenity impacts are avoidable.
- Excavation Works - Extensive digging out of soil and part of the raised landscape area to the rear of the existing house on the site required to construct the proposed dwelling.

- Substantial excavation works within the root protection zone of the mature Oak tree in the corner of 'Roseair'.
- Oak Tree - Any impact on the mature Oak tree should be avoided and the tree fully protected. The applicant attempted to address this in the further information response and cited an example at Kingsmill Lane, Bray. Notwithstanding the apparent success at that location an apple tree is very different to an Oak Tree and in that instance the tree was within the application site as opposed to being on a neighbouring property. It was in the applicants' interest to maintain the apple tree and fully within its power to protect it, which does not apply in this case.
- Each of these issues can be avoided with a side garden dwelling as shown on the image provided with the appeal.
- The proposed L-shaped dwelling would generate avoidable injurious residential amenity impacts to the appellants property and result in an incongruous relationship and layout between the existing and proposed dwellings on the overall appeal site. There is no apparent or stated reason to pursue this partially sunken, L-shaped, backland building approach on what is a contrived part side/part rear garden with no frontage to Killarney Road.
- Private Open Space – Dead end passageway (0.9 x 14.3m) down the southern side of the proposed dwelling which is a waste of space offering no recreational amenity.
- Rear garden depth for the proposed dwelling is substandard at 5.5metres. Further, the rear garden is not directly accessible from the kitchen/living/dining spaces of the proposed dwelling, and one must climb 10 no. steps to reach it (see proposed side northern contiguous elevation on Drg. No. 4A, so question whether it will really provide any meaningful recreational utility for future residents. Any mobility impaired resident or visitor will be unable to access the rear garden.
- Daylight - The proposed rooflights does not demonstrate that there would be sufficient daylight at the proposed dwelling. There remains too many east and north facing windows. The windows to the proposed dwelling should provide



sufficient daylight to it with rooflights being provided as an additional source and not the primary source of daylight.

- Elevation to Laneway - The proposed rear (eastern) elevation to the laneway still lacks cohesion notwithstanding the changes submitted by way of further information. It would introduce three additional materials and finishes, and overall, it fails to properly address the proposed dwellings relationship to the laneway.
- Car Parking – Applicant has failed to demonstrate that cars can access and egress the proposed new driveway in forward gear. Proposed arrangement looks very tight (the opening is only 3m) so swept path analysis, with more than one car, should be required to avoid vehicles reversing onto the busy Killarney Road. What has been shown only considers a single car and does not have regard to any parking at the front of the house, which will inevitably be the case.
- Commercial Use - Submit that the Bray Osteopathy and Sports injury Clinic currently operates at 'Two Ways', which is confirmed by their website. While there is no issue with the use, the appellant raises concerns that the proposed dwelling would facilitate a significant expansion of what appears to be an unauthorised use.
- In the event that planning permission is granted request that the use is restricted to residential use by way of condition.
- The Board is requested to overturn the decision of the PA.

## 6.2. Applicant Response

None received.

## 6.3. Planning Authority Response

None received.

#### 6.4. **Observations**

None received.

### 7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings;

- Compliance with Development Plan policies and guidance (new issue)
- Principle of Development
- Layout and Design
- Residential Amenity
- Car Parking and Boundary Treatment
- Appropriate Assessment

#### 7.2. **Compliance with Development Plan policies and guidance (new Issue)**

- 7.2.1. As noted above, the Bray Local Area Plan has lapsed, and the relevant plan in force is the Wicklow County Development Plan 2022-2028. Bray is not zoned in the County Development Plan.
- 7.2.2. The subject site was zoned as 'RE'-Existing Residential' in the Bray Municipal District Local Area Plan, 2018-2024: with the stated land use zoning objective 'To protect, provide and improve residential amenities of existing residential areas.'
- 7.2.3. I note the Bray Municipal District Local Area Plan, 2018-2024 was in place at the time the application was lodged, and that the proposed development was assessed having regard to the LAP and CDP. The LAP expired prior to the PA decision to grant permission.
- 7.2.4. In my view, the proposed development complies with the relevant objectives and strategy listed in Section 5 of my report above, and I found no policies, objectives, or standards that would preclude a grant of permission.

### **7.3. Principle of Development**

- 7.3.1. The site is located in an established residential area where public services are available, and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties. This is also accepted by the appellant who have stated that they have no objection in principle to an additional dwelling on the site.
- 7.3.2. While the principle of infill development can be supported within the former residential land use zoning, it needs to be ascertained whether the proposed development is in keeping with the established character and pattern of development in the vicinity and would not be detrimental to the amenities of adjoining properties or the character of the area.
- 7.3.3. The appellants refer to the commercial use of the existing house 'Two Ways' which operates as Bray Osteopathy and Sports Injury Clinic and have raised concern that the proposed dwelling would facilitate a significant expansion of what appears to be an unauthorised use.
- 7.3.4. I can confirm from my site visit that the existing house is currently operating as a commercial use however, in term of the current proposal I am satisfied that the residential nature of the use is acceptable on the site.

### **7.4. Layout and Design**

- 7.4.1. The proposed development provides for the subdivision of the site and the construction of an additional dwelling to the side and rear of the existing house on site 'Two Ways'.
- 7.4.2. The proposed house comprises a 2-bedroom part two storey part single storey dwelling with a stated area of 121sqm. which in my opinion by most standards is a modest dwelling.
- 7.4.3. The appellant asserts that the proposed design and irregular layout of the proposed development is unduly forced and contrived.

- 7.4.4. The site layout plan indicates a separation distance of 8.961m between the side (north) gable elevation of the existing house 'Two Ways' and boundary wall of the appellants property, with an overall plot depth of the appeal site of over 45m.
- 7.4.5. While I acknowledge that the proposed house is located to the side and rear of the existing house 'Two Ways', I do not accept that it constitutes backland development. As noted by the PA there are existing dwellings directly addressing and accessed from the laneway and as such, I concur with the PA that the proposed dwelling is not out of character with the pattern of development in this area.
- 7.4.6. In this regard I would note that the area is characterised by well established, medium density, two storeys, detached suburban type housing. The established pattern and character of development in the area is one of dwelling houses with rear gardens, smaller front gardens and off-street parking.
- 7.4.7. In my opinion, the subdivision of the site to accommodate an additional dwelling is acceptable, as it benefits from a large side and rear garden that lends itself to subdivision. I have considered the proposed and amended layout and design and am satisfied that it represents an appropriate design and layout.
- 7.4.8. The proposed layout and design were modified by the applicant in response to the further information request. In my opinion the revised layout and design represents an acceptable form of development while respecting the site context, orientation relative to the adjoining house to the north and existing mature oak tree.

#### *Alternative Layout and Design*

- 7.4.9. The appellant has proposed an alternative layout and design of house on the development on site and advocates for the merits of same in relation to the future development potential of the appeal site.
- 7.4.10. The alternative proposal provided by the third-party appellant to construct a two storey (or two storeys over basement) dwelling between the neighbouring properties, i.e. with a building footprint roughly in line with the front and rear building lines of existing houses, is in my view a materially different proposal. I do not therefore, propose to comment on the merits or otherwise of the alternative layout and design proposal provided with the grounds of appeal.

- 7.4.11. The third-party appellant also submits that the proposed layout is more akin to backland development and refer to proposed Section Thro. B on Drawing No. 04A shows the entire of the proposed dwelling behind the rear elevation of appellants house to the north, and existing house on site 'Two Ways'.
- 7.4.12. I acknowledge that the proposed layout is at variance with the established building line of both the existing house 'Two Ways' and the adjoining house and home to the appellant 'Roseair'.
- 7.4.13. My assessment, however, is based on the proposed development as lodged with the planning authority and as amended by way of significant further information.
- 7.4.14. I am satisfied, therefore, that the proposed development represents appropriate infill development, and would not be significantly out of keeping with the established pattern of development and would not detract from the character of the area.
- 7.4.15. I am satisfied, that the proposed development would not be contrary to CPO 6.22 of the Wicklow County Development Plan.

## **7.5. Residential Amenity**

- 7.5.1. Having regard to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), Guidelines for Sustainable Residential Development and the provisions of the current development plan the acceptability or otherwise of the proposed development will be subject to the need to attain a balance between the reasonable protection of the amenities and privacy of adjoining property and the need to provide additional residential development at this location. I propose to address such matters in the following sections.
- 7.5.2. The third-party appellants have raised concern in relation to the negative impact of the proposed development on the residential amenity of their property 'Roseair'.
- 7.5.3. The crux of the appeal is in terms of the impact on residential amenity. In my opinion the concerns raised by the appellant are reasonable and entirely valid given that the development site is located to the south of the appellants existing rear private amenity space, combined with the proximity of the proposed house to the appellants southern site boundary.
- 7.5.4. The PA had regard to the impact of the proposed development on the residential amenity of the proposed and existing house and that of adjoining properties. It notes

the relationship of both the proposed dwelling and its associated car parking, boundary treatments and private amenity space with adjoining residential properties including 'Roseair'.

#### *Overshadowing*

- 7.5.5. The appellants have raised concern in particular to the two-storey part of the proposal which it is submitted due to its orientation, proximity and height will result in overshadowing of their property and rear garden.
- 7.5.6. The PA had regard to the design of the flat roofed detached one/two storey dwelling and configuration which wraps the north eastern corner of the site. The PA acknowledge that the design of the proposed dwelling does not appear to be in keeping with existing dwellings at this location and reads more like a contemporary lodge-type dwelling.
- 7.5.7. The PA note that the highest point of the proposed house is c. 4.9m lower than the existing house 'Two Ways' to the south and c. 1.2m shorter than the existing house to the north.
- 7.5.8. It is accepted that the proposed development would be located along the rear garden boundary of the dwelling to the north.
- 7.5.9. I would concur with the PA that given the proposed house would be set off the boundary a large proportion of which would be single storey in height and that there are no windows indicated at first floor facing north that the potential for overshadowing would be limited to the proposed two storey element.
- 7.5.10. I would also note that on the day of my site inspection at the end of April around midday that the existing rear garden of the appellant's property was already in shadow. The overshadowing of the appellants rear garden which is east facing was largely due to the mature planted boundary along the appellants boundary with the appeal site to the south.
- 7.5.11. In my opinion therefore the issue of overshadowing from the two-storey element of the proposed flat roofed house is overstated in the appeal and does not warrant a refusal on this basis.

#### *Overbearing*

- 7.5.12. The appellants have raised concern in relation to the two-storey height c. 1.5m from the common boundary which would result in an overbearing visual impact.
- 7.5.13. The PA had regard to the proposed height of c. 6.05m (2 storey section) and c. 3.75m 1 storey section) and to the fact that the proposed house addresses Glenbrook laneway. Regard was also had to the limited massing of the first-floor element which comprises a bedroom with ensuite and small external balcony. The PA consider that the proposed house would not be overly visible from Killarney Road presenting more as an ancillary building to the main house.
- 7.5.14. I would concur with the PA that having regard to the massing of the two-storey element, separation distance from the neighbouring boundary and the size of the garden area, it is not considered a material impact in terms of overbearance.
- 7.5.15. I have had regard to the proposed site layout and site section drawings submitted with the application as lodged and as further detailed in the response to further information and am satisfied that the proposed development will not give rise to undue overbearance.

#### *Boundary Treatments*

- 7.5.16. The PA raised concern in relation to the details submitted in respect of the proposed boundary heights and sought further information in relation to the height and treatment of all boundaries.
- 7.5.17. The proposed northern site boundary with the appellant's garden to the north was detailed in the response to further information as comprising a 2m high timber fence panel. The PA noted that a fence height of 1.8m was more appropriate to avoid undue overshadowing and overbearance, which I consider reasonable.
- 7.5.18. The PA have attached a condition with maximum boundary wall heights along the southern and northern boundaries, specifically to safeguard the amenities of adjoining properties.
- 7.5.19. If the Board are minded granting permission, I recommend a similar condition be attached.
- 7.5.20. The proposed dwelling would be built partially adjoining the private laneway, in place of the existing boundary wall, and would be single storey in height.

- 7.5.21. The appellants consider the proposed (eastern) rear elevation to the laneway which introduces three additional materials and finishes fails to properly address the laneway.
- 7.5.22. I have considered the elevational treatment to the laneway which initially included brick stone cladding render and metal railings. Existing boundary treatments include brick, stone and timber fencing, and the PA considered that multiple finishes would appear overly complex for the scale of the building proposed.
- 7.5.23. In response to a request for further information revised details were submitted indicating finishes limited to brick. I have had regard to existing and proposed boundary treatments and am satisfied that the proposed elevation, boundary treatment and finishes are acceptable in its context.

*Private Amenity Space*

- 7.5.24. The appellant refers to a dead-end passageway (0.9 x 14.3m) along the southern side of the proposed dwelling and submit it offers no recreational amenity.
- 7.5.25. The appellant also raised concern in relation to the shallow rear garden depth of 5.5m, accessibility and useability of same for the proposed dwelling.
- 7.5.26. The PA had regard to the layout of the proposed house which partially wraps around an internal courtyard and to the external raised garden area proposed to the west of the proposed house.
- 7.5.27. The area of private amenity space provided to the proposed house and remaining to serve the existing house are both in excess of the standard required under Appendix 1 of the CDP, and the Sustainable Residential Development Compact Settlements Guidelines 2024. The PA however raised concern in relation to the depth and enclosed nature of the proposed private amenity space to serve the proposed dwelling particularly given the relatively tall boundary walls.
- 7.5.28. The applicant addressed this in their response to further information by proposing an alternative boundary treatment between the existing and proposed houses comprising a stone gabion wall to act as both a retaining wall and a 1.8m high wall above the level of the existing garden to the existing dwelling.



7.5.29. I have had regard to existing and proposed site levels, quantum, quality and configuration of private amenity space proposed to serve the proposed dwelling is acceptable.

7.5.30. The PA raised concern in relation to potential overlooking from the proposed first floor balcony which would overlook the front garden of the existing dwelling 'Two Ways' and perceived overlooking of the appellants dwelling to the north.

7.5.31. The applicant addressed this in their response to further information, by omitting the proposed balcony.

#### *Daylight*

7.5.32. The appellant has raised concern in relation to potential daylight serving the proposed dwelling, noting there are too many windows on the east and north facing elevations and that the proposed house would benefit more from rooflights.

7.5.33. I have had regard to the proposed elevations and orientation of proposed fenestration and have no concerns in relation to insufficient daylight for future occupants.

#### *Noise and Nuisance*

7.5.34. The appellants have raised concern that the layout and design of the proposed development which introduces noise and other disturbances associated with a house at the rear garden of their home. The scale of excavation to the existing raised landscape area to the rear of the existing house 'Two Ways' required to construct the proposed dwelling has also been raised.

7.5.35. The PA consider the degree of excavation required has been reduced by the retention of a private open space area set at a higher level than the finished floor level of the ground floor and given the level change across the site is not excessive.

7.5.36. While I accept that any new development in a residential area will generate noise and nuisance, I would also consider this part and parcel of living in an established residential urban area, and that the extent of excavation proposed is minimised.

7.5.37. I note the PA attached a standard condition limiting the hours of construction activity, which is a short-term impact, and if the Board are minded granting permission a similar condition could be attached.

7.5.38. I am satisfied, therefore, that the proposed development protects the residential amenity of existing and future occupants and would not be contrary to CPO 6.21 of the Wicklow County Development Plan.

#### **7.6. Vehicular access and Car Parking**

- 7.6.1. The applicant has stated in the application that the access arrangements for the existing dwelling ('Two-Ways') allows residents to use the existing private laneway to the rear, while visitors tend to park on Killarney Road and use the pedestrian access to the front. I can confirm this arrangement from my site inspection, where a client visiting the property parked in front of the pedestrian gate on Killarney Road.
- 7.6.2. It is proposed to provide a new vehicular entrance off Killarney Road to serve the existing dwelling 'Two Ways'. The current access arrangement from the existing private laneway will serve the new dwelling. The applicant has made the case that the proposed development would not result in an intensification of use of the existing lane and has made the case that the new dwelling would generate a smaller demand on the existing laneway.
- 7.6.3. It is proposed to provide the proposed dwelling with 2 no. designated parking spaces (1 residents space and 1 visitor space).
- 7.6.4. I note a recent planning application for a substantially similar development on the appeal site was refused permission by the PA in September 2023 under PA Reg.Ref. 23/60149. The current application seeks to address the previous reasons for refusal which related to traffic safety issues. The current application is accompanied by a Roads and Traffic Report.
- 7.6.5. The Municipal District Engineer raised concern that the proposed changes to the entrance to the existing dwelling do not take into account current NTA/Council plans to upgrade active travel facilities on the Killarney Road abutting the property.
- 7.6.6. In response to the further information request the applicant submitted Drg No. P005\_06A and engineer drawing (Drg No. P005\_08) which the PA were satisfied show the active travel facilities boundary clear of the proposed development.
- 7.6.7. Condition no. 4 of the grant of permission refers to the PA requirements in relation to the public road. If the Board are minded granting permission a similar condition could be attached.

- 7.6.8. The appellant raises concern in relation to the safe access and egress of cars in a forward gear from the proposed new driveway. Given the 3m width of the entrance a swept path analysis, with more than one car, should be required to avoid vehicles reversing onto the busy Killarney Road. What has been shown does not have regard to any parking at the front of the house, which it is asserted will inevitably be the case.
- 7.6.9. I have had regard to the Autotrack layout drawing submitted and while I agree the vehicular entrance is relatively narrow, I am satisfied that there is sufficient room for vehicles to turn and exit in a forward gear. The issue of cars parking in front of the entrance should be negated on completion of the proposed upgrading of active travel facilities along Killarney Road.
- 7.6.10. I am satisfied that the proposed development will not give rise to a traffic hazard.

#### **7.7. Surface Water Drainage**

- 7.7.1. Surface water from the appeal site is proposed to be linked to the public drain. The PA raised concerns in relation to the reduced permeable area available for on-site drainage and potential for surface water to discharge to the public road or adjoining properties.
- 7.7.2. In response to further information the applicant proposed a green roof system to attenuate rainfall.
- 7.7.3. The PA have attached a condition in relation to surface water drainage. Condition No. 5 refers to the requirements of the Greater Dublin Strategic Drainage Study (GDSDS), with a 20% allowance for Climate Change, and the need to regulate the flow of surface water from the site. The condition also specifically refers to the treatment of the proposed driveways to ensure that surface water does not pond at the entrances or flow onto Killarney Road or Glenbrook Laneway.
- 7.7.4. If the Board are minded granting permission a similar suitably worded condition could be attached.

#### **7.8. Impact on Existing Boundary Planting**

- 7.8.1. There is an existing mature Oak tree located within the boundary of the adjoining dwelling to the north 'Roseair' home to the appellants.

- 7.8.2. The appellants have raised concern in relation to the proximity of the proposed dwelling to the appellants property and the need for substantial excavation works within the root protection zone of the mature Oak tree in the corner of 'Roseair'
- 7.8.3. The PA similarly raised concern in relation to the retention and protection of this Oak tree during construction works and sought further information. In response a revised layout was submitted of the proposed dwelling to increase the separation distance between the proposed dwelling and the existing mature oak tree. In addition to this it is proposed to provide a raised planted bed between the existing boundary wall and the proposed off-street parking, thus reducing the extent of any excavation in this immediate area.
- 7.8.4. I note from my site inspection that the existing Oak tree appears in good condition. I concur with the third-party appellants that any impact on the mature Oak tree should be avoided and that the tree should be fully protected during construction.
- 7.8.5. I consider the amendments to the layout are welcome, and that Condition No. 7 of the grant of permission which requires that protective measures outlined in the covering letter submitted on 9th January 2025 be implemented in full appropriate.
- 7.8.6. If the Board are minded granting permission a similar suitably worded condition could be attached.

## **8.0 AA Screening**

- 8.1.1. I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.
- 8.1.2. The subject site is located in an established residential urban area and comprises the construction of a new 2-bedroom house, new vehicular entrance and all associated site works. The closest European Site, part of the Natura 2000 Network, is The Bray Head Special Area of Conservation (Site Code:000714) located 1.5km to the east, and The Ballyman Glen Special Area of Conservation (Site Code: 000713) located 1.8km to the west of the proposed development.
- 8.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

8.2.1. The reason for this conclusion is as follows:

- Small scale and domestic nature of the development
- The location of the development in a serviced urban area, distance from European Sites and urban nature of intervening habitats, absence of ecological pathways to any European Site.

8.2.2. I conclude, 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.

8.2.3. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

## **9.0 Recommendation**

9.1.1. I recommend that permission be granted.

## **10.0 Reasons and Considerations**

Having regard to:

- (a) the provisions of the Wicklow County Development Plan 2022-2028,
- (b) the nature, scale, character and location of the proposed infill residential development,
- (c) the pattern of development in the surrounding area,
- (d) the measures to ensure pedestrian and traffic safety,
- (e) the appropriate tree management provisions,
- (f) the separation distances from neighbouring dwellings,
- (g) the guidance set out in the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024), DMURS, and other Section 28 Guidelines,

it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential amenity of properties in the vicinity, and would be in accordance with the proper planning and 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 8<sup>th</sup> day of January 2025 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 southernmost boundary wall shall not exceed a height of 1.8m on its south-facing side and 2.635m on its north-facing side. The northernmost boundary wall shall not exceed a height of 1.8m on its south-facing side.

**Reason:** To safeguard the residential amenities of adjoining properties

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

4. 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 and residential amenity.

5. Prior to commencement of works, the development shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including a traffic management plan, noise and dust management measures and off-site disposal of construction /demolition waste.

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

6. Site development and building works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

**Reason:** To safeguard the amenity of property in the vicinity.

7. Prior to the commencement of development, the developer shall enter into a Connection Agreement with Uisce Éireann (Irish Water) to provide for a service connection to the public water supply and wastewater collection network.

**Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.

8. Drainage arrangement including the attenuation and disposal of surface water shall comply with the requirements of the relevant Section of the Council for such works and services.

**Reason:** In the interest of public health and surface water management.

9. All existing mature trees on site, and trees on adjoining sites which may be impacted by the proposed development, shall be retained and preserved against damage during construction work. The protective measures outlined in the covering letter submitted on 9th January 2025 shall be implemented in full.

**Reason:** To prevent damage to trees on the site and on neighbouring sites during construction work.

10. 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 Contribution 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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Susan McHugh  
Senior Planning Inspector

28<sup>th</sup> May 2025



### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	<b>ABP-322005-25</b>
<b>Proposed Development Summary</b>	New 2-bedroom house, new vehicular entrance and all associated site works.
<b>Development Address</b>	'Two Ways', Killarney Road, Bray, Co. Wicklow, A98 D2H4
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input checked="" type="checkbox"/> Yes, it is a Class specified in Part 1.	Class 10(b)(i)  Construction of more than 500 dwelling units – Sub Threshold
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.	

<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b>	Class 10(b)(i)  Construction of more than 500 dwelling units – Sub Threshold (1 unit)

<b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b>	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

## Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	<b>ABP-322005-25</b>
<b>Proposed Development Summary</b>	New 2-bedroom house, new vehicular entrance and all associated site works.
<b>Development Address</b>	'Two Ways', Killarney Road, Bray, Co. Wicklow, A98 D2H4
<p><b>The Board carried 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.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b></p> <p>(In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development of one unit is a standalone project requiring no new demolition, and no substantial excavation. It does not require the use of substantial natural resources or give rise to significant risk of pollution or nuisance. The development, by virtue of its type (residential), does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<p><b>Location of development</b></p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The development is situated on a brownfield site in a built-up area, removed from sensitive natural habitats, designated sites and landscapes of identified significance in the County Development Plan. It is adjacent to a number of existing residential properties, but not of a scale or use type to unduly impact upon these.</p>
<p><b>Types and characteristics of potential impacts</b></p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity,</p>	<p>Having regard to the relatively modest scale of the proposed development, its location removed from sensitive habitats, the likely limited magnitude and spatial extent of effects, and the absence of in-combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>

duration, cumulative effects and opportunities for mitigation).	
<b>Conclusion</b>	
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA is not required.</p>	

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

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)