

CUNNANE STRATTON REYNOLDS

CSR Ref: 96601/EMP/290821

Forward Planning,  
Planning Department,  
Wicklow County Council,  
County Hall,  
Wicklow Town,  
Co Wicklow

30<sup>th</sup> August 2021

By Electronic Submission

Dear Sir/Madam,

**Submission on the Draft Wicklow County Development Plan 2021-2027 on behalf of Margaret & John Maguire.**

I refer to the above and would ask the County Council to consider this submission on the emerging Wicklow County Development Plan 2021-2027.

Our clients Margaret & John Maguire of Cuala Road, Bray own a site in Bray which has been the subject of numerous planning applications and appeals where the single planning issue preventing our client's schemes progressing to delivery of much needed housing is the issue of vehicular access, for which they have a right of way over an extended grass verge at best, or a relatively small area of limited function open space at worst.

It is our client's wish to have a County Plan policy in place, as is the case in other locations, and within other statutory development plans in other counties, to consider positively such access as may be necessary where a right of way is clearly established. Please note that there are precedents in Wicklow County for such vehicular access having been permitted and we request a suitably worded planning policy to reflect this.

Our submission is as follows:

DUBLIN OFFICE  
3 MOLESWORTH PLACE, DUBLIN 2  
TEL: 01 661 0419 FAX: 01 661 0431  
EMAIL: [info@csrlandplan.ie](mailto:info@csrlandplan.ie)

OFFICES ALSO AT:  
COPLEY HALL, COTTERS STREET, CORK  
TEL: 021 496 9224 FAX: 021 496 9012  
EMAIL: [corkinfo@csrlandplan.ie](mailto:corkinfo@csrlandplan.ie)

DIRECTORS  
Joe Cunnane BA (Hons) Dip TP MRTPI MIPI Eamonn Prenter BA (Hons) Dip TP MSc MRTPI MIPI  
Declan O'Leary BAgr Sc (Land-Hort) Dip LA MILI MLI Jim Kelly BAgr Sc (Landscape-Hort) Dip LA MILI CMLI  
Keith Mitchell MA (Hons) LA Dip EIA Dip Arb MILI CMLI  
ARDACONG, BALLYTRASNA, TUAM  
CO GALWAY  
TEL / FAX: 093 60854  
EMAIL: [galwayinfo@csrlandplan.ie](mailto:galwayinfo@csrlandplan.ie)  
[WWW.CSRLANDPLAN.IE](http://WWW.CSRLANDPLAN.IE)

## ***Planning Policy Background***

The Wicklow County Development Plan 2021-2027 (CDP) states itself to be consistent with higher order strategic policy documents including 'Project Ireland 2040' the National Planning Framework, the Regional Spatial and Economic Strategy for the Eastern and Midland Region, the National Transport Authority's 'Transportation Strategy for the Greater Dublin Area 2016-2035' and the National Climate Action Plan. The Plan is also stated to be informed by the Ministerial Guidelines as listed in Appendix 10. The strategic policies included in those documents are stated to have been crucial in informing the Development Plan Strategy, Core Strategy and draft development plan policy objectives.

### *The Climate Prerogative*

The emerging Plan is clearly stated to be informed by the Climate Action Plan (CAP) – To Tackle Climate Breakdown 2019 and the Local Authority Climate Action Charter (2019). It is also acknowledged that the NPF recognises that *'the physical format of urban development is one of the State's greatest national development challenges and identifies compact growth as the first National Strategic Outcome. This entails delivering a greater proportion of residential development and other development within existing built-up area of settlements and moving away from a reliance on greenfield development to meet development needs. Creating more compact development has been traditionally more difficult to achieve than a continuous process of pushing development onto greenfield locations. Specifically, the NPF requires that 30% of all new homes be delivered within the existing built up footprint of settlements. This applies to all scales of settlements within the County, from large towns to villages. This will require making better use of underutilised land within the built-up areas including infill and brownfield sites.'*

### *Wicklow's Climate & Biodiversity Emergency*

On the 29th of April 2019 Wicklow County Council (WCC) declared a Climate and Biodiversity Emergency

### *Wicklow County Council Climate Change Adaptation Strategy (2019)*

The Strategy features a range of actions across the following six themes:

1. Local Adaptation Governance and Business Operations (functions and activities of the local authority)
2. Infrastructure and Built Environment (climate resilient infrastructure)
3. Land use and development (sustainable policies and measures)
4. Drainage and Flood Management
5. Natural Resources and Cultural Infrastructure (natural capacity to absorb the impacts of climate change)
6. Community Health and Wellbeing (empowering resilient communities)

### *Climate Action Charter (2019)*

The emerging plan identifies that Wicklow County Council signed up to the Climate Action Charter in December 2019. This charter includes substantial targets with

regard to mitigation of climate change and increase energy efficiency. Wicklow County Council is currently in the process of drawing up an implementation plan which takes in all the actions from the Climate Action Charter and the Climate Adaptation Strategy. The implementation plan will list all the actions, who is responsible for delivering it, and an indication of the time to deliver it.

Under the provisions of the Climate Action and Low Carbon Development (Amendment) Bill 2020, Local Authorities will be required to prepare local Climate Action Plans outlining how they are implementing their adopted Climate Action Adaptation and Mitigation strategies. Draft Wicklow County Development Plan 2021-2027, Strategy Building on the NAF and the NMP, and the RSES identifies the following five areas where Climate Change Action should be targeted in the region namely: Built Environment, Sustainable Transport, Energy and Waste, Flood Resilience and Water, and Green Infrastructure and Eco-system services. In light of the above, this County Development Plan will address these sectors in the following manner:

<b>Built Environment</b>	Delivery of sustainable settlement patterns, with a focus in compact growth Regeneration of town and village centres, with the prioritising of the development of underutilised and brownfield sites Promotion of environmentally sustainable development in terms of location, layout, design and energy and water usage.
<b>Sustainable Transport</b>	Provide policy, objectives and standards that promote and facilitate a sustainable approach to transportation with strategies and objectives in place to facilitate the necessary actions, including: <ul style="list-style-type: none"> <li>▪ reduction in the need to use motorised vehicles, increased opportunities for walking and cycling;</li> <li>▪ reduction in journey length and times, reduction in congestion;</li> <li>▪ higher intensity of use of public transport;</li> <li>▪ development and increased usage of alternative vehicle fuel sources, such as electricity, hydrogen and biofuels.</li> </ul>
<b>Energy &amp; Waste</b>	Provide policy, objectives and standards that promote and facilitate the development of alternative and renewable sources of electricity to meet the electricity demand with policy and objectives for reduction in electricity use, wind energy, solar energy, hydro energy, bio-energy and small scale renewable electricity generation. Support the development of enabling infrastructure, especially at the ports/harbours, for the off-shore wind energy sector. Support waste prevention, minimisation, reuse and recycling Promote and support the circular economy and the 'just transition' to clean energy.
<b>Flood resilience &amp; water</b>	Efficient and sustainable use and development of water resources and water services infrastructure Conservation and enhancement of water resources including sea, rivers, lakes and groundwater. Effective and environmentally sound management of waste water. Reduction and management of flood risk. To build resilience to increased risks of extreme weather events, changes in sea level and patterns of coastal erosion to protect property, critical infrastructure and food security.
<b>Natural Heritage &amp; Green Infrastructure</b>	To conserve and enhance biodiversity, protected habitats and species. To identify, protect and enhance Green Infrastructure and ecosystem services and promote the sustainable management of strategic natural assets such as coastlines, farmlands, peatlands, uplands woodlands and wetlands. Promote and facilitate an environmentally sustainable approach to practicing agriculture and forestry.

Of particular significance is the requirement under 'Built Environment' above to deliver sustainable development patterns with a focus on compact growth; the

regeneration of town centres with the prioritising of the development of underutilised or brownfield sites; and finally, the promotion of environmentally sustainable development in terms of location, layout, design and energy and water usage. Maximising the sizeable opportunities presented in the county by infill sites.

The second objective above relating to sustainable transport states that the emerging Plan will promote a sustainable approach to transportation with strategies and objectives in place to facilitate the necessary actions including: a reduction in the need to use motorised vehicles increasing opportunities for walking and cycling; a reduction in journey length and times and a reduction in congestion; and finally, higher intensity of use of public transport.

Section 2.4.3 entitled 'Strategic County Outcomes' identifies the key outcomes that the emerging County Plan is setting itself to meet national and regional planning policy. These include the following:

*'SCO1 Sustainable Settlement Patterns & 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.*

*SCO2 Resilient Town & Village Centres – Regeneration & Renewal*

*Activate the potential for renewal of our town and village centres, creating resilient, adaptable and vibrant places with a strong focus on people. It is essential that stakeholders protect and maintain the viability of town and village centres, target the reversal of decline and deliver sustainable reuse and regeneration outcomes.*

*Levels 1-4 of Settlement Hierarchy*

*For larger towns in Levels 1-4 of the county settlement hierarchy, where more significant growth is targeted that is unlikely to be possible to accommodate wholly within the existing built up envelope, a minimum of 30% of the targeted housing growth shall be directed into the built up area of the settlement as per NPF policy. In cognisance that the potential of town centre regeneration / infill / brownfield sites is difficult to predict, there shall be no quantitative restriction inferred from this Core Strategy and associated tables on the number of units that may be delivered within the built up envelope of the town. In order to ensure however that overall housing and population targets are not exceeded to any significant degree, the amount of land zoned for the housing development outside of the built up envelope of any existing settlement shall not exceed 70% of the total housing target for that settlement.'*

*Future residential development of Bray*

Table 3.5 identifies Bray at Level 1 of the Wicklow County Settlement Hierarchy and as a defined 'Metropolitan Area Key Town'.



Table 3.6 (Wicklow Settlement/Aggregate Settlement Population Targets 2016-2031) identified Bray's population in 2016 as 29,646. The population target for 2031 is 40,425.

Table 3.7 (Wicklow Settlement/Aggregate Settlement Housing Targets 2016-2031) identifies Bray's housing stock in 2016 as having 11,232 units and the housing stock growth target for 2016-2031 as 5,0612 units. Taking away permissions there is identified in Table 3.7 a requirement over the period up to 2031 for 4,867 units.

It frustrates our client that they have an infill site, 800m from the transport hub at Bray Dart Station, in which people can live and access most of their daily needs within 15 minutes of active transport, such as walking or cycling, is ready to go for development to deliver much needed housing consistent with national policy outlined above and also clearly set out in the emerging plan as infill development that will achieve compact growth for want of a planning permission allowing vehicular access over what is ostensibly an extended grass verge. This is especially disappointing given Table 3.9 of the emerging Plan entitled 'Housing Development Completed, Underway and Permitted in County Wicklow'. The number of completions post 2016 for Level 1 settlement Bray stands at 165 units and is exceeded by a factor of 4 at 650 units for Level 2 settlement Wicklow/Rathnew and is exceeded by a factor of 5 by Greystones (875 units) a Level 3 settlement and is exceeded also by Newtownmountkennedy which is a Level 4 settlement. The post 2016 completions for Bray at 165 is the same as Arklow a level 3 settlement. Bray has clearly not been delivering the units that it should be expected to and has been 'overtaken' as a Level 1 settlement at the top of the Wicklow Settlement hierarchy as a deliverer of housing by a Level 2 settlement (Wicklow/Rathnew), equalled or exceeded by two Level 3 settlements (Greystones and Arklow) and even a Level 4 settlement (Newtownmountkennedy). This is clearly unsustainable.

For towns including Bray, contained within Levels 1-4 of the County settlement hierarchy, a minimum of 30% of the targeted housing growth shall be directed into the built up area of the settlement. This will clearly not be reached if relatively minor barriers to development such as experienced by our client in Sidmonton Court Bray are experienced elsewhere. Our request is that this is not allowed to happen through placement of reasonable policies to help facilitate infill development and address unnecessary impediments and unfounded objections which advocate denial of planning permission against climate policy, national strategy on housing delivery, principles of compact growth, prioritisation of infill opportunities, utilisation of brownfield sites etc.

Housing Objective CPO 6.25 of the emerging plan states the following:

*'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. Such lands will be retained as open space for the use of residents and new housing or other non-community related uses will not normally be permitted.'*

We suggest that this existing emerging objective be modified slightly so that development of permitted, designated or dedicated areas of open space within residential areas is still prevented in principle but that access over such areas, whether pedestrian or vehicular, particularly into infill opportunities where the function and use of such areas of open space are not compromised may be permitted. The requested modification is required because there will be a great many instances where access to infill opportunities will be over grass roadside verges, of variable width, or over relatively small or dysfunctional areas of open space. As long as the function of that area of verge or open space is not compromised then such access, whether vehicular or pedestrian, should be permitted in principle. Our suggested rewording Housing Objective CPO 6.25 to reflect this is as follows with new text in bold and omissions in strikethrough format:

*'In existing residential areas, the areas of open space permitted, designated or dedicated solely ~~to~~for the use of the **by** residents will normally be zoned 'RE' as they form an intrinsic part of the overall residential development. **The function of** such lands will be retained as open space for ~~the use of~~ by residents and new housing or other non-community related uses will not normally be permitted **where this primary function is compromised with reference to the percentage of open space remaining, the effect of proposals such as servicing and access arrangement, on the character, use, appearance and value including visual of that open space to the local community.**'*

To support that proposed amendment we would refer the County Council to their own grant of planning permissions in the following 2 no. instances.

*WCC Precedent: Site to the Rear of 16 Boghall Cottages, Bray*

Planning permission was granted by WCC on 28<sup>th</sup> September 2000 under your reg. ref. 00/0145 for an access across an area of public open space where no right of way existed for the developer and where the area of open space stretched to 14m. A photo of the permitted access at Boghall Cottages, Bray, is shown below in Figure 1 below.

**Figure 1 Permitted backland development in Bray also with access across open space from a curved portion of roadway at a depth of up to 14 metres, where no right of way existed.**

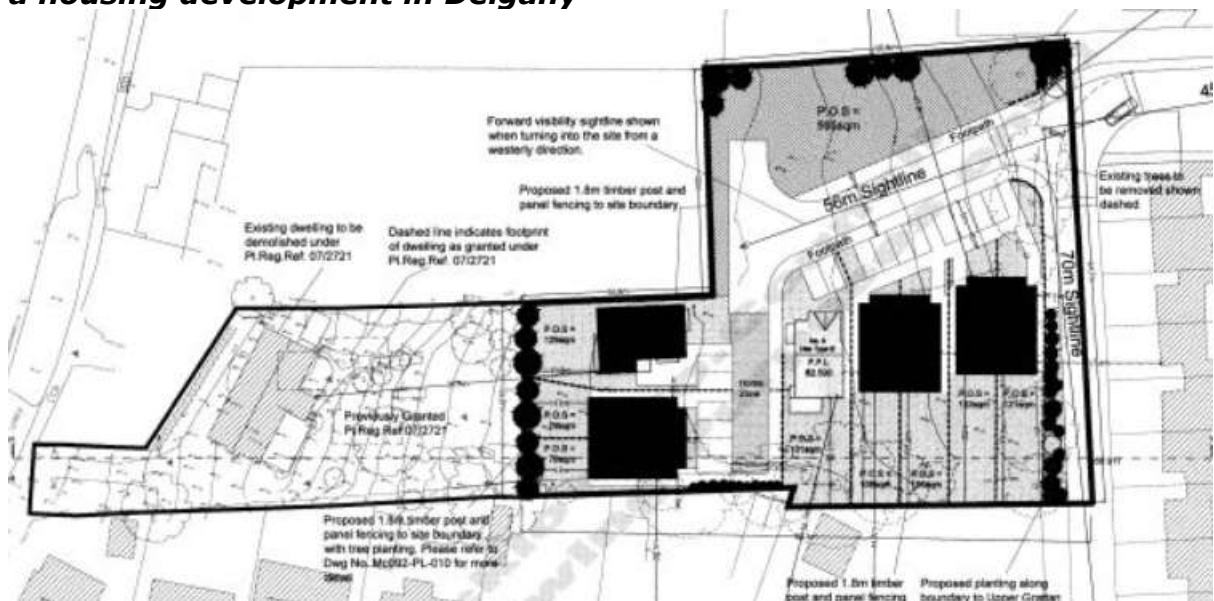


The precedent identified above is particularly relevant as it is not only in Bray but also permitted access across open space from a curved portion of roadway at a depth of up to 14 metres, where no right of way existed.

*WCC Precedent: Site at Upper Grattan Park, Delgany*

WCC also granted planning permission under your reg. ref. 16/1356 on 9<sup>th</sup> June 2017 for 8 no. dwellings on a site zoned as residential but with an access across a green verge with mature trees and a hedgerow.

**Figure 2 WCC precedent of loss of public open space to provide access to a housing development in Delgany**



The approved site layout plan shown as Figure 2 above faintly indicates a number of mature and prominent trees within that area of the site that are lost due to the need to widen the existing estate road at this point and to provide adequate sight lines for a new entrance to be provided into that site. This occurs in direct line of sight of a terrace of 7 no. dwellings.

These precedents require an accompanying policy/objective.

We believe that the **above housing objective** can be complemented by a **further development management focussed policy** based on a policy in an adjoining county, within the adopted Dun Laoghaire Rathdown County Development Plan 2016-2022, and Section 8.4.2.9 in particular which states under the heading to item (vi) 'Access Across Public Open Space' that '*The Planning Authority will not normally grant permission for a development which requires or entails vehicular access over public open space or a non-paved route. The applicant would be required to clearly indicate the necessary right of way or entitlement to carry out the proposed works.*' This policy is likely to be carried through the emerging Dun Laoghaire County Development Plan 2022-2028 but in this instance as commended to the local authority we suggested that it be amended as follows for further clarity purposes:

*'Access Across Public Open Space'  
The Planning Authority will not normally grant permission for a development which requires or entails vehicular access over public open space or a non-paved route unless the applicant can clearly indicate the necessary right of way or entitlement to carry out the proposed works.'*

Such a second policy or objective could be incorporated into Chapter 12 of the emerging plan (Sustainable Transportation). We trust you will be able to incorporate these proposed amendments into the emerging plan as we believe this suggested objective and suggested policy to be very much consistent with national, regional and local planning policies and guidance and more importantly will assist in the realisation of the key objectives and targets that the emerging Wicklow County Development Plan 2022-2028 sets itself.

We trust you will be in a position to acknowledge this submission.

Yours sincerely,



**Eamonn Prenter** MIPI MRTPI  
Director  
**CUNNANE STRATTON REYNOLDS**  
**LAND PLANNING & DESIGN**

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