



An
Bord
Pleanála

Board Direction
BD-008866-21
ABP-310078-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 09/08/2021.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the following:

- (a) the policies and objectives set out in the NPF
- (b) the policies and objectives set out in the Wicklow County Council Development Plan 2016-2022,
- (c) the policies and objectives set out in the Bray Municipal Local Area Plan 2018-2024,
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (e) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (f) the Design Manual for Urban Roads and Streets (DMURS), 2013, as amended
- (g) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009

- (h) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (i) the nature, scale and design of the proposed development,
- (j) the availability in the area of a range of social, community and transport infrastructure,
- (k) the pattern of existing and permitted development in the area,
- (l) the planning history of the site and within the area,
- (m) the submissions and observations received,
- (n) the report of the Chief Executive of Wicklow County Council, and
- (o) the report of the Inspector

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) would not give rise to significant effects on Knocksink Wood SAC (site code 000725), Ballyman Glen SAC (site code 000713) or any European site in view of the sites conservation objectives and Appropriate Assessment is therefore not required.

This determination is based on the following:

- Consideration of objective and best available scientific information provided in the AA Screening Report and EIAR prepared as part of the application.
- Consideration of nature conservation observations in relation to potential effects on groundwater dependant habitats that are qualifying interest habitats of Knocksink Wood SAC (site code 000725) and Ballyman Glen SAC (site code 000713).
- No effect on the locally important aquifer by the proposed new site in terms of water quality, water quantity or movement of groundwater within the gravel aquifer.

- Ground water flows to ground water dependant habitats within Knocksink Wood SAC (site code 000725) or Ballyman Glen SAC (site code 000713) will not be affected by the proposal.
- The distance of the proposed development from European sites in the wider area (within 15km) and a demonstrated lack of any meaningful ecological connections to those sites.

Measures intended to reduce or avoid significant effects on European sites have not been considered in the screening process.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development, taking into account;

- a) The nature, scale and extent of the proposed development,
- b) The Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- c) The submission of from the planning authority, the observers and prescribed bodies in the course of the application,
- d) The inspectors report,

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The board is satisfied that the information contained in the EIAR complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

Having regard to the examination of environmental information in the EIAR, other information in the plans and particulars and the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- **Population and Human Health:** A short term negative impact on those living in the immediate vicinity from construction activities will be mitigated by measures included in the Construction Environmental Management Plan

(CEMP) and the increase in housing will lead to a long-term positive impact on the settlement of Enniskerry.

- **Biodiversity impacts:** A short term moderate impact on bats will be mitigated by the use of appropriate lighting, tree planting, use of bat boxes in the interim and also enhanced planting scheme along the west of the site. No significant negative impacts will occur on any areas identified for local or national protection and there are no pathways with any European Sites.
- **Land and soil impacts:** Alterations to the profile of the site will be mitigated by the reuse of excavated soil where possible and potential Impacts on water quality will be mitigated by the implementation of a CEMP to control siltation and water pollution.
- **Water Impacts:** Potential impacts on water quality in the area will be mitigated by construction management measures and implementation of SUDS measures.
- **Landscape and Visual:** The retention of a central vista through the middle of the site enables the protection of views towards Sugarloaf Mountain and the retention of enhancement of trees and hedgerows will mitigate any immediate impact.
- **Traffic and transportation impacts:** The development will give rise to short-term construction traffic impacts, mitigated by traffic management and other environmental considerations in the CEMP. The creation of new pedestrian linkages will benefit of the wider area.
- **Archaeology, Architecture and Cultural Heritage:** The potential for short term negative impact on any archaeology will be mitigated through monitoring of groundworks during construction.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the EIAR and associated documentation submitted by the applicant and the submissions made in the course of the application. The Board is satisfied that the Inspector's report sets out how these were to be addressed in the assessment and recommendation and are incorporated into the Board's decision. The environmental impacts identified are not significant

and would not require or justify refusing permission for the proposed development or require substantial amendments.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would not endanger public safety by reason of traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted the submission from the Chief Executive of Wicklow County Council other third-party submissions which refers to the material contravention of the Wicklow County Council Development Plan 2016-2022 and the Bray Municipal Local Area Plan 2018-2024 relating to the Material Contravention of the land use zoning, density, non-compliance with the criteria for development on AA3 lands, and the traffic hazard, Strategic Open Space zone lands.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a land use zoning of the Development Plan, lead to a traffic hazard or contravene Objective R6 , it would materially contravene the quantum of development or Action Area Plan 3- Cookstown, the density requirements for development on R10 New Residential urban Fringe and R20 New Residential, the location of the apartments (Objective HD3) and the requirement 0.4ha for voluntary housing.

The Board considers that, having regard to the provisions of section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission is a material contravention of:

- The development objectives for R10 New Residential Rural Fringe, R20 New Residential in both the Wicklow County Council Development Plan 2016-2022 and the Bray Municipal Local Area Plan 2018-2024, Objective HD 5 of the Wicklow County Council Development Plan 2016-2022 and the Criteria for development on the Action Area Plan 3 lands in the Bray Municipal Local Area Plan 2018-2024 in relation to density.

- Table 3.2 of the Bray Municipal Local Area Plan 2018-2024 and the Criteria for development on the Action Area Plan 3 lands in the Bray Municipal Local Area Plan 2018-2024 in relation to the quantum of development.
- Objective HD13 of the Wicklow County Council Development Plan 2016-2022 in relation to the location of apartments within 10mins of a light rail or train station.
- The Criteria for development on the Action Area Plan 3 lands in the Bray Municipal Local Area Plan 2018-2024 in relation to density in relation to the 0.4ha shall be provided for voluntary/sheltered housing.

would be justified for the following reasons and consideration:

In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended):

The proposed development is considered to be of strategic or national importance by reason of its potential to contribute to the achievement of the Government's policy to increase delivery of housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and to facilitate the achievement of greater density and height and range of typologies in residential development and to facilitate the achievement of compact residential growth in an urban centre close to public transport and centres of employment. The site, located in an area designated for growth, on an edge of centre location on Enniskerry, c. 20km from Dublin centre and served by public transport can assist the delivery of housing.

In relation to section 37 (2) (b) ii) of the Planning and Development Act 2000 (as amended):

It is considered there are conflicting objectives in the Wicklow County Council Development Plan 2016-2022 in so far as Objective HD13 which only permits apartments on sites within 10min walking distance is in conflict with Objective HD 3 which permits up to 20% floorspace for apartments in "out of centre" locations and the development description for New Residential lands which requires a range and mix of types to support balanced communities.

In relation to section 37 (2) (b)(iii) of the Planning and Development Act 2000 (as amended):

It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework (in particular objectives 3 (a), 11 and 33), the Urban Development and Building Height Guidelines for Planning Authorities, (in particular SPPR 4), the Sustainable Residential Development in Urban Areas (in particular Chapter 5 and 6 and the accompanying Urban Design Manual) and the Sustainable urban housing: Design Standards for New Apartments (in particular Section 2.2 and 2.4). These guidelines and policies contain objectives which support the delivery of residential development in appropriate locations through the promotion of densities on serviced sites in urban areas. The proposed development is located on a serviced site identified for residential growth in the Action Area Plan in the Bray Municipal Local Area Plan 2018-2024, contiguous to the social infrastructure and close to services and amenities which promotes compact urban form through the use of an appropriate quantum of development, density range and mix, consistent with these objectives.

In accordance with section 9(6) of the 2016 Act, the Board considered that the criteria in section 37(2)(b)(i) (ii) and (iii) of the 2000 Act were satisfied for the reasons and considerations set out in the decision.

Conditions

1. The development 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 agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 16 of the EIAR 'Summary of Mitigation Measures', shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. The applicant shall employ a qualified Ecological Clerk of Works (ECoW) to oversee and implement the mitigation measures and other ecological works listed throughout the submitted documentation.

Reason: In the interest of protecting the environment and in the interest of public health.

4. The proposed development shall be amended as follows:

(a) The external finishes for dwellings shall be amended and materials shall be varied to differentiate the 5 no character areas.

(b) The most northern unit of Duplex Block C shall be redesigned so that the main facade of the end unit is orientated north, onto the communal open space area.

c) Access into the site to the west shall be included in a revised site layout and the boundary treatment along the west of the site shall integrate and reflect the permeability between the subject site and the permitted scheme/ site to the west.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interests of visual and residential amenity.

5. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority/An Bord Pleanála prior to

commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity

6. (a) The development shall be carried out on a revised phased basis. The first phase shall consist of not more than 75 dwelling units, together with their associated site development works, and the upgrade of the Cookstown Road. The delivery of the public park and amenity walk shall be included in proposals for subsequent phases. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, An Bord Pleanála.

(b) Work on any subsequent phases shall not commence until substantial completion of Phase 1 or prior phase or such time as the written agreement of the planning authority is given to commence the next phase. Details of further phases shall be as agreed in writing with the planning authority.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings

7. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

8. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

9. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

10. (a) Prior to commencement of development a Stage 2 Road Safety Audit, including a final Audit Report, for the proposed development shall be prepared in accordance with TII Publications and submitted. Where the audit identified the need for design changes revised design details should be submitted to and agreed in writing with the Planning Authority. The developer shall carry out necessary works in accordance with the agreed revised design.

(b) Prior to occupation of development a Stage 3 Road Safety Audit, including a Final Audit Report, for the proposed improvement to Cookstown Road, estate road and entrance to the development from the public road, prepared in accordance with TII Publications and submitted. Where the audit identified the need for design changes revised design details should be submitted to and agreed in writing with the Planning Authority. The developer shall carry out necessary works in accordance with the agreed revised design

Reason: In the interest of traffic safety and proper planning and sustainable development.

11. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

(c) This plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

12. Bat roosts shall be incorporated into the site and the recommendation of the Bat Survey report shall be carried out on the site to the written satisfaction of the planning authority and in accordance with the details submitted to An Bord Pleanála with this application unless otherwise agreed in writing with the planning authority

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

13. The landscaping and earth works scheme shown on the Landscape Masterplan Drawing, as submitted to An Bord Pleanála as part of this application shall be carried out within the first planting season following substantial completion of external construction works. In addition to the proposals in the submitted scheme, the following shall be carried out:

- a) The site shall be landscaped, using only indigenous deciduous trees and hedging species and there should be no encroachment during construction on those hedgerows
- b) Details of an appropriate hedgerow planting along the west of the site to replace the hedgerow proposed for removal.
- c) Play facilities shall be provided within the communal areas of the apartment development in line with the requirements of Section 4.13 of the Sustainable Urban Housing: Design Standards for New Apartments. Guidelines for Planning Authorities (2018).
- d) All details of the play facilities and passive recreation facilities shall be submitted for the agreement of the planning authority prior to commencement of development. The details shall include lands delivered as part of the Open Space zoned lands and delivered through the required phased development.
- e) Compliance with the requirements and standards of the Planning Authority in relation to the lighting and tree planting within the public open space.
- f) The public open spaces areas on residential lands within the development shall be retained for the use of the residents.
- g) The boundary fence (Boundary Treatment Type 1) along the west of the proposed section of the Public Park shall be removed following completion of the development on the adjoining lands to the west.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

Reason: In the interest of residential and visual amenity.

14. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

15. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of property in the duplex/apartment's dwellings. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

16. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles

17. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area

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

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

19. The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including noise management measures, details of arrangements for

routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

Reason: In the interest of amenities, public health and safety.

20. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

21. Prior to the opening or occupation of the development, a Mobility Management Strategy including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents, occupants and staff employed in the development and to reduce and regulate the extent of parking. Details may include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy. The interim or temporary strategy, where applicable, should reflect the requirements of Design Manual for Urban Roads and Streets Interim Advice Note – Covid Pandemic Response (May 2020). The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists during Covid-19 pandemic.

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

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

23. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open

space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge

25. Prior to the commencement of any house or duplex unit in the development as permitted, the developer or any person with an interest in the land shall enter into an agreement with the planning authority, such agreement must specify the number and location of each house or duplex unit, pursuant to Section 47 of the planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers, those not being a corporate entity, and or by those eligible for the occupation of social and or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

26. 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.

Board Member



Michelle Fagan

Date: 09/08/2021

