



**An  
Bord  
Pleanála**

**Board Direction  
BD-015588-24  
ABP-313953-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 26/02/2024.

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**

The Board had regard to the zoning of the site in the Ashford Town Plan 2022-2028 for residential development and open space, the location of the site within the settlement boundary of the town and its proximity to the Town Centre 'Regeneration' area. The Board considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the Ashford Town Plan 2022-2028 and the Wicklow County Development Plan 2022-2028, would not detract from the character and setting of Inchnappa House, would not inhibit the preparation of a masterplan for the area, would not endanger public safety by reason of traffic hazard and would not injure the residential or visual amenity of property in the vicinity. In considering the density of the proposed development, the Board considered that due to the specific constraints of this site, its proximity to a protected structure and inclusion of an area zoned for Open Space, the proposed development would also be in accordance with the relevant provisions of the Sustainable Residential Development and Compact Settlement Guidelines 2024 for Small and Medium Sized Towns. The proposed development would, therefore, accord with the proper planning and sustainable development of the area.

## **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, taking into account the nature, scale and location of the proposed development, the information for screening for Appropriate Assessment submitted with the application and appeal, the Inspector's Report, and submissions on the application. Having carried out Screening for Appropriate Assessment, it has been concluded that the project individually or in combination with other plans or projects, could have a significant effect on European Sites in respect of The Murrough Wetlands Special Area of Conservation (Site Code: 002249) and The Murrough Special Protection Area (Site Code: 004186).

## **Appropriate Assessment – Stage 2**

The Board considered the Natura Impact Statement and all other relevant documentation on file. In completing an Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report and considered that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites The Murrough Wetland Special Area of Conservation (Site Code: 002249) and The Murrough Special Protection Area (Site Code: 004186), or any other European site, in view of the site's Conservation Objectives.

This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of the Murrough Wetlands Special Area of Conservation and the Murrough Special Protection Area.

- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Murrough Wetlands SAC and the Murrough SPA.

### Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plans and particulars received by the planning authority on the 28<sup>th</sup> day of March 2022 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The developer shall comply with the following requirements of the Planning Authority,</p> <p>a) The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to and agreed in writing by the planning authority prior to the commencement of any development.</p> <p>b) No residential unit shall be occupied until the roundabout entrance onto the R772 is installed and operational.</p> <p>c) No more than 75 residential units shall be occupied in advance of the creche being constructed and operational, unless otherwise agreed in writing with the planning authority.</p>

	<p><b>Reason:</b> In the interest of orderly development and to ensure the timely provision of services for the benefit of the occupants of the proposed dwellings.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development and any signs shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.</p> <p><b>Reason:</b> In the interest of amenity and of traffic and pedestrian safety.</p>
5.	<p>All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of sustainable transportation.</p>
6.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
7.	<p>Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to</p>

	<p>adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p><b>Reason:</b> In the interests of sustainable waste management.</p>
8.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
9.	<p>Proposals for the development name and numbering scheme and associated signage shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Thereafter, signs and numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p><b>Reason:</b> In the interest of urban legibility, and to ensure the use of locally appropriate place names for new residential areas.</p>
10.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
11.	<p>A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for</p>

	<p>the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p><b>Reason:</b> In the interests of residential amenity and proper waste management.</p>
12.	<p>a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.</p> <p>b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
13.	<p>Prior to the commencement of development, the developer shall submit, for the written agreement of the planning authority, an Invasive Species Management Plan which shall include measures for the eradication of the Invasive Species and timeframes for same.</p> <p>Construction shall not commence until the Japanese Knotweed has been eradicated from the site to the satisfaction of the planning authority. The developer shall consult with the Inland Fisheries Ireland and the Heritage Officer and/or the Parks Department of Wicklow County Council, prior to the preparation of the Plan.</p> <p><b>Reason:</b> To prevent the spread of invasive species.</p>
14.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This</p>

scheme shall include the following:

(a) A plan to scale of not less than [1:500] showing –

(i) The species, variety, number, size and locations of all proposed trees and shrubs

(ii) Details of screen planting which shall not include cupressocyparis x leylandii

(iii) Details of roadside/street planting.

(iv) Hard landscaping works, specifying surfacing materials, furniture, play equipment and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

(c) A timescale for implementation.

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 three 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.

**Reason:** In the interest of residential and visual amenity.

15. The developer shall appoint and retain the services of a qualified Landscape Architect (or qualified Landscape Designer) as a Landscape Consultant, throughout the life of the construction works and shall notify the planning authority of that appointment in writing prior to commencement of development. A practical completion certificate shall be signed off by the Landscape Architect when all landscape works are fully completed to the satisfaction of the planning authority and in accordance with the permitted landscape proposals.

**Reason:** To ensure full and verifiable implementation of the approved landscape design.

16.	<p>(a) A project Arborist shall be appointed to oversee all works on the site. No works shall take place until an Arboricultural Method statement specifying measures to be taken for the protection of trees and hedgerows to be retained, together with proposals to prevent compaction of the ground over the roots of trees, has been submitted to, and agreed with the planning authority.</p> <p>(b) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.</p> <p>(c) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.</p> <p>(d) All tree/hedgerow felling shall be carried out by a qualified and experienced tree surgery contractor.</p> <p>(e) No landscaping or removal of vegetation or trees shall take place during the bird nesting season between the 1<sup>st</sup> of March to the 31<sup>st</sup> of August.</p> <p><b>Reason:</b> To protect trees and planting during the construction period in the interest of visual amenity and nature conservation.</p>
17.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p>



	<p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
18.	<p>Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.</p> <p><b>Reason:</b> In the interests of residential amenity and public safety.</p>
19.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(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, and</p> <p>(b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.</p> <p>The assessment shall address the following issues:</p> <p>(i) the nature and location of archaeological material on the site, and</p> <p>(ii) the impact of the proposed development on such archaeological material.</p> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p>

	<p><b>Reason:</b> In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
20.	<p>Prior to the commencement of any house in the development as permitted, the applicant 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 permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p><b>Reason:</b> 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.</p>
21.	<p>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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.</p> <p><b>Reason:</b> 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 for the area.</p>
17.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage</p>

	<p>caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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.</p> <p><b>Reason:</b> To secure the protection of the trees on the site.</p>
23.	<p>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 of roads, footpaths, watermains, drains, 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 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.</p> <p><b>Reason:</b> To ensure the satisfactory completion of the development.</p>
24.	<p>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</p>

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**

  
Martina Hennessy

**Date:** 28/02/2024