

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Wicklow County

Planning Register Reference Number: 15/524

An Bord Pleanála Reference Number: PL 27.246799

APPEAL by Matthew Weiss and others of RiverRun Studio, Nun's Cross, Ashford, County Wicklow and by Pat and Martina Fox care of Frank Ó' Gallachóir and Associates Limited of 94 Rathdown Park, Greystones, County Wicklow against the decision made on the 10th day of June, 2016 by Wicklow County Council to grant subject to conditions a permission to Moffash Limited care of bba architecture of Suite 3 Eden Gate Centre, Eden Gate, Delgany, County Wicklow in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: (1) Construction of 178 number dwellings comprising of the following mix: 9 number House Type A (three storey, five bed, detached dwellings with habitable accommodation in the roof/attic space with recessed balconies to the front serving accommodation in the roof space) comprising 176 square metres, 2 number House Type A1 (two storey, five bed detached dwellings comprising 221 square metres, 7 number House Type B (two storey, four bed detached dwellings) comprising 143 square metres, 70 number House Type C (two storey, four bed, semi-detached dwellings) comprising 122 square metres, 59 number House Type D (two storey, three bed semi-detached dwellings) comprising 110 square metres, 11 number House Type E (two storey, three bed, semi-detached dwellings) comprising 112 square metres, 10 number House Type F (two storey, three bed end of terrace dwellings) comprising 116 square metres, 10 number House Type G (two storey, two bed mid terrace dwellings) comprising 100 square metre; (2) construction of two storey crèche building comprising 476 square metres together with associated vehicular and bicycle parking; (3) revisions to existing junction between R763 and 764 and the provision of a new regional road and associated footpaths, cycle lanes, verges and new junctions, servicing this development and linking the existing R763 and R764 Roads,

upgrading and realignment of a portion of the existing R763 Road along site frontage together with a new junction linking the new regional road with the R763 road, new vehicular access off the R763 road to serve proposed new dwellings on estate road 08, upgrading and realignment of a portion of the existing R764 road along site frontage together with new junction linking the new regional road and the existing R764 road, new vehicular entrance off proposed new regional road to serve existing premises located to the north of the proposed road as indicated on current planning application planning register reference number 14/1876; (4) all necessary landscaping works; (5) new boundary treatments; (6) connection to all existing services and (7) all ancillary works necessary to facilitate this development, all at Ballinahinch, Ashford, County Wicklow, as amended by the further public notices received by the planning authority on the 10th day of February, 2016 and the 9th day of May, 2016.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the zoning for the site and to the objectives contained in the Ashford Town Plan, having regard to the layout and density proposed which it is felt responds to the setting and location of the proposal in a sympathetic manner and having regard to the road layout of the proposal which helps to achieve a roads objective of the town plan, it is considered that, subject to compliance with the conditions set out below, the proposal would not seriously injure the residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the Ashford town plan and to the settlement strategy contained in the Wicklow County Development Plan and considered that development at the scale proposed was provided for in the development plan. The Board further considered that the design approach taken was appropriate to its location.

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 21st day of January, 2016 and the 9th day of May, 2016, 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 roofs of the proposed dwellings shall be blue-black or slate-grey in colour throughout including ridge tiles using slates or flat-profile tiles only.

Reason: In the interest of visual amenity.

3. 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.

Reason: In the interest of public health.

4. 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.

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

5. The proposal shall be phased in accordance with the phasing plan indicated on drawing number M-122-RFI-07 Rev. A received by the planning authority on the 9th day of May, 2016. No house shall be made available for occupation in a later phase until completion of all previous phases. On completion of phase 3 as indicated on the above referenced drawing, the entire link road shall be completed between the R763 and the R764 before phase 4 shall be commenced.

Reason: To provide for a balanced and orderly growth of the development and in the interests of clarity.

6. (a) The first sale of 50% of the proposed houses shall be restricted to persons who have been resident and/or employed in County Wicklow for at least one year.
- (b) The details of the houses which are to be sold with the restriction under (a) above shall be submitted to the planning authority.
- (c) Confirmation from a solicitor with professional indemnity insurance that the dwellings have been sold in accordance with this condition shall be submitted to the planning authority upon sale of the dwellings.

Reason: To ensure that dwellings are suitably restricted to meet local growth needs as opposed to regional needs, to ensure the development meets with the requirements of the Regional Planning Guidelines and the County Development Plan with respect to development in the Hinterland areas, in the interests of the proper planning and sustainable development of the area.

7. 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.

8. 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.

9. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

10. Prior to the commencement of development, a schedule of all external finishes to the dwellings shall be submitted for the written agreement of the planning authority. More than one variety of finish to the external walls shall be used in the development.

Reason: In the interests of visual amenity.

11. (a) All open space shall be levelled, drained, cultivated, and top soiled as necessary to provide a minimum of 200 millimetres depth of vegetative soil and shall be consistent with the levels of all adjoining roads. Planting with trees and shrubs appropriate to the area shall be carried out and the remaining areas shall be sown with grass seed to give a uniform pastureland condition. In areas of steep embankments, dense ground cover shrubs shall be established to be protected by temporary fencing until the growth is established.
- (b) Open space areas shall be dedicated to the use of the residents. The maintenance of the open space shall be the responsibility of the developer until one year after the completion of all houses in the entire development and until the grassed areas and ground cover shrubs are firmly established. The developer shall enter into a licence and shall submit in triplicate the following:-
- (i) deed of dedication, signed and sealed,
 - (ii) O.S. map with open space outlined, and
 - (iii) copy of scheme plan as registered in Land Registry with open space outlined.

Reason: To ensure that the amenity open space shall be left in a satisfactory and useful condition on completion of the development and will be available for amenity and recreational purposes to the residents of the estate.

12. 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 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 which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder,
 - (ii) details of screen planting which shall not include cupressocyparis x leylandii,
 - (iii) details of roadside/street planting which shall not include prunus species, and
 - (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 including details of phasing.

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, 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.

13. Prior to commencement of development, final details of the road link from the R763 to the R764, together with all associated junctions, shall be submitted to, and agreed in writing with, the planning authority. The road link from the R763 to the R764, together with all associated junctions, shall be constructed in full by the developer. The provisions of Section 34(4)(m) of the Planning and Development Act 2000, as amended, shall apply. Prior to the occupation of any unit, the developer shall enter into an agreement with the Road Authority in relation to the cost of any additional works that would be in excess of the immediate needs of the proposed development.

Reason: In the interest of traffic safety and the equitable appointment of the cost of the proposed road link from the R763 to the R764, together with the associated junctions.

14. (a) Prior to commencement of development, a Stage 2 Road Safety Audit, including a Final Audit Report, for the proposed road link from the R763 to the R764 together with associated junctions and the amendments to the existing R763 and the R763/R764 junction, prepared in accordance with the National Roads Authority's 'Design Manual for Roads and Bridges', shall be submitted. Where the audit identifies 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 all 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 road link from the R763 to the R764 together with associated junctions and the amendments to the existing R763 and the R763/R764 junction, prepared in accordance with the National Roads Authority's 'Design Manual for Roads and Bridges', shall be submitted. Where the audit identifies 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 all necessary works in accordance with the agreed revised design.

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

15. Prior to commencement of development, details of barriers and/or landscaping located along the southern edge of the existing R763 carriageway to screen the existing dwellings from vehicle headlight intrusion shall be submitted to, and agreed in writing with, the planning authority. The works/landscaping agreed shall be constructed by the developer.

Reason: In the interest of residential amenity and in the interest of the proper planning and sustainable development of the area.

16. 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 house.

Reason: In the interests of amenity and public safety.

17. 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.

18. 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 placenames for new residential areas.

19. All driveways and parking areas shall be surfaced in permeable paving.

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

20. At the completion of the development, or each sector thereof, and prior to the taking in charge of the estate, as constructed drawings of the development, to the requirements of paragraph 1.9 of Recommendations for Site Development Works in Housing Areas (Department of the Environment and Local Government, 1998) at a scale of 1/500 or larger shall be supplied to the Council on computer diskette and shall be in a "DXF" format or other format agreeable to the planning authority and shall not be scanned images. The drawings shall show the as constructed position of each site, house, road, water main (including the location of sluice valves, scour valves, air valves and hydrants), foul and surface water sewers (including gullies, and invert levels of manholes to ordnance datum) and all pipe sizes and shall also show the Irish National Grid co-ordinates of the four corners of the drawing and shall be relative to the Irish National Grid.

Reason: In the interests of the proper management and maintenance of the roads and services.

21. 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.

22. 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.

23. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in respect of works for the provision of roundabout entrance to development site off existing R764. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.