

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Wicklow County

Planning Register Reference Number: 14/1880

An Bord Pleanála Reference Number: PL 27.247209

APPEAL by Dale O'Carroll of 2 Ballymoat, Glenealy, County Wicklow and by others against the decision made on the 17th day of August, 2016 by Wicklow County Council to grant subject to conditions a permission to Kinsella System Homes Limited care of McAulay Rice Architects of First Floor, Green Tree House, Fitzwilliam Square, Wicklow Town, County Wicklow in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Erection of three number detached dwellings, a new vehicular entrance and access road and ancillary works, an on-site effluent treatment system to current EPA guidelines for each dwelling and percolation areas, connection to watermains and associated site works, all at Ballymoat, Glenealy, County Wicklow.

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 location of the proposal within the settlement boundary of Gleanealy, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure residential or visual amenity, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience and would 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 considered that the proposed development would be visually compatible with the village settlement and had regard to its location within the settlement boundary. In regard to the Inspector's concerns regarding proliferation of treatment systems, it is considered that two such systems would be acceptable given the percolation test results submitted with the application and appeal.

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 27th day of March, 2015, the 26th day of May, 2015, the 25th day of September, 2015, the 25th day of February, 2016, the 19th day of July, 2016 and the 25th day of July, 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 proposal shall be amended as follows:

Two houses only shall be provided and they shall be located on the site, without changing their orientation, to provide for approximately equal sub-division of the site. They shall be individually entered directly off the main road and the proposed access road to provide access to land at the west of the site shall not be provided without a further grant of permission. Details in this regard, including entrance arrangements, shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of amenity and public health and having regard to existing and proposed level of septic tank provision.

3. Water supply and drainage arrangements, including the 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. (1) The use of one of the proposed dwellings shall be restricted to persons who comply with the provisions with respect to county growth as set out in the current Development Plan for the area and as the planning authority agrees in writing. This requirement shall be embodied by a legal undertaking by the occupant of every dwelling restricted by this condition and shall be registered as a burden against the title of the land in the Land Registry or Registry of Deeds and shall be of seven years duration from the date of this registration. Evidence of this registration shall be submitted to the planning authority within twelve months of the occupation of the dwelling.
- (2) The planning authority shall consent to any sale of the completed dwellings by a lending institution in exercise of its powers as mortgager in possession of this property and likewise consent to any sale by any person deriving title from the lending institution.
- (3) Prior to commencement of development, the houses to be restricted in accordance with this condition shall be confirmed in writing with the planning authority.

- (4) No occupation of any dwelling shall occur until confirmation has been received from a solicitor with professional indemnity insurance that the dwellings have been sold in accordance with this condition.

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 Development Plan with respect to development in the Hinterland areas, in the interest of proper planning and sustainable development.

5. For each of the two permitted dwellings,
- (A) the proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 30th day of September, 2014, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and
- (B) within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

6. Boundaries between houses to the rear of the proposed dwelling, unless otherwise specified, shall consist of 1.8 metres high concrete post and timber fence unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential amenity.

7. Each of the permitted dwelling sites 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
 - (ii) Details of screen planting
 - (iii) Details of roadside/street planting
 - (iv) Hard landscaping works, specifying surfacing materials, furniture 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 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.

8. 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.

9. 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.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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

Dated this day of 2017.