



An
Bord
Pleanála

Board Order
PL 27.249039

Planning and Development Acts 2000 to 2017

Planning Authority: Wicklow County Council

Planning Register Reference Number: 16/1301

Appeal by Tom and Irene Clarke of 'Boulders', Killincarrig, Delgany, County Wicklow and by others and by Townpark Estates Limited care of Stephen Little and Associates of 26/27 Upper Pembroke Street, Dublin against the decision made on the 26th day of July, 2017 by Wicklow County Council to grant permission to the said Townpark Estates Limited for development comprising the construction of 132 number dwellings, ranging in height from single storey to two-storey dormer, each including two number car parking spaces on curtilage and solar panel at roof level. Housing mix to comprise: 58 number three-bed semi-detached units, 14 number four-bed semi-detached units, four number four-bed detached units and 15 number three-bed terraced units, all with optional single storey extension to rear and 37 number three-bed terraced units and four number three-bed bungalows without optional single storey extension to rear; four number visitor car parking spaces; one number two-storey crèche (circa 342 square metres gross floor area), all ancillary and associated site development, landscaping and boundary works, including: redevelopment of existing playing pitch to provide two number grass pitches (60 metres by 90 metres each) and one number all weather junior pitch and a mixed-use games area (27 metres by 90 metres); new surface car park (72 number spaces and set down areas) to serve Saint Laurence's National School and adjacent community facilities including proposed crèche. New vehicular access through the site from Delgany Glen to Chapel Road with associated road improvement works. New green route pedestrian and bicycle route through the site from Delgany Glen to Chapel

Road. New pedestrian access to the south-east of the site to facilitate link to the Kindlestown Lower Road R761), all on site of circa 9.27 hectares at 'Churchlands', Killincarrig, Delgany, County Wicklow, bounded generally by 'Delgany Wood' (Cherry Glade and Delgany Glen) to the south, 'Bellevue Heights' housing development and houses fronting Kindlestown Lower Road (R761) to the east, 'Kenmare Heights' and 'Kindlestown Park' housing developments to the north, Saint Laurence's National School to the north-west, housing fronting Chapel Road (L-1027) and Kindlestown House to the west in accordance with the plans and particulars lodged with the said Council. (As amended by the further public notice received by the planning authority on the 29th day of June, 2017).

Decision

GRANT permission for the construction of 74 number dwellings, one purpose built crèche, the development of lands zoned for active open space and public open space at the northern end of the site comprising of the redevelopment of existing playing pitch to provide two number grass pitches, one number all weather junior pitch and a mixed use games area, and the development of an area of passive open space, the provision of surface car parking and a set down area to serve Saint Laurence's National School and adjacent community facilities, works to Chapel Road, including a new vehicular junction to serve the school car park and set down area, a vehicular access from Delgany Glen to serve the 74 number dwellings and crèche, and the development of a green route comprising a pedestrian and bicycle route from the junction with Chapel Road to Delgany Glen, and all associated site development works in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for 55 number dwellings and associated site development works, comprising numbers 1 to 9 on Road 2, numbers 1 to 11 on Road 3, numbers 1 to 18 on Road 4, numbers 1 to 5 on Road 8 and numbers 32 to 43 on Road 1, for the reasons and considerations marked (2) under

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 (1)

Having regard to the provisions of the Wicklow County Development Plan 2016-2022 and the Greystones-Delgany and Kilcoole Local Area Plan 2013-2019, to the planning history of the site and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development (as modified) would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 June 2017, as revised by the plans and particulars submitted to An Bord Pleanála on the 22nd day of August 2017, 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. (a) This permission relates only to the following development:
- (i) 74 number dwellings, comprising numbers 1 to 31 on Road 1, numbers 1 to 11 on Road 5, numbers 1 to 23 on Road 6 and numbers 1 to 9 on Road 7, as shown on drawing number W-73-5 rev B, as submitted to An Bord Pleanála on the 22nd day of August 2017,
 - (ii) the proposed crèche/childcare facility and associated car parking,
 - (iii) the development of the active and passive open space on the lands to the north of the site,
 - (iv) the surface car parking and set down area to serve Saint Laurence's National School and adjacent community facilities,
 - (v) the proposed works to Chapel Road, including a new vehicular junction to serve the school car park and set down area,
 - (vi) the associated internal road and footpath network serving the permitted dwellings, and the development of the complete green route, as highlighted on the appeal drawings, comprising a pedestrian and bicycle route from the junction with Chapel Road to Delgany Glen, and
 - (vii) all works within the areas comprising these developments, including ancillary works such as lighting, infrastructure and open space to implement those proposals, including the open spaces to the east of Road 1, to the west of Road 5, to the south and west of Road 7 and to the west of Road 1 at the entrance from Delgany Glen.

- (b) The remainder of the proposed development shall not be carried out, for the reasons and considerations set out in the accompanying refusal decision.

Reason: In the interest of securing an appropriate balance between the need for housing, the objectives for the AP5 lands under the Local Area Plan and the roads infrastructure in the area.

3. The 74 number dwellings hereby permitted shall not be made available, by the developer, for occupation until such time as all of the other works outlined in condition 2 (a) above shall have been completed to the written satisfaction of the planning authority.

Reason: To ensure the timely provision of these works, in accordance with the provisions of the Local Area Plan.

4. The developer shall facilitate a future pedestrian and cycle link with the R761 at the south-eastern corner of the site.

Reason: To encourage permeability through the site and to comply with national policy in this regard.

5. The proposed development shall be amended as follows:-
- (a) All roofs of dwellings shall be fully gabled, and the proposed half/quarter hips shall be amended accordingly.
- (b) All staircase/landing windows, and all windows serving bathrooms, w.c.'s and en-suites shall be provided with opaque or frosted glazing, which shall be permanently maintained.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual amenity and in order to protect the residential amenities of adjoining property.

6. The internal road network and access serving the proposed development, including turning bays, junctions, sight distances, parking areas, footpaths, cycle tracks and kerbs shall be in accordance with the detailed requirements of the planning authority for such works, and shall comply in all respects with the provisions of the Design Manual for Urban Roads and Streets.

Reason: In the interest of pedestrian and traffic safety, and in order to comply with national policy in this regard.

7. All rear gardens shall be bounded with concrete block walls, which shall be a minimum of 1.8 metres high, and shall be suitably capped and rendered on both sides, except where bounding public open spaces or roads, when the walls shall be 2 metres in height. Post and timber fencing shall not be used for any rear garden boundaries.

Reason: In the interest of visual amenity, and in order to ensure the provision of durable boundary treatment in the interest of residential amenity.

8. With the exception of the optional rear extensions shown on submitted drawings, development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed houses without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed houses.

9. The developer shall implement all the recommendations pertaining to tree retention as outlined in the Arboricultural Assessment. Within six months of the date of this decision, an Arborist shall be retained by the developer for the duration of the construction and shall commence a program for implementation of the recommendations contained in the submitted report, including tree felling, surgery and remedial works. Such works shall be commenced as soon as possible and shall be completed within one year of the completion of development works. The Arborist shall carry out a post construction tree survey/assessment on the condition of the retained trees. A completion certificate shall be signed off by the arborist when all works are completed and in line with the submitted original tree report and landscape drawings.

Reason: To address the requirement for urgent tree surgery and to protect the sylvan character of the site, which contains protected trees.

10. The developer shall employ a qualified Landscape Architect, who shall supervise all works relating to the active and passive open space works on the overall site. Such works shall be carried out in strict accordance with the conditions of this permission, and, in particular, the landscape scheme accompanying the planning application shall be implemented in full in the first planting season following completion of the development authorised by this permission. Any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. The developer's Landscape Architect shall certify to the planning authority by letter his/her opinion on compliance of the completed landscape scheme with the approved landscape proposal within six months of substantial completion of the development hereby permitted.

Reason: In the interests of amenity and sustainable development.

11. The areas of open space shown on the lodged plans and included in the development authorised by this permission under condition 2 (a), shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority, and under the direction of the developer's Landscape Architect. This work shall be completed before any of the dwellings hereby permitted are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority. When the estate is taken in charge, the open spaces shall be vested in the planning authority, at no cost to the authority, as public open space.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

12. The development hereby permitted shall be carried out in accordance with the standards and requirements of the planning authority for taking in charge. The development shall be maintained by the developer until taken in charge by the authority and shall not be operated or maintained by a private management company.

Reason: In order to comply with national policy in relation to the maintenance and management of residential estates, and to ensure that the development, when completed, can be taken in charge by the planning authority.

13. Prior to commencement of development, a detailed specification for the boundary treatment to the south and south-east of the development site shall be submitted to, and agreed in writing with, the planning authority. Where required by the planning authority, retaining walls shall be installed and any existing retaining walls shall be inspected and reinforced.

Reason: In the interest of residential amenity.

14. Prior to the commencement of development, the developer shall engage the services of a bat expert to undertake a survey of the site and to make recommendations regarding public lighting and to liaise with the Arborist regarding tree protection.

Reason: In the interest of protection of bats.

15. Prior to the commencement of any development, the developer shall engage an ecologist to survey the site for badgers and to make recommendations regarding the protection of this species, if present, and their re-location if necessary, in accordance with any requirements set out by National Parks and Wildlife Service. The developer shall comply with these requirements.

Reason: In the interest of protection of badgers.

16. 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:

- (i) 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
- (ii) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment, which shall have regard to the documentation submitted to An Bord Pleanála on the 22nd day of August 2017, shall address the following issues:

- (i) the nature and location of archaeological material on the site, and

- (ii) the impact of the proposed development on such archaeological material.

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.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

- 17. 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. Such lighting shall be provided prior to the making available for occupation of any house and shall incorporate the recommendations of the bat report.

Reason: In the interest of amenity and public safety.

18. Proposals for a naming and numbering scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

19. 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. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing overhead cables crossing or bounding the site shall be undergrounded, at the developer's expense, as part of the site development works.

Reason: In the interests of visual and residential amenity.

20. 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 and to ensure a proper standard of development.

21. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black or slate grey only (including ridge tiles).

Reason: In the interest of visual amenity, and to ensure that the proposed development integrates into the pattern of development in the area.

22. Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, 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, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

23. 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.

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

24. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays 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.

25. 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.

26. 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 planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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 by the developer of the development until taken in charge.

27. 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 the 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.

Reasons and Considerations (2)

Having regard to the pattern of development in the area, and in particular the existing deficiencies in the local road network on Chapel Road, and the lack of adequate proposals to address these deficiencies, having regard to the provisions of the Greystones/Delgany and Kilcoole Local Area Plan 2013, and having regard to the extent and layout of the proposed development, it is considered that the proposed development would be premature pending the upgrade of Chapel Road in accordance with the Roads Objectives of the Local Area Plan. Furthermore, it is considered that the disposition of the proposed houses, and their design and proximity to adjoining residential development, particularly in the light of the significant differences in level between the proposed development and adjoining residential property to the south, would seriously injure the residential amenities of these properties by reason of overlooking and overbearing, and would represent a substandard form and layout of residential development at this location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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

Dated this day of 2018