



Planning and Development Acts 2000 to 2018

Planning Authority: Wicklow County Council

Planning Register Reference Number: 17/219

Appeal by Seamus and Evelyn Ryan of Tinakilly, Rathnew, County Wicklow against the decision made on the 27th day of February, 2018 by Wicklow County Council in relation to an application by Keldrum Limited care of Brock McClure Planning and Development Consultants of 63 York Road, Dún Laoghaire, County Dublin for permission for construction of a one to three-storey residential scheme (overall gross floor area circa 43,903.20 square metres) comprising 369 number dwelling units (289 number house units, 56 number duplex units, 16 number apartment units and eight number studio apartment units) in the form of eight number one bedroom, 91 number two bedroom, 118 number three bedroom, 140 number four bedroom units and 12 number five bedroom units. The proposed development shall also deliver the first phase of the new Rathnew Inner Relief Road (delivered in compliance with Road Objective 'RP2' of the Wicklow Town-Rathnew Development Plan 2013-2019) comprising a two lane six metre carriageway with two metre footpaths and two metre wide cycletracks on both sides, the upgrade of the Merrymeeting Interchange, a new junction (proposed Rathnew Inner Relief Road with the Avenue serving Tinakilly Country House Hotel) and additional junctions within the site to serve the new residential development and one number additional vehicular access point along the Avenue leading into Tinakilly Country House Hotel (a Protected Structure). There are no proposed works to Tinakilly Country House Hotel. The scheme shall comprise a

combination of units including detached, semi-detached, terraced, bungalow and dormer bungalow house units, and apartment and studio apartments units broken down into medium and low-density areas. The medium-density area shall comprise 152 number residential units in the form of 16 number two bedroom two-storey terrace house units (Type A1 and A1a units), 11 number three bedroom three-storey terrace house units (Type A2 units), 29 number two bedroom two-storey terrace house units (Type A3 and A3a units), 22 number three bedroom three-storey terrace house units (Type A4 units), 12 number two bedroom duplex units and 12 number three bedroom duplex units in three-storey blocks (Type B1 and B2 units), 22 number three bedroom two-storey terrace house units (Type C, Ca, C-1, C-2, C-2a, C-3, C-4, C-4a units), two number two bedroom one storey bungalow house units (Type D units), two number three bedroom 1.5 storey dormer bungalow house units (Type Da units) and 16 number two bedroom apartment units over eight number one bedroom studio apartment units all in three-storey blocks (Type E1, E2, E3 units). The low-density area shall comprise 217 number units in the form of 16 number two bedroom duplex units and 16 number three bedroom duplex in three-storey blocks (Type B1 and B2 units), 24 number three bedroom two-storey semi-detached units (Type F units), 12 number five bedroom three-storey detached units (Type G units), 40 number four bedroom two-storey semi-detached units (Type H and H-a units), 88 number four bedroom three-storey semi-detached house units (Type J and J-a units), nine number three bedroom two-storey detached house units (Type K and Ka units), and 12 number four bedroom two-storey detached house units (Type L units). There is an option to provide for a variation to Unit Types B1, B2, A2 and A3 (namely Unit Type options B1s, B2s, A2s, and A3s) and permission is sought to implement a combination of these particular unit types within the scheme. All residential units range in size from circa 44.5 square metres to circa 214.75 square metres (gross floor area) and have associated private open space areas in the form of either a rear and/or side garden or balcony/terrace area. The proposal shall also provide for circa 670 number car parking spaces, 44 number grouped bicycle parking spaces to serve apartment and duplex units, a new public park (active area of open space) to the south of the site, comprising cycle and pedestrian paths/linkages, fitness equipment, fitness

zones, adventure zones and kickabout areas, eight number passive public open space areas within the site, all landscaping works including boundary treatment, bin storage facilities, new pedestrian access to Tinakilly Country House Hotel, all internal residential access roads and surface upgrade works, new service and drainage connections, public lighting and all associated site development works. Further public notices were received by the planning authority on the 5th day of January, 2018. All on a site of circa 0.25 hectares generally bounded by Tinakilly Country House Hotel and avenue to the north/northeast, commercial development and the R750 Wicklow-Rathnew Road and Merrymeeting Interchange to the west/south-west, and Knockrobbin residential estate to the south), Tinakilly, Rathnew, County Wicklow, in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions permission for 271 dwelling units with all associated site works and services including estate roads, parking facilities, pedestrian facilities and open space areas, 1st Phase of the new Rathnew Inner Relief Road including the upgrading of the Merrymeeting Interchange, one purpose built crèche, Passive Open Space and Active Open Space, landscaping, services and drainage, public lighting and all site development works and to refuse permission for 84 number residential units consisting of: House Type Ha: Units Numbers 27, 34, 35, 40, 41 and 46 (six number units), House Type H: Units Numbers 24-26 inclusive, 28-33 inclusive, 36-39 inclusive and 42-45 inclusive (17 number units), House Type J: Units Numbers 41-52 inclusive, Unit Number 69, Units Numbers 72-76 inclusive (18 number units), House Type Ja: Units Numbers 70 and 71 (two number units), House Type F: Units Numbers 15-22 inclusive (eight number units), House Type B: Units Numbers 1-32 inclusive (32 number units), House Type K: Unit Number 04 (one number unit) and all site works and services including estate roads, footpaths, parking facilities and open space).

Decision

GRANT permission for 271 dwelling units with all associated site works and services including estate roads, parking facilities, pedestrian facilities and open space areas, 1st Phase of the new Rathnew Inner Relief Road including the upgrading of the Merrymeeting Interchange, one purpose built crèche, Passive Open Space and Active Open Space, landscaping, services and drainage, public lighting and all 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 84 number residential units consisting of: House Type Ha: Units Numbers 27, 34, 35, 40, 41 and 46 (six number units), House Type H: Units Numbers 24-26 inclusive, 28-33 inclusive, 36-39 inclusive and 42-45 inclusive (17 number units), House Type J: Units Numbers 41-52 inclusive, Unit Number 69, Units Numbers 72-76 inclusive (18 number units), House Type Ja: Units Numbers 70 and 71 (two number units), House Type F: Units Numbers 15-22 inclusive (eight number units), House Type B: Units Numbers 1-32 inclusive (32 number units), House Type K: Unit Number 04 (one number unit) and all site works and services including estate roads, footpaths, parking facilities and open space).

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:

- (a) the site's location on lands with a zoning objective for residential development and the policy provisions set out in the Clermont – Tinakilly Action Area Plan as set out in the Wicklow Town - Rathnew Development Plan 2013 - 2019,
- (b) the nature, scale and design of the proposed development which would be in accordance with the provisions of the County Development Plan and appendices contained therein,
- (c) to the Rebuilding Ireland Action Plan for Housing and Homelessness,
- (d) to the provisions of the Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May, 2009,
- (e) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of Housing, Planning and Local Government in March, 2018,

- (f) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March, 2013,
- (g) the availability in the area of a wide range of social infrastructure,
- (h) to the pattern of existing and permitted development in the area, and
- (i) to the submissions and observations received,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the zoning objectives for the area, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing architectural heritage and character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance 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 Appropriate Assessment Screening Report submitted with the planning application and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development, taking into account:

- the nature, scale, extent and location of the proposed development,
- the Environmental Impact Statement submitted with the planning application, and the addendum report provided,
- the documents on file including the submissions from the planning authority and from the parties and observers lodged in the course of the planning application and the appeal, and
- the Inspector's report.

The Board considered that the Environmental Impact Statement and the addendum to the Environmental Impact Assessment Report identify and describe adequately the direct, cumulative and indirect effects of the proposed development on the environment. The Board completed an Environmental Impact Assessment in relation to the subject development, by itself and in combination with other development in the vicinity, and agreed with the Inspector's assessment of the likely significant effects of the development, and agreed with the conclusions on the acceptability of the mitigation measures proposed. The Board concluded that, subject to the implementation of the mitigation measures proposed, and subject to the following conditions, the effects of the proposed development on the environment would be acceptable. In doing so, the Board adopted the report of the Inspector.

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 15th day of December, 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. Prior to commencement of development, final design details for the proposed section of the Rathnew Inner Relief Road (from and including the proposed junction with the Regional Road (R750) to the point where it terminates within the site), together with all associated junctions, shall be submitted to, and agreed in writing with, the planning authority. All proposed works shall be designed to the requirements and specifications of the planning authority.

Reason: In the interest of traffic safety.

3. Prior to commencement of work on site, the developer shall submit to, and agree in writing with, the planning authority a detailed phasing plan for the development of all lands within the application site. This phasing plan shall be in accordance with the conditions set out in this grant of permission and shall, unless otherwise agreed in writing with the planning authority, comply with the following:

(a) **Residential** - The development of these lands shall be carried out in three phases with the delivery of the Residential units phased in accordance with the following:

- Phase 1 – 80 number units (circa 30%)
- Phase 2 – 80 number units (circa 30%)
- Phase 3 – 111 number units (remaining circa 40%).

(b) **Open space** - No development shall commence on the residential units until detailed proposals for the design, layout and delivery of the public open space (Passive and Active) within the application site have been submitted to, and agreed in writing with, the planning authority. Public open space (both Passive and Active) shall be delivered in tandem with the residential development, as follows:

- Phase 1 – 30% (circa 4.5 hectares)
- Phase 2 – 30% (circa 4.5 hectares)
- Phase 3 – 40% (circa six hectares)

No occupation of the final 55 number units (circa 20% of the residential development) shall occur until the public open space is completed.

- (c) **Road Infrastructure** - The proposed section of the Rathnew Inner Relief Road and its intersection with the R750 Regional Road (Merrymeeting Interchange) shall be constructed to the written satisfaction of the planning authority within Phase 1.

No occupation of the residential units shall occur until the proposed section of the Rathnew Inner Relief Road is completed to the written satisfaction of the planning authority and is open to traffic.

- (d) **Crèche Facility** - The crèche facility shall be delivered within Phase 1 of the development.
- (e) **Services** - No development shall commence on foot of this grant of planning permission until the construction of the necessary upgrade works to the wastewater network between Rathnew and Wicklow have commenced and no occupation of the residential units shall occur until the works have been completed.

Reason: In the interests of orderly development, traffic safety, public health and the proper planning and sustainable development of the area.

4. A suitably qualified ecologist shall be appointed by the developer to oversee the site set-up and construction of the proposed development and the ecologist shall be present on site during construction works. The ecologist shall ensure the implementation of all proposals contained in the Schedule of Ecological proposals. Prior to commencement of development, the name and contact details of said person shall be submitted to the planning authority. Upon completion of works, an audit report of the site works shall be prepared by the appointed ecologist and submitted to the planning authority to be kept on record.

Reason: In the interest of nature conservation.

5. The materials, colours and finishes of the authorised buildings and the treatment of surfaces and boundaries within the development shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. 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.

7. The internal road network, public footpaths within and outside the proposed development site, including car parking provision to service the proposed development, shall comply with the requirements of the planning authority for such works.

Reason: To ensure a satisfactory standard of development.

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. 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 television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

10. Proposals for an estate/street name, 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 unit 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.

11. 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 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.

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

12. 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.

13. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0900 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

14. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the planning authority's Taking in Charge Policy. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: In the interest of the amenities of the occupants of the proposed housing.

15. Prior to commencement of work on site, the developer shall agree in writing with the planning authority, details of a legally incorporated management company which shall be responsible for the future maintenance and upkeep of all services associated with the apartment blocks of this development including drains, sewers, watermains, public lighting, paths, open spaces and refuse storage areas.

Reason: To ensure the satisfactory maintenance of the site in the interests of visual and residential amenity.

16. 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.

17. 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 for the area.

18. 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.

19. 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.

20. The developer shall pay to the planning authority a financial contribution in respect of Wicklow Port Access and Town Relief Road in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Reasons and Considerations (2)

Having regard to:

- (a) the location of the 84 number residential units and associated infrastructure on lands zoned for Active Open Space, and
- (b) the lack of an agreed Action Area Plan for these lands (AAP1(b) The Clermont – Tinakilly Action Area Plan),

it is considered that the development of these 84 number units and associated infrastructure namely:

- House type Ha – Units Numbers 27, 34, 35, 40, 41 and 46 (six number units),
- House Type H – Units Numbers 24–26 inclusive, 36-39 inclusive and 42-45 inclusive (17 numbers units),
- House Type J – Units Numbers 41-52 inclusive, Unit Number 69, Units Numbers 72-76 inclusive (18 number units),
- House Type Ja – Units Numbers 70 and 71 (two number units),
- House Type F – Units Numbers 15-22 inclusive (eight number units),
- House Type B – Units Numbers 1-32 inclusive (32 number units),
- House Type K – Unit Number 04 (one number unit), and

- all site works associated with and ancillary to those 84 number units and services including estate roads, footpaths parking facilities and open space,

would be premature pending the preparation of an open space strategy for Rathnew and would be contrary to the zoning objectives for this area as set out in the Wicklow Town-Rathnew Development Plan 2013 – 2019, and would, therefore, be contrary to the proper planning and sustainable development of the area.

Michelle Fagan

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this day of 2019.