

Planning and Development Acts 2000 to 2020

Planning Authority: Wicklow County Council

Planning Register Reference Number: 20/488

Appeal by Karl and Estelle Davis of 22 Cherry Glade, Delgany Wood, Delgany, County Wicklow and by Roisin and Phelim O'Connell of 23 Cherry Glade, Delgany Wood, Delgany, County Wicklow and by Townpark Estates Limited care of Stephen Little and Associates of 26 to 27 Upper Pembroke Street, Dublin against the decision made on the 19th day of November, 2020 by Wicklow County Council to grant subject to conditions a permission to Townpark Estates Limited in accordance with plans and particulars lodged with the said Council:

Proposed Development: 66 number dwellings in total, comprising 30 number two-storey, three-bed houses (including 16 number semi-detached and six number terraced with optional single storey extension to rear), all with solar panels at roof level, 36 number duplex/apartment units accommodated in three number three-storey blocks (including six number one-bed apartments, 12 number two-bed apartments and 18 number three-bed duplex units), all apartment units provided with balconies located on north/east/south/west building elevations. All associated site development, landscaping and boundary works, including: site level changes; public open

space (4,006 square metres in total); 60 number curtilage car parking spaces to serve the houses and 65 number surface car parking spaces to serve the duplex/apartment units; 99 number surface bicycle parking spaces (covered storage and Sheffield stands). Vehicular access to 18 number houses via Delgany Glen and the access road permitted under Wicklow County Council Register Reference 16/1301 (An Bord Pleanála Reference PL 27.249039), vehicular access to 48 number houses, duplex and apartment units via Chapel Road and car park link permitted under Wicklow County Council Register Reference 16/1301 (An Bord Pleanála Reference PL 27.249039) and bin stores, all on a site of circa 2.1 hectares at Churchlands, Killincarrig, Delgany, County Wicklow.

Further information was received by the planning authority on the 28th day of October 2020 to amend the proposed development, including a reduction in the number of houses to 29 number.

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 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 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.

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 within an area zoned for housing development, the availability of public water and sewerage services, the distance between the application site and any European site, the absence of hydrological connections to any European site, the Appropriate Assessment Screening Report submitted with the application, the Inspector's report, and submissions on file.

In completing the screening exercise, the Board adopted the report of the Inspector and concluded that the proposed development, individually or in combination with other development in the vicinity, would not be likely to have a significant effect on Glen of the Downs Special Area of Conservation (site code: 000719), Bray Head Special Area of Conservation (site code: 000174), The Murrough Wetlands 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 sites' conservation objectives, and that a Stage 2 Appropriate Assessment is not, therefore, required.

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 28th day of October, 2020, 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. Not more than 75 per cent of residential units shall be made available for occupation before completion of the childcare facility.

Reason: To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.



3. Prior to commencement of any house or duplex unit 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, that restricts all houses or duplex units permitted to first occupation by individual purchasers (i.e. those not being a corporate entity and/or by those eligible for occupation of special and/or affordable housing, including cost rental housing).

Reason: 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.

4. Prior to commencement of development the developer shall submit to, and agree in writing with, the planning authority a plan for the green route (pedestrian and cycle route), including design, construction materials and a time scale for construction. In default of agreement the matter may be referred to An Bord Pleanála for determination.

Reason: To ensure that the green route is provided in association with residential units, in the interest of residential amenity.

5. 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.

6. 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.

Reason: in the interest of sustainable transportation.

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 two 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. 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.

9. 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.

10. The areas of open space shown on the lodged plans 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.

11. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (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.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

12. 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.

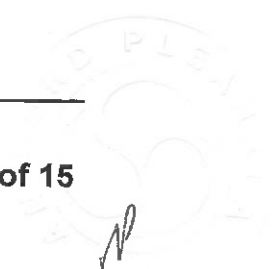
Reason: In the interest of residential amenity.

13. 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.

14. 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 the National Parks and Wildlife Service. The developer shall comply with these requirements.

Reason: In the interest of protection of badgers.



15. 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 under reference PL 27.249039, 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.

16. 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 interests of amenity and public safety.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. Site development and building works shall be carried out only between the hours of 0700 and 1800 from Mondays to Fridays inclusive, between 0800 and 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.

24. 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.

25. 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.

26. 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 the Board 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.



Terry Prendergast

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this 30th day of July 2021.

