

Planning and Development Acts 2000 to 2020

Planning Authority: Wicklow County Council

Planning Register Reference Number: 20/298

Appeal by Peter Lang of The Forge, Newcastle, Greystones, County Wicklow against the decision made on the 22nd day of January, 2021 by Wicklow County Council to grant subject to conditions a permission to ABBD Development Limited care of Arc Design of Willow Grove, Delgany, County Wicklow in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development consists of (A) 22 number houses comprising of one number house type A1 (three bedroom two-storey detached unit), two number house Type A2 (three bedroom two-storey semi-detached units), eight number house Type A3 (three two-storey bedroom semi-detached units), six number house Type B (four bedroom three-storey semi-detached units), one number house Type C1 (four bedroom three-storey detached unit), two number house Type C2 (four bedroom three-storey semi-detached units), two number house Type D (four bedroom three-storey detached units), (B) two number Type E buildings, which comprise of four number one bedroom apartments (two number apartments in each), (C) primary zone two-storey building comprising nine number apartments (one number one bedroom, three number two bedroom, five number three

bedroom) and two number ground floor commercial units, (D) Town Park Building comprising of two number ground floor commercial units, one number first floor commercial unit, (E) provision of car parking spaces, bin stores, bicycle stores, public lighting within development, (F) provision of new landscaped Town Park and Linear Park with new civic spaces providing hard and soft landscaping within the development along with all associated site development, new boundary treatments and landscaping works, (G) installation of an underground storm water attenuation tank and connection to all public services, (H) provision of new vehicular entrance off main street providing for sufficient traffic sight lines onto public road along with all necessary ancillary and site works to facilitate this development and (I) provision of new footpath to link 'The Castle Inn' public house to the new Town Park. Car parking for Town Park building shall be located in the existing car park behind Public House, all at Main Street, Newcastle, County Wicklow. The further public notice was received by the planning authority on the 13th day of October, 2020.

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 proposed development substantially within a Primary Development Area as delineated in the Newcastle Settlement Plan 2016-2022, the pattern of development in the area and the nature and scale of the proposed development as amended, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this rural hinterland location, would not seriously injure the residential or visual amenity of the area, would not detract from the character of the town, would be acceptable in terms of urban design, height, and quantum of development, and would be acceptable in terms of pedestrian, cyclist 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 a zoned and serviced urban area, the Appropriate Assessment Screening for Proposed Development report submitted with the 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.

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 to the planning authority on the 5th day of October, 2020 and as clarified by further plans and particulars submitted on the 18th day of December, 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 the 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 the commencement of development, details of all the materials, colours and textures of the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority. In this regard the following shall apply:
 - (a) the roof tiles shall be blue/black slate unless otherwise agreed in writing with the planning authority, and
 - (b) the external walls shall be rendered and coloured in accordance with the details lodged to the planning authority on the 5th day of October, 2020.

Reason: In the interest of the visual amenities of the area.

3. Prior to commencement of development, the developer shall submit and agree in writing with the planning authority, a final landscape plan in accordance with the Landscape Masterplan drawing number 01 (A1) as submitted to the planning authority on the 5th day of October, 2020 and to include the following:
- (a) A street plan which clearly demonstrates the constructed tree pits in plan and section format and position and height of lamp standard and underground services.
 - (b) Mature trees and hedgerows to be retained where possible and protected during construction works.
 - (c) Full details of street furniture, lighting and facilities which shall include public seating areas.
 - (d) Full details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development.

The soft landscaping plan shall be implemented within the first planting season following substantial completion of construction works and all landscaping shall be completed prior occupancy of first dwelling. The maintenance of the open space shall be carried out by the developer for at least one year from completion of dwellings and shall not cease prior to all vegetation being established. All planting and hedges and trees to be maintained shall be adequately protected from damage and in the case of new planting unit established. Any plants which die or are removed or become seriously damaged or diseased within a period of five years from 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 interests of residential amenity and visual amenity.

4. Trees and hedges to be removed on site shall be removed outside of bird nesting season.

Reason: In the interest of nature conservation.

5. Details of earthworks shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

These details shall include the following:

- (a) Soil and subsoil cross-sections.
- (b) Plans and sections showing the proposed grading and mounding of land areas, including the levels and contours to be formed.
- (c) The relationship of the proposed mounding to the existing vegetation and surrounding landform on the lands.

Development, including landscaping required by condition number 3 of this Order, shall be carried out in accordance with the approved earthworks plan.

Reason: In the interests of residential and visual amenity.

6. The areas of public 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 landscape scheme submitted with this application, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

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

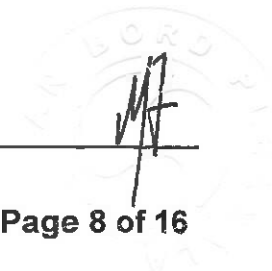
7. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management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

8. (a) Eight of the proposed dwellings, when completed, shall be first occupied as a place of permanent residence for persons who comply with the Settlement Strategy for Level 6 - Rural Towns as set out in the Wicklow County Development Plan 2016-2022, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the similar category of housing need. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.
- (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the housing meets local growth needs in accordance with settlement strategy of the county development plan and the proper planning and sustainable development of the wider region.



9. Prior to the 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, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social 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.

10. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

11. 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.

12. 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.

13. 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.

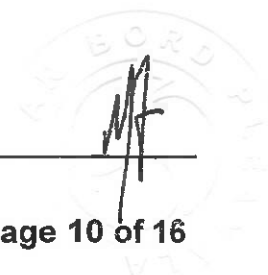
Reason: In the interests of amenity and public safety.

14. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

15. The internal road and vehicular circulation network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets. Drawings and particulars 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 amenity and of traffic and pedestrian safety.



16. A minimum of 10% of all communal car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

17. 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 interests of public safety and residential amenity.

18. Site development and building works shall be carried out only between the hours of 0800 to 1900 hours 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.

19. Details of all security shuttering, external shopfronts, lighting and signage shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the commercial units.

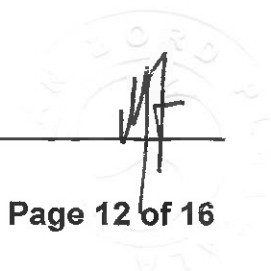
Reason: In the interest of the visual amenity of the area.

20. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

21. Proposals for an estate/street name, house and apartment 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 and apartment 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 place names for new residential areas.



22. 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:

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

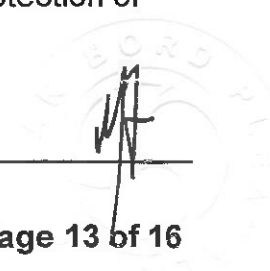
The assessment shall address the following issues:

- (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.



23. 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.

24. 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.

25. 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

26. 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 in respect of realignment works along the R761 to improve sightlines and safety. 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.

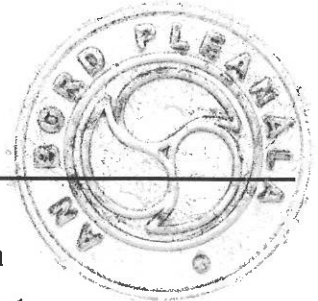
Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.



Michelle Fagan

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**



Dated this 24th day of November 2021.