



An
Bord
Pleanála

Board Order
ABP-312741-22

Planning and Development Acts 2000 to 2021

Planning Authority: Wicklow County Council

Planning Register Reference Number: 21/390

Appeal by Anna and Greg Ward of 21 Ashford Downs, Ashford, County Wicklow and by Vincent Mahony and Karen Keane-Mahony of 25 Ashford Downs, Ashford, County Wicklow against the decision made on the 20th day of January, 2022 by Wicklow County Council to grant subject to conditions a permission to Declan Byrne care of BBA Architecture of Suite 3, Eden Gate Centre, Delgany, County Wicklow in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development will consist of 1. Demolition of existing two number apartments to the north-west of the site. Demolition area 106 square metres. 2. Partial demolition of existing Woodpecker Pub together with internal alterations and ground floor extension. Demolition area 318 square metres. Extension area 93.6 square metres. 3. Construction of 10 number detached and semi-detached duplex units, comprising of five number one-bed units and five number two-bed units. 4. Relocated access via Ashford Downs. 5. All the above together with all associated landscaping, boundary treatment and ancillary works, all at The Woodpecker Pub, Ashford, County Wicklow, as revised by the further public notices received by the planning authority on the 16th day of December, 2021.

Decision

GRANT permission for the above development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the provisions of the Wicklow County Development 2022-2028, including the zoning objective for the site ('RE – Existing Residential') where the objective is to protect, provide for and improve residential amenities of adjoining properties and areas while allowing for infill residential development that reflects the established character of the area in which it is located, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity and would provide an acceptable standard of amenity for future residents. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of identification of the European Sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans and projects, on these European Sites in view of the site's 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 24th day of November, 2021 and by the plans received by An Bord Pleanála on the 28th day of March, 2022 moving the building further south of number 21 Ashford Downs, (drawing reference W-057-ABP-SL-01 rev B), except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The first-floor private terraces shall be the private open space associated with Apartment number 3 only and shall not be used for purposes of seating patrons, or otherwise, for the public house.

Reason: In the interests of visual and residential amenity.

3. Details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. 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 making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

5. 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.

6. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Uisce Eireann.

Reason: In the interest of public health.

7. The construction of the development shall be managed in accordance with a Construction Management Plan (CMP), 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 and traffic management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

8. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

9. The following shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development:
 - (a) A stop bar shall be located north of the footpath at the vehicular entrance off the L-5070.

- (b) The public footpath shall be upgraded along the southern and western sides of the site to clearly demonstrate pedestrian priority along the complete southern and western boundary of the site.
- (c) Parking which is accessed over the footpath (excluding the disabled parking space) shall be solely used by the occupants of the residential units and the spaces shall be marked accordingly.
- (d) The provision and location of functional EV charging points to serve the development.
- (e) Final finishes, construction makeup and detailing of the proposed footpath and the layout of the proposed car parking, junction kerbing, drainage, road markings and signage shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interests of public safety and residential amenity.

10. (a) The landscaping scheme submitted to the planning authority on the 24th day of November, 2021 shall be carried out within the first planting season following substantial completion of external construction works.
- (b) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, or until the development is taken in charge by the local authority, whichever is the sooner, 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 and visual amenity.

11. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

12. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and 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 placenames for new residential areas.

13. 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.

14. Site development and building works shall be carried out only between the hours of 0700 and 1900 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.

15. The developer shall pay to the planning authority a financial contribution of 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. The application of any indexation required by this condition 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.

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.

16. 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 of roads, footpaths, watermains, drains, 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 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 of the development.

17. Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall:
- (a) enter into an agreement with the planning authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential 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.
 - (b) an agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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 social/affordable/ cost rental housing, in the common good in accordance with the 'Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities', May 2021.



Mary Henchy

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



Dated this 15th day of June 2023.