



An
Bord
Pleanála

Board Order
ABP-314323-22

Planning and Development Acts 2000 to 2022

Planning Authority: Wicklow County Council

Planning Register Reference Number: 21/731.

Appeal by Dwyer Nolan Developments Limited care of IMG Planning Limited of 75 Fitzwilliam Lane, Dublin against the decision made on the 11th day of July, 2022 by Wicklow County Council to refuse a permission for the proposed development.

Proposed Development: Demolition of an existing non-habitable single-storey house, floor area 54 square metres, the provision of four number commercial units with a total combined area of 683 square metres and 41 residential units all contained in two separate blocks of accommodation consisting of: (1) A part three-storey part four-storey block with two number commercial units at ground floor level (unit one: 218 square metres and unit two: 145 square metres) and 13 number dwelling units comprising two number one-bed units, nine number two-bed units and two number three-bed units. (2) A four-storey block with two number commercial units at ground floor level (unit three: 145 square metres and unit four: 175 square metres) and 28 number dwelling units comprising 10 number one-bed units and 18 number two-bed units. The development shall also include 65 number car parking spaces provided at lower ground floor level with access via proposed upgrade

of existing vehicular access from An tSráid Mhor, to include new signal controls, road markings and pedestrian crossings. Proposed boundary treatment to include new retaining works and alterations to the existing stone wall on Main Street, hard and soft landscaping works, water supply and drainage installations including diversion of existing foul sewer, all at Kilmacullagh, Main Street, Newtownmountkennedy, County Wicklow.

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.

Reasons and Considerations

Having regard to the provisions of the Wicklow County Development Plan 2022-2028, and the Newtownmountkennedy Town Plan 2022-2028, including the zoning objective for the site ('Town Centre') and the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, January 2024, it is considered that, subject to compliance with the conditions set out below, the proposed development would assist in delivering compact growth, regeneration, revitalisation and consolidation of the existing town centre at an appropriate scale, would provide an acceptable standard of amenity for future residents, and would not seriously injure the visual or residential amenities of the area or endanger public safety by reason of traffic hazard. 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 19th day of May 2022, and by the further plans and particulars received by An Bord Pleanála on 8th day of August 2022, 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 detailed materials strategy shall be prepared for, and agreed in writing with, the planning authority, that include details of materials, colours and textures of all the external finishes to the proposed buildings. The proposed nap plaster finish shall be omitted in full on the gables of each block and replaced with high quality and durable urban finishes such as brick or other high-quality finish. The finishes shall reflect the residential use of the development and include variation in materials, colour and textures to break up the scale of the elevations.

Reason: In the interests of visual amenities and good urban design

3. Details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

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

4. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. One clearly identified car parking space shall be assigned permanently to each residential unit and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.
- (b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the site and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and the remaining development.

5. (a) A minimum of 10% of all car parking spaces should be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or points has not been submitted with the application, in accordance with the above noted requirements, such proposals

shall be submitted and agreed in writing with the planning authority prior to the occupation of the development. The car parking spaces for sole use of the car sharing club shall also be provided with functioning electric vehicle charging stations or points.

- (b) Two of the car parking spaces shall be reserved solely for the use by a car sharing club. The developer shall notify the planning authority of any change in the status of this car sharing club.
- (c) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and the remaining development and to provide for and or future proof the development such as would facilitate the use of electric vehicles.

- 6. Adequate bicycle parking spaces and their locations, to meet the requirements of the Wicklow County Development Plan 2022-2028, shall be provided within the site. The layout and demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation

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 hours of working, 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. (a) A Road Safety Audit (Stages one and two) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, in order to demonstrate that appropriate consideration has been giving to all relevant aspects of the development including in accordance with the road design standards of Transport Infrastructure Ireland.
- (b) The measures recommended by the Auditor shall be undertaken, unless the planning authority approves any departure in writing. A detailed drawing(s) showing all accepted proposals and a feedback report shall also be submitted.

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

10. (a) Junction visibility splays drawing showing adequate sight distances and sightlines in both directions shall be provided for the proposed junction upgrades.
- (b) The developer shall address how the following existing access points are proposed to be maintained and operated (that is, how residents and visitors can ingress/egress safely).
- (i) Residential access opposite proposed development entrance on the Kilcoole Road.
 - (ii) Residential access located on the Main Street located to the southwest side of the junction.
 - (iii) The arch way located on Main Street to the northwest of the junction. It would appear that the proposed pedestrian crossing is located in front of this access point.
- (c) Full details of the proposed junction improvement shall be provided, including the location of traffic signals, kerb layouts, crossing points and other items.

- (d) There is an existing controlled crossing to the south of the proposed signalised junction. The proximity of this crossing to this development may lead to operation and safety issues, this should be addressed.
- (e) The developer shall confirm by way of a car parking layout drawing that vehicles can safely ingress/egress the car parking spaces adjacent the retaining walls within the development.

Reason: In the interests of traffic safety and public health.

- 11. (a) 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 for each apartment unit 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.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

12. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas, landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before the proposed development or any of the commercial units are made available for occupation.

Reason: To provide for the future maintenance of this private development in the interest of visual amenity.

13. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall:
- (a) Include a plan to scale of not less than 1:500 showing –
 - (i) Existing trees, hedgerows, shrubs, stone walls, etc., specifying which are proposed for retention as features of the site landscaping.
 - (ii) The measures to be put in place for the protection of these landscape features during the construction period.
 - (iii) The species, variety, number, size and locations of all proposed trees and shrubs, which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder.

- (iv) Details of boundary planting.
 - (v) Details of roadside/street planting.
 - (vi) Hard landscaping works, specifying surfacing materials, furniture, play equipment and finished levels.
- (b) Include specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) Be carried out within the first planting season following substantial completion of external construction works.

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 interest of residential and visual amenity.

14. (a) 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.
- (b) Full details of SuDS measures and a means to access to the green roof areas for future maintenance and repair purposes shall be submitted to the planning authority for written agreement prior to commencement of development.
- (c) Prior to commencement of development, the developer shall submit details of the proposed outfall, including construction details, details

of how the proposed levels relate to the water levels in the Woodstock River, and measures to ensure water from the river will not back up in to the pipe network.

Reason: In the interest of public health.

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

Reason: In the interest of public health.

16. 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.

17. 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.

18. Prior to commencement of development, the developer 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.

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. 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.

20. 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. 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.



Liam Bergin

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

Dated this 07th day of February 2024.