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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Wicklow County Council**

**Planning Register Reference Number: 21/1560**

Appeal by Peter Jordan of Kilgarron Hill, Enniskerry, County Wicklow and by Alice Vignoles-Russell and others care of 4 Kilgarron Hill, Enniskerry, County Wicklow against the decision made on the 8<sup>th</sup> day of August, 2022 by Wicklow Council to grant subject to conditions a permission to Enniskill SPV Limited care of Simon Clear and Associates of 3 Terenure Road West, Terenure, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Demolition of two number dwellings (Oakfield Cottage and dwelling to rear) and three number structures associated with the former equestrian centre. Construction of 22 number two and three-storey dwellings comprising of one number replacement dwelling at Oakfield Cottage and 21 number terraced dwellings on lands to the south. The accommodation comprises four number two-bedroom, 14 number three-bedroom and four number four-bedroom dwellings with a variety of private courtyards, gardens and terraces. Widening of existing entrance on Kilgarron Hill to provide vehicular and pedestrian access via a new internal access road. 40 number car parking spaces. Public Open space, landscaping, boundary treatments, bin stores and all associated site works and services, all at Oakfield Cottage

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(1 Kilgarron Hill) and lands to the rear of 1-10 Kilgarron Hill, Enniskerry, 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 Bray Municipal District Local Area Plan 2018-2024, the zoning for the site, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would respect the character and setting of the area, including the Enniskerry Architectural Conservation Area, would not seriously injure the residential amenities of the area or of property in the vicinity, would provide a suitable level of amenity for future occupants, would be acceptable in terms of road safety and would not be likely to have a detrimental impact on the structural stability of adjoining structures and property. Furthermore, having regard to the provisions of the Urban Development and Building Height – Guidelines for Planning Authorities prepared by the Department of Housing, Planning and Local Government in December 2018, it is considered that the proposed building heights would not be excessive and would be appropriate for the site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The proposed 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 received by the planning authority on the 12<sup>th</sup> day of July, 2022 and by An Bord Pleanála on the 27<sup>th</sup> day of September, 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 proposed 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, a site-specific geo-technical report, as well as detailed structural drawings and a construction methodology statement for the retaining wall structures and the protection of the structural stability and fabric of neighbouring properties, including the attached cottage at 2 Kilgarron Hill, shall be submitted to, and agreed in writing with, the planning authority. These details shall specifically include the methods proposed to remove the attached cottage at 1 Kilgarron Hill, demolition and excavation arrangements, the proposed foundation system and any underpinning, any structural bracing and supports, the method of construction and details of supervision by a suitably qualified person.

**Reason:** In the interest of orderly development and preserving the integrity of neighbouring buildings and structures.

3. Mitigation measures outlined in the plans and particulars submitted with the planning application, including the Ecological Impact Assessment and the Bat Assessment, shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment.

4. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations 2001, as amended, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed houses without a prior grant of planning permission.

**Reason:** In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed houses.

5. Details of the materials, colours and textures of all the external finishes to the proposed houses shall be as submitted with the planning application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

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

6. Proposals for a naming 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 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 placenames for new residential areas.

7. The road works along Kilgarron Hill, including the vehicular access serving the proposed development, and the layout of the proposed development, 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 issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

8. A Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and a Walking Audit) shall be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post-construction stage. All audits shall be carried out at the developer's expense in accordance with the Design Manual for Urban Roads and Streets guidance and Transport Infrastructure Ireland standards. The independent audit team(s) shall be approved in writing by the planning authority and all measures recommended by the auditor(s) shall be implemented unless the planning authority approves a departure in writing. The Stage 2 Audit reports shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of traffic safety and proper planning and sustainable development.

9. All of the communal parking areas serving the proposed 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.

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10. (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) Prior to commencement of development, the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.
- (c) Upon Completion of the proposed development, a Stage 3 Completion Stormwater Audit to demonstrate that Sustainable Urban Drainage System measures have been installed and are working, as designed, and that there has been no misconnections or damage to storm water drainage infrastructure during construction shall be submitted to the planning authority for written agreement.
- (d) A maintenance policy to include regular operational inspection and maintenance of the Sustainable Urban Drainage System infrastructure and the fuel interceptor shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the proposed development and shall be implemented in accordance with that agreement.

**Reason:** In the interest of public health and surface water management.

11. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann.

**Reason:** In the interest of public health.

12. Public lighting shall be provided in accordance with a final scheme, which shall include lighting for the public open space and front street areas, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The design of the lighting scheme shall take into account the existing public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any residential unit. Any bat-sensitive lighting for the proposed development shall be in accordance with the updated guidance contained in 'Bats and Artificial Lighting in the UK Guidance Note GN 08 23'.

**Reason:** In the interest of amenity, public safety and bat species.

13. 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 interest of visual and residential amenity.

14. (a) A plan containing details for the management of waste, in particular recyclable materials, within the proposed development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, 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) The plan shall provide for screened bin stores, which shall accommodate not less than three standard-sized wheeled bins within the curtilage of each house plot.

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

15. (a) The area of public open space shown on the lodged plans shall be reserved for such use. This area shall be contoured, soiled, seeded, and landscaped in accordance with the landscape masterplan (drawing number 377-PL-01 Sheet No. C) received by the planning authority on the 12<sup>th</sup> day of July, 2022.
- (b) The grasscrete lane and gate to the public open space shall have a maximum width of 3.5 metres, and this gate shall not be electronic and shall have a maximum height of 1.5 metres.
- (c) Full details of the landscaping and means of access to the lands to the rear of proposed house numbers 5 to 10, inclusive, between the rear garden boundaries and the site boundary shall be submitted to, and agreed in writing, with the planning authority prior to commencement of development.
- (d) This work shall be completed before any of the houses are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the planning authority.

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

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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 in advance of the commencement of development works on the site (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 planning authority considers appropriate to remove.

In default of agreement between the parties regarding compliance with any of the requirements of this condition, 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 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 a 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 shall be submitted to the planning authority for written agreement prior to 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.

18. The construction of the proposed development shall be managed in accordance with a final project Construction and Environmental 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 the construction practice for the proposed development, including:
- (a) The location of the site and materials compound(s), including areas identified for the storage of construction refuse.
  - (b) The location and details of areas for construction site offices, staff facilities, site security fencing and hoardings.
  - (c) Details of on-site car parking facilities for site workers during the course of construction.

- (d) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- (e) Measures to obviate queuing of construction traffic on the adjoining road network.
- (f) Details of construction phase mobility strategy, incorporating onsite mobility provisions.
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- (h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works.
- (i) Details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (1Hz to 80Hz) and BS7385: Part 2 1990: Evaluation and Measurement for Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels.
- (j) Details of appropriate mitigation measures for noise and dust, and monitoring of such levels.
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.

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- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local sewers or watercourses.
- (n) A record of daily checks that the works are being undertaken in accordance with the final project Construction and Environmental Management Plan which shall be kept for inspection by the planning authority.
- (o) An Invasive species management plan.

**Reason:** In the interest of amenities, public health, the environment and safety.

19. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays, inclusive, between 0800 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.

20. 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.

21. Prior to the commencement of any house in the proposed 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), pursuant to section 47 of the Planning and Development Act 2000, as amended, that restricts all houses 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.

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22. 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 of the development until taken in charge.

23. 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.

*Eamonn James Kelly*

**Eamonn James Kelly**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

Dated this *12<sup>th</sup>* day of *January*, 2024.