



An  
Bord  
Pleanála

## Board Order ABP-318016-23

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Wicklow County Council**

**Planning Register Reference Number: 23/60119**

**Appeal** by Lenida Developments Limited care of Hendrik W van der Kamp of 1 Woodstown Court, Knocklyon, Dublin against the decision made on the 18<sup>th</sup> day of August, 2023 by Wicklow County Council to refuse permission.

**Proposed Development:** Demolition of the existing single/two-storey detached derelict building and for the construction of a detached six-storey mixed-use building with lift and stairwell element at roof terrace level, with a gross floor area of 2937 square metres, consisting of civic office and community use and 26 apartments comprising 14 number one-bed/two-person, four number two-bed/three-person, eight number two-bed/four-person apartments and all on and off site development works and boundary treatments on site, all at Fatima House, Quinsborough Road, Bray, County Wicklow.

## **Decision**

**GRANT permission for the above proposed development based on the reasons and considerations under and subject to the conditions set out below.**

## **Reasons and Considerations**

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the Wicklow County Development Plan 2022-2028, and the provisions of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in January 2024, would be an appropriate design, height and density at this location, would not seriously injure the residential amenities of property in the vicinity, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered the submission from the first party that confirmed there are no trees or hedgerows on site and, while the bat survey has not been submitted with the appeal, the submission states that it has been asserted that there are no bats in the building. The Board noted that the submission from the Department of Housing, Local Government and Heritage recommended that a survey be carried out by a suitably qualified ecologist before a decision is made; it went on to state that if Bats are found to roost in the building, a derogation licence will be required from the National Parks and Wildlife Services. The Board decided that this matter could be addressed by way of condition requiring the applicant to submit a Bat Survey carried out by a suitably qualified person and to include details of any requirements on foot of the findings to the planning authority for written agreement prior to commencement of development.

The Board noted that the Inspector's only reason for refusal was the lack of a Bat survey and, other than that, the Inspector was satisfied that the proposed development accords with relevant policy. The Board, while concurring with the Inspector that the proposed development is in accordance with relevant policy and is an appropriate design at this location that does not impact on the residential amenity of properties in the area, noted that the Inspector's assessment included among other policy documents the Bray Local Area Plan. The Board noted that the Bray Local Area Plan 2018-2024 has not been extended and that a draft Local Area Plan is in preparation. The Board considered that the proposed residential development accords with the Core Strategy of the Wicklow County Development Plan 2022-2028. The Board concurred with both the planning authority and the Inspector that the height and density of the proposed development is appropriate, noting that neither recommend reasons for refusal relating to density or height.

The Board noted that Table 6.1 of the development plan provides for a minimum density of 50 units per hectare on such sites and encourages compact growth and increased density subject to good design. The Sustainable and Compact Settlement Guidelines (2024) states, there is a presumption against very high densities of 300dph(net); the Board noted that the planning authority assessed the scheme as 330 units per hectare; the Board considered in this instance, having regard to the brownfield nature of the site, the limited site size, the proximity to public transport, the quality of the design and the development plan policies on compact growth, that the density is acceptable.

The Board noted that neither Transport Infrastructure Ireland nor Irish Rail had objected to the proposed development. The Board had regard to policies pertaining to Sustainable Transport in the Wicklow County Development Plan 2022-2028, including policies CPO 12.21, CPO 12.23 and CPO 12.66 and to the proposal to extend the Luas to Bray in the National Transport Authority Greater Dublin Area Strategy 2022-2042 and the Bray Environs Transport Study 2019. The Board noted there is an existing building on site that is in poor condition and that is within 20 metres of the rail line and that the proposed structure does not significantly alter this relationship. Having regard to the design and layout of the proposed development, it is considered that it does not prejudice the future development of adjoining lands for uses related to the extension of the Luas or the provision of an interchange; the design, as proposed, may provide for passive surveillance of the wider area. While noting the Local Area Plan for Bray has not been extended, in terms of understanding what had been the policy for the area, it is noted that SLO 5 of the Local Area Plan identified this area as a Bray Gateway and Transport Hub; this objective included the provision for higher density mixed-use development, including retail, commercial, office, residential and civic uses.

## Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 any works taking place on site, a bat survey shall be carried out by a suitably qualified ecologist. The developer shall fully comply with all recommendations. Documents/surveys demonstrating compliance, as prepared by a suitably qualified ecologist, shall be submitted for the written agreement of the planning authority prior to commencement of development. Should the presence of bats be established on site, no development shall occur until the necessary permission/derogation licence has been obtained from the relevant statutory body.

**Reason:** In the interest of bat protection and to provide for the preservation and conservation of this species.

3. The following shall be submitted for written agreement with the planning authority prior to commencement of development:

- (a) The boundary to the roof terrace and the glazed balustrade shall be increased to 1.6 metres in height.
- (b) The boundary treatment shown on drawing number D1270-04-1 appears to be mislabelled, with reference made to wall D-G adjoining the football pitch. The developer shall submit a revised boundary treatment drawing to the planning authority for written agreement. The boundary treatment shall be of a high standard on both the aspect facing the proposed development and the adjoining properties. The design details and materials shall be submitted for the written agreement of the planning authority.
- (c) Details of the materials, colours and textures of all the external finishes.
- (d) Clarity on the class of use for the ground floor space identified as community or office on drawing reference number D1270-10-1 received by An Bord Pleanála on the 13<sup>th</sup> day of September, 2023.

**Reason:** In the interest of visual amenity and to ensure an appropriate high standard of development.

4. The mitigation measures included in the Acoustic Report submitted with the appeal shall be implemented in full (noting the increase in height of the roof balustrade required by condition number 3 above).

**Reason:** To protect the residential amenity of future residents.

5. No advertisement or advertisement structure 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.

6. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. 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. Upon completion of the 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.

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

7. Prior to commencement of development, the developer shall enter into a connection agreement with Uisce Éireann to provide for a service connection to the public water supply and wastewater collection network.

**Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.

8. 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.

9. 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 on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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 for the area.

10. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

11. 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 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.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

12. The construction of the proposed 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 proposed development, including:

- (a) The location of the site and materials compound(s), including area(s) identified for the storage of construction refuse.
- (b) The location of areas for construction site offices and staff facilities.
- (c) Details of site security fencing and hoardings.
- (d) Details of on-site car parking facilities for site workers during the course of construction.
- (e) 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.
- (f) Measures to obviate queuing of construction traffic on the adjoining road network.



- (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 and vehicles in the case of the closure of any public road or footpath during the course of site development works.
- (i) Hours of working on site.
- (j) Details of appropriate mitigation measures for noise, dust and vibration, 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.
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

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

13. 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 proper planning and sustainable development.

14. 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 planning 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.

15. 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.



**Mary Henchy**

**Member of An Bord Pleanála**

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

**Dated this 18<sup>th</sup> day of October 2024.**