

Planning and Development Acts 2000 to 2022

Planning Authority: Wicklow County Council

Planning Register Reference Number: 23276

Appeal by Mark Noonan and Mairóna of 78 Churchlands, Delgany, County Wicklow and by Others and by Beakonshaw Hill Limited of 25A Shaws Lane, Bath Avenue, Dublin against the decision made on the 26th day of January, 2024 by Wicklow County Council to grant subject to conditions a permission to the said Beakonshaw Hill Limited in accordance with plans and particulars lodged with the said Council:

Proposed Development: 85 dwellings (55 apartments – 15 number one bedroom, 24 number two-bedroom, 16 number three and 30 houses – two number two bedroom, 22 number three bedroom and 6 number four bedroom) and a crèche (104 square metres); the apartments are in three blocks – (1). five-storey (four-storey plus penthouse) with 18 units, (2). Three-storey with 17 units, (3). Four-storey three-storey plus penthouse) with 14 units, all over a basement/podium with car parking, motorcycle, bicycle parking spaces and associated storage areas six apartments are also proposed units in Kindlestown House. Part of the development is accessed off Chapel Road. The existing entrance is re-designed as a pedestrian access and a new vehicular entrance proposed alongside. This will serve the apartments in

Kindlestown House, the crèche, two houses in converted outbuildings and two bungalows. The remainder of the development will be accessed off the road network, under construction, in Churchlands to the east of the site, via Delgany Wood and Glen. The proposed development includes site development and landscaping works and tree planting. Restoration and refurbishment works will be carried out to Kindlestown House (a Protected Structure) to include a first-floor conservatory and also to the adjoining outbuildings, including the demolition of two sheds. Two habitable dwellings and associated outbuildings comprising of derelict stables and storage units in the southern part of the site will also be demolished all on a site of 2.67 hectares at Kindlestown House, a Protected Structure, Chapel Road, Delgany, 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 location of the site within the built up environs of Delgany, the provisions of the Wicklow County Development Plan 2022 – 2028 (as varied), the infill nature of the site and associated policy encouraging appropriate infill development, the height, scale, layout and form of the development, the proposed mitigation measures in relation to local ecology including trees and to the nature and scale of the proposed development with no significant traffic congestion or traffic safety issues likely to result, it is considered that subject to compliance with the conditions set out below, the development would be acceptable.

The above development would not seriously injure the residential or visual amenities of the area or of property in the vicinity noting appropriate building height and scale and overshadowing impacts and would be acceptable in terms of traffic safety and convenience. Subject to the below conditions it would not result in significant adverse effects on the ecology or biodiversity of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment - Screening

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 concluded that a Stage 2 Appropriate Assessment is not 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 received by the planning authority on the 12th day of December 2023, 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 mitigation measures contained in the submitted 'Ecological Impact Assessment' (ECIA) submitted on the 12th day of December 2023, shall be implemented in full.

Reason: To protect local biodiversity and the environment.

3. (a) Unless otherwise agreed in writing with the planning authority, prior to the commencement of any residential 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 residential unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, 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 specified housing unit, it is demonstrated to the satisfaction of the planning authority that 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 housing units, in which case the planning authority shall confirm in writing to the applicant 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 affordable housing, in the common good.

4. The refurbishment of the Protected Structure (Kindlestown House) and outbuildings shall be completed before a maximum of 50% of the house units (that is, unit numbers 1 to 26) have been completed, unless otherwise agreed in writing with the planning authority.

Reason: To ensure local heritage restoration objectives are achieved prior to the completion of the development.

5. Not more than 90% of residential units shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate, to the written satisfaction of the planning authority, that a childcare facility is not needed (at this time) or unless otherwise agreed with the planning authority.

Reason: To ensure that childcare facilities are provided in association with residential units, and in the interest of residential amenity.

6. Prior to commencement of development, the following shall be submitted for the written agreement of the planning authority:
 - (a) A plan shall be submitted for the remediation of Kindlestown House to reverse or stop further degradation of the building. The works in the agreed plan shall be carried out prior to any other development works on site.
 - (b) A detailed method statement covering all works proposed to be carried out to the protected structure and historic structures. All works including fenestration shall be in accordance with good conservation practice.
 - (c) A full set of survey drawings providing details of the current condition of the structures including important features and fittings and the exterior of the building.
 - (d) All works to the protected structure and historic structures shall be carried out, under the supervision and in accordance with the requirements of a qualified professional with specialised conservation expertise (minimum level Royal Institute of Architects Ireland Grade 2).

- (e) Details and drawings of proposals for the re-use of materials / features of architectural interest from demolished structures within the proposed development.

Reason: To secure the preservation of the protected structure and other historic structures and to ensure that the works are carried out in accordance with best conservation practice.

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

Reason: In the interest of visual amenity.

- 8. (a) Car parking provision in accordance with the layout, finishes and quantity of spaces indicated on Drawing numbers B-135-FI-AB-B0-200 (Apartment Block 1 and 2 – Proposed Basement Plan) and B-135-FI-SL-103 (Proposed Site Layout) submitted to the planning authority on the 12th day of December 2023 with the application shall be provided upon the first occupation of units. The dimensions of the circulation aisles, car parking spaces and the details of the bicycle parking spaces and their location shall be subject to the written agreement of the planning authority.

- (b) All the communal parking areas serving the 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: To ensure that there is adequate car parking and bicycle parking spaces to serve the development, and to provide parking facilities for all likely users of the development in order to avoid on-street parking and congestion.

9. (a) 167 number safe and secure bicycle parking spaces shall be provided within the site including eight number spaces for the childcare facility located within close proximity to it. Provision should be made for a mix of bicycle types including cargo bicycles and individual lockers. Details of the layout and marking demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Electric charging points to be provided at an accessible location for charging cycles/scooters/mobility scooters. Details to be submitted to and agreed in writing with the planning authority.

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

10. Prior to commencement of development, revised drawings and details shall be submitted for the written agreement of the planning authority showing provision for a pedestrian connection and internal pathway at the northern boundary of the site at the current point of pedestrian access with a pedestrian route provided through the trees into the site, and otherwise generally in accordance with Landscape Detail Plan 01 drawing number KIN-MAS-XX-XX-DR-L-0101 submitted on the 12th day of December 2023.

Reason: In the interest of area permeability and access to open space and historic landscape.

11. Prior to commencement of development, the developer shall submit final drawings and details for:
 - (a) The design of the proposed junction with Chapel Road and the internal access road including measures for the management of traffic entering and existing the development site at Chapel Road.
 - (b) The tie-in between the Churchlands estate road and the proposed internal access road.
 - (c) The internal road network serving the development including roads, turning bays, junctions, parking areas, pedestrian facilities and kerbs and the basement car park.
 - (d) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority.

The design shall comply 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 (DMURS). Details of all locations and materials to be used shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.

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

12. (a) Prior to commencement of development a Stage 2 Road Safety Audit, including a Final Audit Report, for the development, prepared in accordance with the Transport Infrastructure Ireland (TII) Road Safety Audit Standards Publication, shall be submitted. Where the audit identifies the need for design changes revised design details shall be submitted to, and agreed in writing with, the planning authority. The developer shall carry out all necessary works in accordance with the agreed revised design.
- (b) Prior to occupation of the development, a Stage 3 Road Safety Audit, including a Final Audit Report, for the development, prepared in accordance with the TII Road Safety Audit Standards Publication, shall be submitted to and agreed in writing with the planning authority. Where the audit identifies the need for design changes, revised design details shall be submitted to, and agreed in writing with, the planning authority. The developer shall carry out all necessary works in accordance with the agreed revised design.

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

13. Prior to the commencement of development the developer shall enter into a Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

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

14. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interest of sustainable drainage.

15. All trees and hedgerows within and on the boundaries of the site shall be retained and maintained, with the exception of those shown for removal in the submitted documents including the document submitted on the 12th day of December 2023 'A Condition Assessment of the Trees on the Site Area at 'Kindlestown House', Chapel Road, Delgany, County Wicklow' report prepared by Arborist Associates Limited, and with the exception of the following:

- (a) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

- (b) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum radius of two metres from the trunk of the tree or centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (c) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: In the interest of visual amenity and to protect trees and planting during the construction period.

16. The landscaping scheme shown on the Landscape Detail Plan 01 drawing number KIN-MAS-XX-XX-DR-L-0101, as submitted to the planning authority on the 12th day of December, 2023 shall 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.

17. Prior to the commencement of development the developer shall submit, for the written agreement of the planning authority, details and drawings of all proposed boundary treatments throughout the development including on the adjoining lands and to the curtilages of the proposed sites. This shall include the height, materials and finishes. A colour coded map shall be included delineating all boundary types within the development.

Reason: In the interests of visual and residential amenity.

18. Prior to commencement of development, final details of all play facilities shall be agreed in writing with the planning authority.

Reason: In the interest of proper planning and sustainable development and orderly development.

19. Proposals for an estate/street name, house/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/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 placenames for new residential areas.

20. 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.

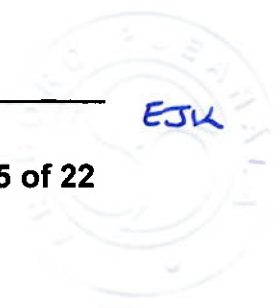
Reason: In the interests of visual and residential amenity.

21. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within the development. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

22. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.



23. The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development. Prior to the commencement of such works the archaeologist shall consult with and forward to the Local Authority archaeologist or the NMS as appropriate a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation including preservation in-situ/excavation.

The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.

Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation either in situ or by record of places, caves, sites, features or other objects of archaeological interest.

24. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday 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.

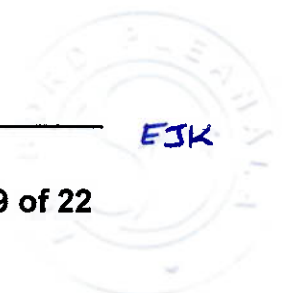
25. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities 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.
- (c) This 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: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

26. 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:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) 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) Provision of parking for existing properties at during the construction period;
 - (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.

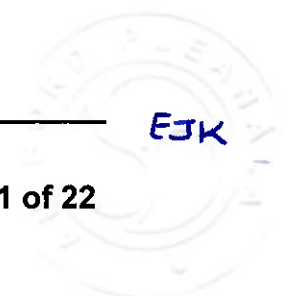


27. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands 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.

28. 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.



29. 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 26th day of February, 2025

