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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Wicklow County Council**

**Planning Register Reference Number: 2360219**

**APPEAL** by Henry and Aoife Clarke and Evelyn and Shay Ryan of Tinakilly, Rathnew, County Wicklow and by Others against the decision made on the 2<sup>nd</sup> day of February, 2024 by Wicklow County Council to grant, subject to conditions, permission to Keldrum Limited care of Brock McClure Planning and Development Consultants of 63 York Road, Dún Laoghaire, County Dublin.

**Proposed Development:** (a) Construction of 352 number residential units as follows: (i) 220 number one to 2.5-storey houses comprising 31 number two-bed houses, 114 number three-bed houses, 72 number four-bed houses and three number five-bed houses, ranging in size from circa 82.33 square metres to circa 212.39 square metres. Each house will have an associated rear/side private garden; (ii) 132 number apartment/duplex/maisonette units comprising the following: 56 number one-bed apartments and 48 number two-bed apartments in three number four-storey apartment block buildings. Eight number one-bed maisonette units in two number two-storey semi-detached blocks. 14 number two-bed duplex ground floor apartment units and 14 number three-bed upper floors duplex apartment units arranged across three number three-storey terraced blocks, ranging in size from circa 48.4 square

metres to circa 109 square metres. All apartment/duplex/maisonette units will be provided with private open space areas in the form of balconies/terraces; (iii) communal open space associated with the proposed apartment units will be provided in the form of landscaped areas located in the vicinity of the apartment units (totalling 0.1788 hectares); (iv) all internal residential access roads and cyclist/pedestrian paths serving the proposed development; (v) provision of 592 number car parking spaces across the development site and 168 number bicycle parking spaces for residents of the proposed 56 number one-bed and 48 number two-bed apartment units. 66 number visitor bicycle parking spaces are provided throughout the development site. All terraced houses and duplex two and three-bed apartments will be provided with associated secure in curtilage bicycle lock ups; (vi) proposed pedestrian connections and landscaping to a section of Tinakilly Avenue included in permitted application Wicklow County Council register reference 22/837; (b) The proposed development will connect to the Tinakilly Park residential development and Rathnew Village via a new section of the Rathnew Inner Relief Road. The proposed road will join the constructed/under construction elements permitted under Wicklow County Council planning register reference number 17/219 (appeal number PL27.301261) and amended under Wicklow County Council planning register reference number 22/837 to the south with a section of the link road to the northwest of the site at the R761 roundabout in Rathnew granted under Wicklow County Council ref. 21/1333. This includes all associated vehicular and pedestrian access, carriageways, paths and junctions; (c) no proposed works to Tinakilly Country House Hotel (a Protected Structure – RPS number 25-15) save for works to close the western portion of Tinakilly Avenue to vehicular traffic and the provision of a new vehicular entrance and gates along the eastern portion of Tinakilly Avenue off the Rathnew Inner Relief Road to facilitate access to Tinakilly House and other properties to the east of the site accessed from Tinakilly Avenue; (d) all associated site development works, service provision, infrastructural and drainage works, provision of ESB substations, bin stores, bicycle stores, car parking, public lighting, landscaping, open space and boundary treatment works, all on a site of circa 16.8 hectares at Tinakilly, Rathnew, County



Wicklow. The application site is generally bounded to the north by greenfield lands, to the east by Tinakilly Country House Hotel (which is a protected structure - RPS no. 25-15), to the west/south west by commercial development, the R750 Wicklow – Rathnew Road and Rathnew Village and to the south by the Tinakilly Park residential development currently under construction.

## **Decision**

**REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.**

## **Reasons and Considerations**

1. Having regard to the specific legislative preconditions which apply to Large Scale Residential Development (LRD) as set out in Section 32A(1) of the Planning and Development Act 2000, as amended, to the nature of the appeal, which is an LRD appeal against a decision of the planning authority that relates to an application for permission to which section 32A(1) applies, (Section 2 of the Act refers), and to the totality of the documentation on file, including the submissions from third parties and the submission from the first party received by An Bord Pleanála on 8<sup>th</sup> day of July 2024 which states that, 'as of today, there is nothing in any county plan or local area plan that is in force to describe for Rathnew any objectives for zoning of land...', it is considered, that no statutory zoning currently applies to the subject site. In this context, the proposed development is not consistent with the legislative preconditions for an LRD application, insofar as it is not on land the zoning of which facilitates its use for the purposes proposed in the application. In this context, the

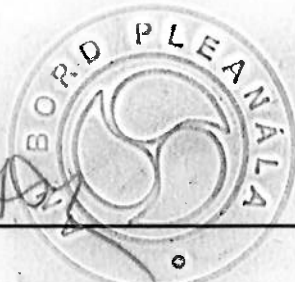
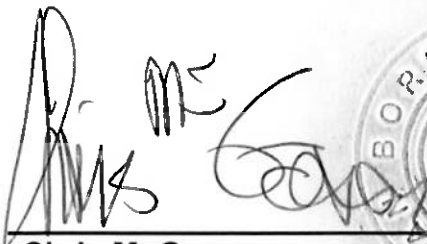
A handwritten signature in black ink is written over a faint circular stamp. The signature appears to be 'D. M. O.' followed by a flourish. The stamp is partially obscured by the signature.

Board is precluded from granting permission for the proposed development.

2. Having regard to the relevant provisions of the Wicklow County Development Plan 2022-2028, which notes that a new Local Area Plan (LAP) will be made for Wicklow Town-Rathnew (with this future LAP listed as first in the order of priority of plans to be made – Section 3.5 of the Plan refers) and to the associated Core Strategy Table A: LAP Towns, which refers to a surplus of previously zoned land in this settlement and notes that, ‘...remaining surplus will be addressed in next LAP’, it is considered that the proposed development would be premature, pending the making of a statutory local area plan for this overall settlement and which will confirm the final appropriate quantum and location of residential zoned land. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board noted and accepted the overall assessment of the proposed development by the Planning Inspector. However, the Board was not satisfied on the facts of the case, as set out in the application and appeal documentation, that the proposed LRD development was actually on land the zoning of which facilitates its use for the purposes proposed in the application, as required under Section 32A(1) of the Planning and Development Act 2000, as amended. The Board therefore sought further information from the Planning Authority and from the applicant on this specific matter. Having considered the responses received, the Board concluded that the apparent absence of statutory zoning on site precluded the granting of permission in this instance. The Board also considered that the fact of the current position, wherein it appears there is no applicable statutory zoning, along with the clear objective of the current Wicklow County Development 2022-2028 to undertake as a priority the making of a Local Area Plan for Wicklow Town – Rathnew, and the associated evidence within the Core Strategy of the County

Development Plan that a surplus of residential zoning within this settlement will be addressed at the time of making of the future LAP, meant that it would not be in accordance with the proper planning and sustainable development of the area to grant permission for a development of the scale proposed and that permission should be refused on the basis of prematurity pending the making of the LAP. The Board noted that the Planning Inspector engaged with the issue of the new LAP for the settlement as being a priority, but also stated that the Wicklow Town-Rathnew Development Plan 2013-2019 is the operative plan for these lands (paragraph 8.2.2 of Inspector's report refers). However, the Board considered that the Inspector did not engage with the issue of surplus as set out in the Core Strategy, and the associated commentary that this would be addressed at next LAP stage. This, in combination with the submissions from the planning authority, and from the applicant's agents, in response to the Board's request for further information on the zoning issue, led the Board to determine that the proposed development would be premature at this time for the reason set out above.



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**Chris McGarry**

**Member of An Bord Pleanála**

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

Dated this 2<sup>nd</sup> day of August 2024.