

An
Coimisiún
Pleanála

Commission Order
ABP-319275-24

Planning and Development Acts 2000 to 2024

Planning Authority: Wexford County Council

Planning Register Reference Number: 20231489

Appeal by Bawn Developments Limited care of Ian Doyle Planning Consultants of Woodleigh, Cornwall, Killurin, County Wexford against the decision made on the 14th day of February 2024, by Wexford County Council to refuse permission for the proposed development.

Proposed Development: Permission for the proposed erection of 20 number residential units over two apartment blocks (a three-storey block and four-storey block) comprising eight number one-bed apartments and 12 number two-bed apartments with ancillary facilities, landscaping and site works including a new widened vehicular access route from Distillery Road and improvements to the pedestrian link between Saint Aidan's Crescent and Distillery Road at site known as The Knock , Slippery Green, Wexford.

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 pattern of development in the area and the policies which generally seek to encourage higher density residential development on infill sites in close proximity to existing services and town centres as set out in the Wexford County Council Development Plan 2022-2028, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual or residential amenities of property in the vicinity; would not lead to the creation of a traffic hazard or obstruction of road users; would improve pedestrian permeability within the area and would not be prejudicial to public health. The proposed development 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 planning permission, the Commission noted the following:

The Commission did not share the Inspectors concerns regarding the lack of certainty about the mitigation measures for the construction of the proposed extended culvert. The Commission did not consider the extension of the culvert, which measured approximately 14 metres in length, posed a significant threat to the Natura 2000 sites in the vicinity, the nearest of which being located 1.2 kilometres away. While the Commission noted the comments of the Department of Housing, Local Government and Heritage, in relation perceived lack of mitigation measures regarding the modification of the culvert area and the landscaping along the Horse River, the Commission noted the extensive and comprehensive measures set out in section 6 of the Natura Impact Statement (NIS) submitted. These included extensive mitigation measures for pollution control, invasive species management, noise and vibration, dust management, procedures associated with the stockpiling of materials, surface water, groundwater management control measures, as well as strict protocols for the management and handling of concrete and

hydrocarbons. The NIS also assessed potential cumulative effects from other developments in the area. The Commission noted that the submission from the Department of Housing, Local Government and Heritage, did not object to the proposed development on the basis of the potential impact on European Sites, but merely commented on the lack of specific mitigation measures in respect of landscaping and the modification of the culvert area. The Commission concluded that the overall suite of mitigation measures proposed in the NIS were sufficient to allay any concerns in this regard. Furthermore, the Commission noted that, notwithstanding the planning authority's recommendation to refuse planning permission, it had no concerns regarding the development's potential impact on European Sites.

With regard to Surface Water and Sustainable Drainage Systems (SuDS) Strategy concerns expressed by the Inspector in the second reason for refusal, the Commission noted that the internal technical reports to the local authority Planning Officer requested further information on surface water drainage arrangements, rather than refusal on these grounds. The Commission considered that the additional information submitted by the applicant, which included the incorporation of bio-retention ponds as well as a network of permeable paving, and oversized pipe network to accommodate storage and a hydro-break system to control flow to greenfield rates, will successfully address concerns regarding surface water drainage. The Commission also considered that the further information submitted suitably addressed the Inspectors concerns in relation to compliance with the requirements of the Water Framework Directive.

In relation to the final reason for refusal cited by the Inspector, the Commission considered that the provision of two modestly sized apartment blocks, three to four storeys in height, was the most successful approach to developing the site in terms of urban design and achieving appropriate density. While the concerns expressed by the Inspector in terms of urban grain were noted, the Commission considered that the replication of the same

prevailing house typology in the area to the subject site would be problematic, having regard to the topographical constraints of the site and the need to develop sites at appropriate and sustainable densities commensurate with the standards set out in the Sustainable Residential Development and Compact Settlement – Guidelines for Planning Authorities. The Commission also considered that the overall size and scale of the apartment blocks did not adversely affect the visual amenities of the area, and the siting, layout and orientation of the blocks protected the surrounding residential amenity.

Appropriate Assessment: Stage 1:

The Commission considered the documents submitted with the application, and all the other relevant submissions on file, and carried out an Appropriate Assessment in relation to the potential effects of the proposed development on designated European sites. The Commission considered that Slaney River Valley Special Area of Conservation (Site Code 000781) and the Wexford Harbour and Slobbs Special Protection Area (Site Code 004074), in accordance with the Planning Inspectors assessment, are the only European Sites in respect of which the proposed development has the potential to have a significant effect, in view of the Conservation Objectives for the sites, and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Commission considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an Appropriate Assessment of the implications of the proposed development on the aforementioned sites in view of these sites Conservation Objectives. The Commission considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Commission considered, in particular, the following:

- (i) the site-specific Conservation Objectives for these European Sites,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Commission had regard of the potential effects of the proposed development on the aforementioned European Sites. In overall conclusion, the Commission was satisfied that the proposed development would not adversely affect the integrity of the European Site in view of the site's Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

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 An Coimisiún Pleanála on the 12th day of March 2024, 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. All mitigation measures outlined in the Natura Impact Statement shall be implemented.

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

3. Prior to commencement of development, the developer shall submit to the planning authority for their written agreement:
 - (a) Construction Method Statement prepared by suitably qualified professionals with relevant indemnity insurance, which describes detailed ground investigations at the site; technical specifications for the proposed boundary retaining walls and any grading or stabilisation works; together with any potential impacts of earthworks and ground movements on the residential properties to the north and any necessary mitigation measures. These reports shall demonstrate that there is no significant risk of damage to surrounding structures, including neighbouring residential dwellings to the north, as a result of the proposed works.
 - (b) Details (plans, sections and elevations at an appropriate scale) of proposed boundary treatments including retaining walls to include height, form and finish. All blockwork walls shall be suitably capped and rendered.
 - (c) Details of proposed pedestrian stepped walkway along the eastern side of the site linking Distillery Road to Saint Aiden's Crescent on the eastern site of the site including design, alignment, public lighting and landscaping proposals.

Reason: In the interests of clarity and the proper planning and sustainable development of the area.

4. Details of the materials, colours and textures of all the external finishes to the proposed apartment blocks shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only.

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

5. The proposal shall incorporate a culvert beneath the proposed access road serving the development from Distillery Road. In the interest of clarity, the proposed river crossing shall not involve the provision of a bridge across the Horse River, as indicated in the drawings submitted to the Commission on the 12th day of March 2024. Details of the construction/laying of the culvert on the riverbed, together with any maintenance arrangements, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interests of clarity and orderly development.

6. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of traffic safety and convenience.

7. (a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs 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).
- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. 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 amenity and of traffic and pedestrian safety.

8. Car parking spaces between blocks A and B shall be provided with electric connections 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 residential amenity and sustainable transportation.

9. Site development and building works shall be carried out only between the hours of 0700 to 1900, Mondays to Fridays 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.

10. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the relevant Section of the planning authority for such works and services. Prior to the 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 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.

11. 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.

12. The landscaping scheme shown on drawing number 10.23.002R, as submitted to An Coimisiún Pleanála on the 12th day of March 2024, 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.

13. Public lighting shall be provided in accordance with the scheme presented on Drawing P809 received by An Coimisiún Pleanála on the 12th day of March 2024, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting.

Reason: In the interests of amenity and public safety.

14. 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.

15. Proposals for a development name, 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 apartment numbers, shall be provided in accordance with the agreed scheme. 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.

16. 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) 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) the details of site security fencing and hoardings;
 - (d) the details of on-site car parking facilities for site workers during the course of construction;
 - (e) the 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) the provision of parking for existing properties on Distillery Road during the construction period;
- (j) the details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) the 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) the off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) the means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains; and
- (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.

17. A plan for the management and/or removal of any identified invasive species, including Japanese Knotweed, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of proper planning and sustainable development

18. If, during the course of site works any archaeological material is discovered, the City/County Archaeologist/planning authority shall be notified immediately. The developer is further advised that in this event that under the National Monuments Act, the National Monuments Service, Department of Housing, Heritage and Local Government and the National Museum of Ireland require notification.

Reason: In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.

19. 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 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 Coimisiún 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.

20. 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.

21. 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 Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

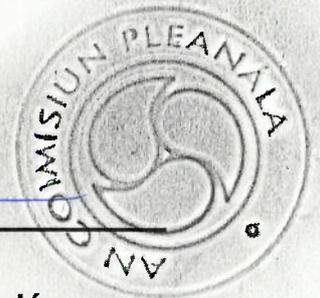
22. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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 Coimisiún 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.



Paul Caprani

**Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.**



Dated this ^{1st} day of *July* 2025.