



Planning and Development Acts 2000 to 2022

Planning Authority: Wexford County Council

Planning Register Reference Number: 2023/1563

Appeal by Bawn Developments Limited care of Ian Doyle of Woodleigh, Cornwall, Killurin, Enniscorthy, County Wexford against the decision made on the 21st day of February, 2024 by Wexford County Council to refuse permission.

Proposed development: Construction of 92 number residential units within three, four and five-storey buildings, comprising 18 number one-bed apartments, 27 number two-bed apartments, four number three-bed apartments, 14 number two-bed duplex apartments, eight number three-bed duplex apartments and 21 number three-bed houses, together with a single storey childcare facility, ancillary facilities, landscaping and site works, all on a site located between R730 and Old Hospital Road at Park and Stonybatter, Wexford.

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

Having regard to the policies and objectives of the Wexford County Development Plan 2022-2028, Housing for All – A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage (2021), the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in January, 2024, and the proposed development of a mix of apartments, houses and duplexes, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable scale, density and mix of residential development, would not seriously injure the residential amenities of the area, would not exacerbate flooding risks or adversely impact upon water quality, and would not adversely impact the natural heritage of the area. 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 permission, the Commission was satisfied that the submissions and assessments received upon application and in response to the Section 132 notice provided sufficient detail and assurance that the proposed development would not exacerbate flooding risks or adversely impact upon water quality and would, therefore, be in accordance with Objectives FRM14, SWM01 and WQ15. Notwithstanding its consideration that there were no deficiencies in the surface water and SuDS strategy, the Commission further considered that the managed and mitigated conveyance of freshwater into European Sites via the Carricklawn Stream at a location immediately adjacent to the Slaney River would not, individually or in combination with other plans or projects, adversely affect the integrity of European Sites or cause deterioration of the waterbody status under the Water Framework Directive.

Appropriate Assessment: Stage 1:

The Commission agreed with the screening assessment and conclusion carried out in the Inspector's report that the Slaney River Valley Special Area of Conservation (Site Code: 000781), the Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076), the Raven Point Nature Reserve Special Area of Conservation (Site Code: 000710) and The Raven Special Protection Area (Site Code: 004019) are the 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 other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for the Slaney River Valley Special Area of Conservation (Site Code: 000781), the Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076), the Raven Point Nature Reserve Special Area of Conservation (Site Code: 000710) and The Raven Special Protection Area (Site Code: 004019) in view of the 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 available scientific knowledge in the field.

In completing the assessment, the Commission considered, in particular, the following:

- (i) the site-specific Conservation Objectives for the European Sites,

- (ii) the current conservation status, threats and pressures of the qualifying interest features as summarised in the Inspector's report,
- (iii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, specifically, the potential impacts from surface water (increased run-off, sedimentation and contamination) during construction and operation and the spread of invasive species during construction, and
- (iv) the mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Commission accepted and adopted the Appropriate Assessment carried out in the Inspector's report as it relates to the spread of invasive species during construction in respect of the implications of the proposed development on the integrity of the aforementioned European Sites, having regard to the sites' Conservation Objectives.

However, the Commission did not agree with the assessment and conclusion of the Inspector that deficiencies existed in the surface water and SuDS strategy and, therefore, potential effects on European Sites have not been adequately mitigated against. Rather, on the basis of the submissions received, including, inter alia, the Natura Impact Statement Report, the Commission was satisfied that there were no deficiencies in the surface water and SuDS strategy and determined that the managed and mitigated conveyance of freshwater into the Wexford Harbour and Slobbs Special Protection Area and the Slaney River Valley Special Area of Conservation via the Carricklawn Stream at a location immediately adjacent to the Slaney River would not, individually or in combination with other plans or projects, adversely affect the integrity of the European Sites or cause deterioration of the waterbody status under the Water Framework Directive.

In overall conclusion, the Commission concurred with the assessment of the planning authority, and was satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the sites' Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

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. The mitigation measures contained in the submitted Natura Impact Statement shall be implemented in full.

Reason: To protect the integrity of European Sites.

3. Prior to commencement of development, the developer shall submit the following for the written agreement of the planning authority:

- (a) Details of the permeability link between Stoney Park and the proposed development.

- (b) Revised details of an overall quantum of car parking in accordance with the development plan requirements, to include arrangements for dedicated parking for the creche within the boundary of the development site.
- (c) The proposed new pedestrian footpath along the southern side of the R730 shall be omitted and shall be replaced by a new pedestrian crossing to the existing footpath on the northern side of the R730.

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

- 4. The 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 details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: In the interest of public health.

- 5. Prior to commencement of development, the developer shall enter into a connection agreement(s) with Uisce Éireann 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.

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

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

7. 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 commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of the agreed landscaping plan. 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.

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. The proposed development shall be carried out on a phased basis in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority.

Reason: To ensure the timely provision of services, and for the benefit of the occupants of the proposed dwellings.

10. A Construction and Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The CEMP shall include, but not be limited to, construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

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

11. 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 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.

12. 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 for each residential unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained, and waste shall be managed in accordance with the agreed plan. This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

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

13. Prior to commencement of development, 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) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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 reducing waste and encouraging recycling.

14. 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 sustainable transport and safety.

15. The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998 shall be adhered to. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

16. (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 Design Manual for Urban Roads and Streets (DMURS).
- (b) Footpaths shall be dishd 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 commencement of development.

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

17. 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: In the interest of sustainable transportation.

18. The landscaping scheme, as submitted to the planning authority, 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 planning 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.

19. The developer shall engage a suitably qualified licence eligible archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record, archaeological excavation and/or monitoring shall be required. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent

archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. 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.

20. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas 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.

21. Proposals for a house and 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 and 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.

22. 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 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.

23. (a) Prior to the commencement of any house or duplex 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 house or duplex unit) pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all relevant houses and duplex 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 specified house or duplex unit 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.

24. 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 Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

25. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. 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 that the public road is satisfactorily reinstated, if necessary.

26. 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.

Eamonn James Kelly

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Planning Commissioner of An Coimisiún

**Pleanála duly authorised to authenticate
the seal of the Commission.**

Dated this *21st* day of *July*, 2025.

