



An
Bord
Pleanála

Board Order
ABP-319604-24

Planning and Development Acts 2000 to 2022

Planning Authority: Wicklow County Council

Planning Register Reference Number: 23/756

Appeal by Yvonne Gager and others care of BPS Planning and Development Consultants of P.O. Box 13658, Dublin against the decision made on the 5th day of April, 2024 by Wicklow County Council to grant subject to conditions a permission to Certain Assists of Dawnhill and Windhill Limited care of McGill Planning of 22 Wicklow Street, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of 86 number residential units with a mix of detached, semi-detached, terraced houses and duplex apartments ranging in height from two to three storeys. These will comprise of eight number one bed and eight number two bed duplex apartments, 10 number two bed houses and 60 number three bed houses. All residential units will have associated private open spaces facing north/south/east/west. The proposed development will include alterations to Kilbride Road (L6179) to provide a section of the new road into the wider Kilbride Masterplan lands with vehicular, pedestrian and cycle access provided. In addition, a new dedicated pedestrian and cyclist access will also be provided to the south-east of the development connecting via the Marshland's sports club lands, and through

Avondale Crescent to the Dublin Road. The development will also provide for landscaping, public open spaces and all associated site development works to enable the development including boundary treatments, attenuation storage area and other service provision, all on a site of circa 5.7892 hectares on lands at Kilbride, Arklow, County Wicklow. The application suite is located to the west of Murell Drive, west and south of Avondale Crescent, and to the north of the Marshland sports club. The site is to the south of the Kilbride Road L6179.

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 provisions of the Wicklow County Development Plan 2022-2028, the nature, scale and design of the proposed development and pattern of development in the surrounding area, the planning history relating to the lands and adjoining lands, and the phasing and phasing justification provided by the applicant in relation to the suitability of the site for development, it is considered that, subject to compliance with the conditions set out below, the proposed development would provide an acceptable level of residential amenity to future residents, would provide important permeability within the Kilbride area which will benefit both existing and future residents, would not adversely impact on the residential amenity of neighbouring properties and will not impact significantly on Arklow Town Marsh proposed Natural Heritage Area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 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. (a) Prior to commencement of development, details of the proposed pedestrian/cycle route and upgrades to the existing road and pedestrian infrastructure along Avondale Crescent and Dewadden Drive, and the junction of Dewadden Drive with the R772 (as per the Pedestrian and Cyclist Infrastructure Report received by the planning authority on the 12th day of March 2024) shall be submitted to and agreed in writing with the planning authority.
- (b) The above upgrades shall be revised to include a review of the junction of Avondale Crescent with Windmere Avenue/Dewadden Drive, including an assessment of the need for revised movement priority and a reduction in corner radii at this location.
- (c) Prior to the occupation of any dwelling the works agreed under (a) above shall be completed to the written satisfaction of the planning authority.

Reason: In the interest of orderly development and traffic safety.

3. (a) The internal road network serving the proposed development including carriageway width, 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 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 commencement of development.

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

4. (a) Boundary treatments shall be in accordance with the details of the Boundary Treatment Plan Drawing Number 19133-D-1-103BTP received by the planning authority on the 6th day of October, 2023, as revised by the drawings received by the planning authority on the 12th day of March, 2024.
- (b) The proposed 1.5 metres high black railings shall continue along the eastern side of the access road between Avondale Crescent and the Marshlands Sportsground to secure the lands to the rear of numbers 15 to 22 Avondale Crescent.

Reason: In the interest of visual and residential amenity.

5. (a) The landscaping scheme shown on the Landscaping Design Statement and the landscaping drawings, as submitted to the planning authority on the 6th day of October, 2023, as revised by the drawings submitted to the planning authority on the 12th day of March, 2024, shall be carried out within the first planting season following the commencement of development, unless otherwise agreed in writing with the planning authority.
- (b) No landscaping or hedging shall be planted along the northern side of the existing circa 1.8 metres high security fence on the north side of the Multi Use Games Area associated with the Marshlands Sports facility and no additional screening shall be erected on or along this boundary.
- (c) 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.
- (d) The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be contoured, soiled, seeded, and landscaped in accordance with the landscaping scheme. This work shall be completed before any of the dwellings are made available for occupation unless otherwise agreed in writing with the planning authority and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In the interest of residential and visual amenity, and to maximise passive surveillance over the pedestrian/cycle path to the north.

6. (a) The communal open spaces, including hard and soft landscaping, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

7. All 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.

8. Prior to the occupation of the development, a Stage 3 Road Safety Audit, including a Final Audit Report, for the proposed development together with associated junctions, prepared in accordance with Transport Infrastructure Ireland standards, shall be submitted for the written agreement of 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.

9. 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.

10. (a) 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 details for the disposal of surface water from the site for the written agreement of the planning authority.
- (b) 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 commencement of development, the developer shall enter into Connection Agreements with Uisce Éireann to provide for service connections to the public water supply and wastewater collection network. All development shall be carried out in compliance with Uisce Éireann's Standard Details and Codes of Practice.

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

12. (a) The developer shall engage a suitably qualified archaeologist (licensed under the National Monuments Acts) to monitor all site clearance works, topsoil stripping and groundworks associated with the development. Prior to commencement of such works the archaeologist shall consult with and forward to the local authority archaeologist or the National Monuments Service 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.
- (b) 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/preservation in-situ/excavation.
- (c) 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.

- (d) 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.

13. 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, traffic management, construction lighting, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities. Access and security for Marshlands Sports Club during construction shall be addressed in the plan.

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

14. 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.

15. Proposals for an estate/street name and 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.

16. (a) Prior to commencement of 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, that restricts all relevant 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.

17. 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 in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may 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 of the area.

18. 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 local authority of roads, footpaths, watermains, drains, public 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 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 Bord Pleanála for determination.

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

19. 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 Gurrie

Mary Gurrie

Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this *05* day of *February* 2025.