



An  
Bord  
Pleanála

**Board Order**  
**ABP-319711-24**

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## **Planning and Development Acts 2000 to 2022**

**Planning Authority: Wicklow County Council**

**Planning Register Reference Number: 21/840**

**Appeal** by Peter King and Milltown Construction care of Farry Town Planning Limited of Suite 180, 28 South Frederick Street, Dublin against the decision made on the 27<sup>th</sup> day of January, 2022 by Wicklow County Council to refuse permission for the proposed development.

**Proposed Development:** Construction of (a) 19 number dwellings comprising 10 number (113 square metres) three bedroom dormer bungalows, seven number (138 square metres) four bedroom dormer bungalows and two number (102 square metres) three bedroom dormer bungalows, (b) new pedestrian links, (c) new vehicular entrance off R752, (d) connection to all public services and (e) all necessary ancillary and site works to facilitate the above, all on lands at Ballymanus Lower and Ballyfree East, Glenealy, County Wicklow, as amended by the further public notices received by the planning authority on the 5<sup>th</sup> day of January, 2022.

## **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 site's location within the settlement boundary of Glenealy, which is designated as a Level 7 (Type 1) Village in the Wicklow County Development Plan 2022-2028 and to the existing pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed quantum of development would be acceptable, the design, layout, scale and height of the proposed scheme would be proportionate to the existing settlement, would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be consistent with relevant provisions of the development plan. The proposed development would be acceptable in terms of pedestrian and traffic safety, having regard to the design of the proposed scheme and the quality of the existing road network and would be acceptable in terms of its impact on the Ballymanus Wastewater Treatment Plant due to the availability of capacity within the public network. Notwithstanding that on the facts of the case, the proposed development would contravene materially Objective 4.13 of the development plan, which seeks to limit multi-unit development to no more than 10 units in Level 7 villages, and having regard to the totality of information on file, including the views of the planning authority that the site should be developed as a single entity and not in a piecemeal manner given its configuration and physical boundaries, it is considered that the proposed development would accord with objectives CPO 4.2 which seeks to deliver compact growth, CPO 4.3 which seeks to increase density in existing settlements through measures including infill development schemes and CPO 4.6 which requires new housing development to be located within the boundaries of settlements. In overview, it is considered that the proposed development warrants a grant of permission by reference to the totality of the relevant policies and objectives set out in the development plan. 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 7<sup>th</sup> day of December 2021, 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 proposed development shall be amended as follows: -
  - (a) House numbers 10, 19 and 20 shall be redesigned as dual fronted dwellings to provide additional frontage onto the internal access road.
  - (b) At least one number accessible car parking space shall be provided within the surface car park area at the northeastern portion of the site.

The revised plans and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of residential and visual amenity and to secure the integrity of the proposed development.

3. Prior to commencement of development, the applicant shall submit to the planning authority details of all buildings and structures to be demolished within the site.

**Reason:** In the interest of clarity.

4. The first sale of 50% of the homes herein permitted shall be restricted to persons who comply with Objective CPO 6.37 of the Wicklow County Development Plan 2022-2028 for a Level 7 – Village (Type 1) and as the planning authority agrees to in writing. There shall be no occupancy restriction to the remaining 50% houses. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development. Prior to the commencement of development, the dwelling units to be restricted in accordance with this condition shall be agreed in writing with the planning authority.

**Reason:** To ensure that dwellings are suitably restricted in accordance with Objective CPO 6.37 of the development plan the Settlement Strategy.

5. Public access to the car parking area in the northeastern portion of the site shall be permanent, open 24 hours a day, with no gates or security barrier at the entrance in a manner which would prevent pedestrian or vehicular access, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of public amenity and to ensure adequate car parking is available for the village.

6. Details of the materials, colours and textures of all the external finishes to the proposed residential units 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. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following: -
- (a) details of all proposed hard surface finishes,
  - (b) details of ramped access through the area of public open space,
  - (c) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings, which shall comprise predominantly native species,
  - (d) details of proposed street furniture, including bollards, lighting fixtures and seating, and
  - (e) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of visual amenity.

8. Prior to commencement of development, the applicant shall agree in writing with the planning authority, the final details of areas of public seating within the area of public open space. All works shall be at the applicant's expense.

**Reason:** In the interests of residential amenity and place making.

9. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

10. Proposals for an estate/street name, house 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 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.

11. 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. Such lighting shall be provided prior to the making available for occupation of any residential unit.

**Reason:** In the interests of amenity and public safety.

12. 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. Details of the ducting shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interests of visual and residential amenity.

13. All of the in-curtilage car parking spaces serving residential units and the surface car park located within the northeastern portion of the site shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. The two number car parking spaces serving House number 11 and located outside of the curtilage of the property shall be provided with functional electric vehicle charging point. 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.

14. Drainage arrangements including the attenuation and 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 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 interests of public health and surface water management.

15. Prior to the commencement of development, the developer shall enter into a Connection Agreements 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.
16. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority, details and schedule of works adjacent to the railway link that address the matters referred to by Irish Rail in their submission on this application dated 10<sup>th</sup> August 2021. Any works associated with the proposed development including boundary treatments and landscaping shall ensure that the integrity of the embankment adjacent to the railway line is maintained.  
**Reason:** To protect the railway and in the interest of public safety.
17. 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).  
**Reason:** In the interests of amenity and of traffic and pedestrian safety.
18. Site development and building works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.  
**Reason:** To safeguard the amenity of property in the vicinity.



19. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare 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) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness, these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. 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 proper planning and sustainable development.

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. (a) Prior to the 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, pursuant to Section 47 of the Planning and Development Act 2000, 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.



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 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.

23. 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.



24. 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.



**Martina Hennessy**

**Member of An Bord Pleanála**

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



Dated this 28 day of December 2024.