



An  
Bord  
Pleanála

Board Order  
ABP-320184-24

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Wicklow County Council**

**Planning Register Reference Number: 2360305**

**Appeal** by Jerry Teehan and others of 1 Rosslyn Court, Bray, County Wicklow against the decision made on the 26<sup>th</sup> day of June 2024 by Wicklow County Council to grant, subject to conditions, a permission to Westwings Partnership Limited care of MacCabe Durney Barnes of 20 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Development will consist of:

- The construction of 13 number dwellings in two number three-storey terrace blocks.

Terrace A – six number four-bedroom houses (two semi-detached and four number terraced units)

Terrace B – three number four-bedroom houses (one semi-detached and two number terraced units) and four number duplex units (two number three bedroom own door duplex houses at ground and first floor levels and two number one bedroom own door duplex apartment at second floor level).

- A new vehicular and pedestrian entrance and pedestrian crossings will be provided off Church Road.
- New boundary treatments, lighting, site drainage works and all ancillary site

development works above and below ground.

- It includes public open space of 390 square metres, 22 car parking spaces and a visitor bicycle shelter with four number spaces and two number occupant bicycle spaces within ground floor entrance to duplex apartments.
- The development also includes site development infrastructure; new watermain connection and foul and surface water drainage. Surface water connection to be made to existing manhole at junction of Killarney Road and Beechurst, all at Westwings, Church Road, Bray, County Wicklow. The site shares a boundary with the Marino School to the east and a single dwelling to the west called Cairness/'The Rectory'. Roslyn Court residential area is located to the north.

## **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:

- (a) the provisions of the Wicklow County Development Plan 2022-2028,
- (b) the Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031,
- (c) the nature, scale, character and location of the proposed residential development,
- (d) the measures to ensure pedestrian and traffic safety,

- (e) the appropriate tree management provisions,
- (f) the form, layout and number of open spaces within the proposed development,
- (g) the separation distances from neighbouring dwellings and the buffer zone effect of the rear open space,
- (h) the guidance set out in Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), DMURS, and other Section 28 Guidelines,
- (i) the report and recommendation of the Planning Inspector,

it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential amenity of properties in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. The Board agreed with the inspector and the planning authority that, while the usable public open space fell marginally short, the small size of the infill site, its shape and its location adjacent the Town Centre, the provision of open space was considered to be acceptable.

### **Appropriate Assessment Screening (Stage 1)**

The Board considered that, having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the distance from the nearest European site and the absence of meaningful pathways between the application site and any European site it is possible to screen out the requirement for the submission of an Natura Impact Statement at an initial stage.

This determination is based on:

- The nature and scale of the development
- The provision of water services to the development
- The circuitous path between the site and the European site at Bray Head, to which there is a hydrological connection, and the distance to, and lack of hydrological connection to, any other European site.

## 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 submitted on the 11th day of January 2024 and the 16<sup>th</sup> day of May 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. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including a traffic management plan, noise and dust management measures and off-site disposal of construction/demolition waste.

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

3. Site development and building works shall be carried out 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 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.

4. 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.

5. (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 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, that is, 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.

6. At the completion of the development, or each sector thereof, and prior to the taking in charge of the estate, as constructed drawings of the development, to the requirements of paragraph 1.8 of Recommendations for Site Development Works in Housing Areas (Department of the Environment and Local Government, 1998) at a scale of 1/1000 shall be supplied to the Council electronically and shall be in a "DXF" format or other format agreeable to the planning authority and shall not be scanned images. They shall show the as constructed position of each site, house, road, watermain (including the location of sluice valves, scour valves, air valves and hydrants), foul and surface water sewers (including gullies, and invert levels of manholes to ordnance datum) and all pipe sizes and they shall show Irish Transverse Mercator co-ordinates of the four corners of the drawing and shall be relative to the Irish Transverse Mercator Grid Projection.

**Reason:** In the interest of the proper management and maintenance of the roads and services.

7. Prior to commencement of development, the developer shall submit a layout map of the permitted development showing the areas or infrastructure to be taken in charge and those areas or infrastructure to be maintained by the owner's management company. This shall be agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of proper planning and development, public health, safety and amenity.

8. Proposals for an estate/street name, 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 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.

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

9. Details of the materials, colours and textures of all the external finishes to the proposed buildings 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.

10. Prior to commencement of development, the developer shall submit final drawings and details for:

- (a) the design of the proposed junction with Church Road including measures for pedestrian priority on Church Road across the site access,
- (b) the treatment and finishing of the roads and footpaths, for agreement with the planning authority. The design and treatments shall be in accordance with the Design Manual for Urban Roads and Streets.



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

11. 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.

12. 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. 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.

13. Prior to the commencement of development, the developer shall enter into a Connection Agreement with Uisce Éireann (Irish Water) to provide for a service connection to the public water supply and wastewater collection network.

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

14. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the relevant Section of the Council 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.

15. If, during the course of site works any archaeological material is discovered, the planning authority shall be notified immediately. (The applicant/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.

16. The mitigation measures contained in the submitted Ecology Report shall be implemented.

**Reason:** To protect the environment.

17. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency'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 file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to 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 sustainable waste management.

18. Prior to commencement of development, details of proposals for electric charging infrastructure shall be submitted to, and approved in writing with, the planning authority. These shall include two recharging points and the installation of ducting infrastructure for every parking space.

**Reason:** In the interest of promoting active and sustainable travel, in the interest of proper planning and sustainable development.

19. All trees within and on the boundaries of the site shall be retained and maintained, with the exception of the following:
- (a) Trees, the removal of which is authorised in writing by the planning authority to facilitate development.
  - (b) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage,

following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

- (c) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum radius of two metres from the trunk of the tree or centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (d) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

**Reason:** In the interest of visual amenity and to protect trees and planting during the construction period.

- 20. (a) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of trees shown to be retained on drawing number 230307-P-12, as submitted to the planning authority on the 22<sup>nd</sup> day of September 2023, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.

- (b) No works shall take place on site until a construction management plan specifying measures to be taken for the protection and retention of the trees, together with proposals to prevent compaction of the ground over the roots of the trees, has been submitted to, and been agreed in writing with, the planning authority. Any excavation within the tree protection areas designated in condition number 19 of this Order shall be carried out using non-mechanised hand tools only.

**Reason:** To ensure that the trees are not damaged or otherwise adversely affected by building operations.

21. No works shall take place on site until a revised landscaping scheme which includes native species in compliance with objectives CPO 17.22 and CPO 18.8 of the Wicklow County Development Plan 2022-2028 has been submitted to, and been agreed in writing with, the planning authority. The scheme 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 and biodiversity, and compliance with development plan objectives.

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. 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.

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 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.

  
Declan Moore

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



Dated this 30<sup>th</sup> day of JANUARY 2025.