



An  
Bord  
Pleanála

## Inspector's Report ABP 303811-19.

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<b>Development</b>	Amendments to permission granted under PL27.246799 comprising amendments to crèche, revised internal plant room & external bin store & signage. Permission to omit condition no. 6 of permission granted under PL27.246799.
<b>Location</b>	Ballinahinch, Ashford, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council.
<b>Planning Authority Reg. Ref.</b>	181430
<b>Applicant</b>	Ardstone Homes Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Matthew Weiss and Others
<b>Observers</b>	None
<b>Date of Site Inspection</b>	2/7/19

**Inspector**

Siobhan Carroll

# Contents

1.0 Site Location and Description.....	4
2.0 Proposed Development.....	4
3.0 Planning Authority Decision .....	4
3.1. Decision.....	4
3.2. Planning Authority Reports.....	5
3.3. Prescribed Bodies.....	6
3.4. Third Party Observations.....	6
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.1. Ashford Town Plan 2016-2022.....	7
5.2. Wicklow County Development Plan 2016 – 2022.....	7
5.3. Natural Heritage Designations.....	8
5.4. EIA Screening .....	8
6.0 The Appeal.....	8
6.1. Grounds of Appeal.....	8
6.2. Applicant Response .....	9
6.3. Planning Authority Response .....	11
7.0 Assessment.....	12
7.2. Proposed revisions to crèche .....	14
8.0 Recommendation.....	15
9.0 Reasons and Considerations .....	15
10.0 Conditions .....	16

## 1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of Ashford village, Co. Wicklow. The R763 runs along the south boundary of the site. The site is under construction with a number of the dwellings to the eastern side of the scheme completed. The realignment of the section of the R763 through the site including associated footpaths, cycle lanes, verges and new junctions serving the development and linking the existing R764 has been completed and is operational.
- 1.2. On inspection of the site I observed that preliminary construction works involving the erection of the steel frame of the building were taking place at the site of the permitted crèche.

## 2.0 Proposed Development

- 2.1. Permission is sought for Amendments to permitted development (15/524, PL27.246799) generally comprising a residential scheme of 169 no dwelling houses, 2 storey creche of 496 sqm and all associated development.
- 2.2. Amendments to the permitted two storey crèche comprising revised internal floor plan layouts at the ground and first floor levels, revised elevational and fenestration arrangements to all elevations, increased overall building height from c7.8m as permitted to 9.3m, revised internal plant room and external bin store at ground floor level, crèche signage and logos to the revised northern, southern and eastern elevations. The gross floor space of the amended crèche facility is c 515 sqm.
- 2.3. No changes are proposed to the permitted crèche play area and car parking arrangements under the planning application. Permission is also sought to omit condition 6 of An Bord Pleanála Ref PL27.246799 concerning an occupancy restriction pertaining to the residential component of the permitted development

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission was granted subject to 3 no. conditions.

- Condition no. 1 states that condition 6 of PL27.246799(PRR 15/524) shall be omitted.
- Condition no. 2 attached a development contribution of €11,330 towards the Crèche in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority.
- Condition no. 3 (a) states that apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted under PL. 27.246799(PRR 15/524).
- 3(b) The duration of the permission granted herein shall expire with the expiration of planning register reference number PL. 27.246799(PRR 15/524) save where the duration of PL. 27.246799(PRR 15/524) is extended pursuant to Section 42 of the Planning and Development Act 2000, as amended.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- In relation to the crèche the Planning Authority had no objection to the proposed increase in floor area from 496sq m to 515sq m to accommodate an additional 20 childcare spaces. Regarding the proposed revision to the height of the crèche the planning officer considered that it would represent a small fraction of the overall structure and that it is required to accommodate the water tank in the roof. The proposed amendments to the structure were considered acceptable. Regarding the omission of condition no. 6 of PL27.246799 concerning the occupancy restriction the planning officer noted that under the provisions of the current County Development Plan Ashford is a Level 5 settlement and therefore there shall be no restriction on the occupancy of housing within the settlement. The omission of condition no. 6 was therefore recommended.

### 3.2.2. Other Technical Reports

Municipal District Engineer – No objection

### 3.3. Prescribed Bodies

- None

### 3.4. Third Party Observations

- 3.4.1. The Planning Authority received one observations/submissions in relation to the application. The main issues raised are similar to those set out in the appeal.

## 4.0 Planning History

There are a number of previous applications pertaining to the site which are detailed in the report of the Planning Authority.

The relevant decision in this instance is PL27.246799 and PA Reg. Ref.15/524. Permission was granted for the construction of 169 no. dwellings, a two-storey (496sq m) crèche building with associated vehicular and bicycle parking. Revisions to the existing junction between R763 and R764 and the provision of a new regional road & associated footpaths, cycle lanes, verges and new junctions serving the development and linking the existing R763 and R764 roads. Permission was granted subject to 23 no. conditions.

Condition no. 6 – refers to the sale of houses within the development, it is as follows;

6. (a) The first sale of 50% of the proposed houses shall be restricted to persons who have been resident and/or employed in County Wicklow for at least one year.

(b) The details of the houses which are to be sold with the restriction under (a) above shall be submitted to the planning authority.

(c) Confirmation from a solicitor with professional indemnity insurance that the dwellings have been sold in accordance with this condition shall be submitted to the planning authority upon sale of the dwellings.

Reason: To ensure that dwellings are suitably restricted to meet local growth needs as opposed to regional needs, to ensure the development meets with the requirements of the Regional Planning Guidelines and the County Development Plan with respect to development in the Hinterland areas, in the interests of the proper planning and sustainable development of the area.

## 5.0 Policy Context

### 5.1. Ashford Town Plan 2016-2022

The site is zoned Objective R20 – Residential

#### **SLO 3: Ballinahinch**

SLO 3 lands measure c. 8.5ha, are generally located to the north of regional road R763 as shown on Figure 1.6 below and are zoned for residential development. The development of these lands shall include the provision of a through road from the R763 to the R764 and improvements to the width and alignment of the R763 along the site frontage. No more than 50% of the site may be developed in advance of the completion of this road.

#### **Level 5 Town Plans**

Ashford is a Level 5 settlement

#### **Population and Housing Objectives**

- To adhere to the objectives of the Wicklow County Development Plan in regard to population and housing as are applicable to Level 5 towns
- Notwithstanding the zoning of land for residential purposes, the Planning Authority shall monitor and implement the population targets as set out in the County Development Plan and shall phase and restrict, where necessary, the granting of residential planning permissions to ensure these targets are not exceeded.
- Housing occupancy controls: As ‘small growth towns’, these settlements should provide for the housing demands generated from people from across the County and region. As such, there should be no restriction on the occupancy of housing within these settlements.

### 5.2. Wicklow County Development Plan 2016 – 2022

5.2.1. Chapter 3 – refers to Settlement Strategy

5.2.2. Level 5 – Small Growth Towns

Settlements: Ashford, Aughrim, Baltinglass, Carnew, Dunlavin, Enniskerry, Kilcoole, Rathdrum, Tinahely

#### Housing Occupancy Controls

As a 'growth town', the settlement should provide urban housing from people from across the County and region. As such, there shall be no restriction on the occupancy of housing within the settlement.

5.2.3. Appendix 1 – refers to Development Design Standards

### 5.3. Natural Heritage Designations

5.3.1. The closest Natura 2000 sites are;

- The Murrough Wetlands SAC Site Code (002249) is located 2.9km to the east.
- The Murrough SPA Site Code (004186) is located 3.1km to the east.

### 5.4. EIA Screening

5.4.1. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A third party appeal has been submitted by Matthew Weiss and Others. The issues raised concern the following;

- The appellants object to the omission of condition no. 6 of PL27.246799 (PRR 15/526). They submit that there has been no change of external



circumstances since the decision was made by the Board to grant permission for the scheme under PL27.246799 (PRR 15/526).

- The appellants note that their contentions in relation to the scheme proposed under PL27.246799 (PRR 15/526) were supported by the Board's Inspector in their assessment of the appeal case. Under that appeal the appellants argued that there was no requirement for the housing where there was no public transport. The permission granted by the Board included condition no. 6 which specified that 50% of the proposed houses be sold to residents or those employed in Co. Wicklow for at least a year to ensure that dwellings are suitably restricted to meet local growth needs as opposed to regional needs.
- The appellants consider this is an essential condition and they strongly object to any relaxation of the condition.
- The appellants also object to the revised proposals to the design of the permitted crèche. The proposed 9.3m high crèche building, would be three-storey. It would be the highest structure in Ashford and as such would set a precedent in the village.
- They request that the maximum height of the crèche building at 7.8m be maintained.

## 6.2. Applicant Response

A response to the third party appeal has been submitted by Tom Phillips Associates on behalf of the applicant, Ardstone Homes Limited. The main issues raised are as follows;

- In relation to condition no. 6 of PL27.246677 and PRR 15/524 the first party note that the condition was attached on foot of objective UD6 of Wicklow County Development Plan 2010 – 2016 which restricted the scale of 50% of new houses in level 5 settlements to persons living and/or working in Co. Wicklow for at least one year.

- The first party note that a revised policy context now exists. Under the provisions of Wicklow County Development Plan 2016 – 2022, Ashford is designated as a level 5 settlement in the settlement strategy for the county.
- The plan confirms that *“as a ‘growth town’, the settlement should provide urban housing from people from across the county and region.”* The plan confirms that *‘there shall be no restrictions on the occupancy of housing within the settlement.’*
- The appellants submit that *“no change of external circumstances have happened since our original appeal (PI27.246799) and the conditions set by An Bord Pleanála then rest in the same environment as now, and arguments then and now are the same.”*
- The first party submit to the Board that the policy context which pertains to the subject site has change since the parent application was granted permission because a revised development plan has now been adopted at the local level.
- The current Wicklow County Development Plan 2016 – 2022 removes the occupancy restriction for new housing in level 5 settlements, including Ashford. The revised policy context forms the basis for seeking permission for the removal of condition no. 6 from the parent permission.
- The appellant’s concerns in relation to the parent permission are noted however it is submitted that these are not relevant in the current context.
- In relation to proposed revisions to the crèche the appellants submit that they *“object to the height of the buildings in our submission to Wicklow Co. Council and An Bord Pleanála in the original objections and we were accommodated by the removal of all three storey buildings and strategically placing single storey buildings near neighbours. A 9.3m building is a three storey building and would be the highest structure in Ashford and set a precedence in the village.”*
- The appellants state that *“the total height of c 7.8m must be maintained and no relaxation of this maximum height is allowed.”* It is submitted to the Board that the appellant’s assertions in respect of the proposed alterations to the permitted crèche that it would create a precedence for all future development

and that it would cause many future planning difficulties in the village of Ashford are unreasonable.

- The proposed development comprises minor amendments to the permitted crèche facility. The amendments are required due to the operational requirements of the identified crèche operator.
- There is an increase in the overall building height from c.7.8m as permitted to c.9.3m as proposed, this height increase relates to the building core only. The need has arisen due to the requirement to accommodate additional plant within the roof space.
- The Board should note that this minor increase in height reflects the height of the permitted housing units which neighbour the crèche building to the south as indicated on Drawing No. A-042-PL-C-07: Permitted and Proposed Contiguous Elevations 1 and 2.
- The assessment of the Wicklow Co. Council Planning Officer is also noted in respect of the subject revisions to the crèche building, that the revised height of the crèche ties in with the height of some of the permitted dwellings in the overall development and that the proposal would not result in overlooking into the neighbouring property. The Planning Officer concluded that the proposed amendments to the crèche structure were acceptable.
- The first party submit the appellant's concerns regarding the amended building height are unfounded in this instance. Furthermore, they submit that it will not set a precedent for increased building heights in Ashford.
- It is submitted that the proposed development would be in accordance with the proper planning and sustainable development of the area. The first party request that the Board uphold the decision of the Planning Authority and grant permission.

### **6.3. Planning Authority Response**

- None received

## 7.0 Assessment

- Policy context and condition no. 6 of PL27.246799 (PRR15/524)
- Proposed revisions to crèche
- Appropriate Assessment

### 7.1. Policy context and condition no. 6 of PL27.246799 (PRR 15/524)

7.1.1. Under ABP ref PL27.246799 (PRR 15/524) permission was granted for a residential scheme comprising 169 no. houses, a creche and the realignment of the section of the R763 through the site.

7.1.2. The applicant is seeking the omission of condition 6 of ABP Ref PL27.246799 which refers to an occupancy restriction regarding to the residential component of the permitted development.

7.1.3. Condition no. 6 – refers to the sale of houses within the development, it is as follows;

*6. (a) The first sale of 50% of the proposed houses shall be restricted to persons who have been resident and/or employed in County Wicklow for at least one year.*

*(b) The details of the houses which are to be sold with the restriction under (a) above shall be submitted to the planning authority.*

*(c) Confirmation from a solicitor with professional indemnity insurance that the dwellings have been sold in accordance with this condition shall be submitted to the planning authority upon sale of the dwellings.*

*Reason: To ensure that dwellings are suitably restricted to meet local growth needs as opposed to regional needs, to ensure the development meets with the requirements of the Regional Planning Guidelines and the County Development Plan with respect to development in the Hinterland areas, in the interests of the proper planning and sustainable development of the area*

7.1.4. The third party appellants state that they strongly object to any relaxation of the condition. They submit that that there has been no change of external circumstances since the decision was made by the Board to grant permission for the scheme under PL27.246799 (PRR 15/526). In response to the matter the first party

submitted that a change of circumstance has in occurred in respect of settlement policy in the current Wicklow County Development Plan 2016 – 2022. Under the provisions of the previous Development Plan (Wicklow County Development Plan 2010 – 2016) Ashford was designated as a Level 5 - Small Growth Town. Objective UD6 of the 2010 – 2016 Development Plan referred to settlements in Level 5 and in relation to new multi-house development specified that a minimum of 50% of new houses shall be sold to persons that have been living and/or working in County Wicklow for at least 1 year. The Board in the grant of permission under PL27.246799 (PRR 15/526) adhered to the policy context at the time decision was made in respect of residential development within a Level 5 settlement in Co. Wicklow and attached condition no. 6 to ensure that the provisions of objective UD6 were adhere to.

- 7.1.5. The first party set out that in the interim the policy context in respect of residential development within a Level 5 settlement in Co. Wicklow has changed with the adoption of the current Wicklow County Development Plan 2016 – 2022. Ashford is designated a level 5 settlement under the provisions of the current Development plan, however the occupancy restriction for new housing in level 5 settlements has been removed.
- 7.1.6. As set out in the Section of the Development Plan which refers to Level 5 Town Plans Ashford is a Level 5 settlement. Section 1.2 refers to Population and Housing and the Population and Housing Objectives are set out on page 5. Specifically, in relation to housing occupancy, the relevant objective is as follows;
- *Housing occupancy controls: As ‘small growth towns’, these settlements should provide for the housing demands generated from people from across the County and region. As such, there should be no restriction on the occupancy of housing within these settlements.*
- 7.1.7. Therefore, having regard to the provisions of this Section of the Wicklow County Development Plan 2016 – 2022 in respect of housing occupancy within Level 5 Towns which includes Ashford, I would concur with the assessment of the Planning Authority that it is appropriate to remove this occupancy condition. In conclusion, I would recommended that condition no. 6 of PL 27.246799 (PRR 15/524) be omitted.

## 7.2. Proposed revisions to crèche

- 7.2.1. Under ABP ref PL27.246799 (PRR 15/524) permission was granted for a 496sq m two-storey crèche. The maximum height of the building granted is 7.8m. The current proposal entails the increase in the floor area of the crèche from 496sq m to 515sq m. As set out in the documents submitted with the application the childcare service provider Safari Childcare requested that the layout of the crèche be modified to suit their model. The proposed further 19sq m of floor space is required to accommodate an additional 20 childcare spaces. This proposed additional floor area represents a minor increase from the area previous permitted, on that basis I would consider the proposal acceptable.
- 7.2.2. In relation to the proposed revision to the height of the crèche building the first party submit that amendments are required due to the operational requirements of the identified crèche operator. The proposed increase in the maximum height of the building from c.7.8m to c.9.3m is required to accommodate additional plant within the roof.
- 7.2.3. As indicated on Drawing No. A-042-PL-C-07: Permitted and Proposed Contiguous Elevations 1 and 2 the proposed roof level of the crèche building at 43.764 is the same as the adjacent dwellings to the south and marginally higher than the adjacent dwelling to the east. I also note that the proposed increase in height refers to the northern side of the building where the building core is located. This side of the building lies adjacent to the main road which serves the scheme. Therefore, the proposed higher section of the building would be located over 35m from the front of the closest dwellings to the south and circa 29m from the closest dwelling to the east. Having regard to the separation distance between the subject crèche and the closest dwellings and having regard to the comparable roof level of the surrounding dwellings, I am satisfied that the proposed increase in roof height would not have any undue overbearing impact.
- 7.2.4. In relation to the proposed elevational treatment I note that no new fenestration at second floor is proposed to the elevations which address the closest neighbouring properties. Therefore, there would be no undue overlooking arising from the proposed increase in the height of the building. The proposed revisions to the design of the building involve changes to location and design of some fenestration at

ground and first floor levels. Given that the crèche building does not directly address any rear gardens, I am satisfied that the proposed changes in window placement and design would not unduly impact upon the residential amenities of neighbouring properties.

- 7.2.5. I would concur with the assessment of the Planning Authority that the proposal represents minor amendments to the height and design of the permitted crèche building. Therefore, on that basis I would conclude the proposed amendments to the crèche building would be acceptable.

### **7.3. Appropriate Assessment**

- 7.3.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

## **8.0 Recommendation**

- 8.1. It is recommended that permission be granted.

## **9.0 Reasons and Considerations**

- 9.1.1. Having regard to the provisions of the Wicklow County Development Plan 2016-2022, specifically the Population and Housing Objectives in relation to Level 5 Settlements and the nature of the proposed development consisting of minor revisions to the height and design of the crèche building within an existing permitted scheme, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or the amenities of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.

- (1) The 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 development shall be carried out and completed out in accordance with the agreed particulars. In particular condition no. 6 of PL 27.246799 (PRR 15/524) shall be omitted.
- (2) The development shall be in comply with the conditions attached to the permission granted under, appeal reference number PL 27.246799 (PRR 15/524), except as amended in order to comply with the attached conditions.

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

2. 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 the 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.

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Siobhan Carroll  
Planning Inspector

18<sup>th</sup> of July 2019