

Inspector's Report ABP304492-19

Development Housing/Apartments

Location Fairfield Park, Greystones, County

Wicklow

Planning Authority Wicklow County Council

Planning Authority Reg. Ref. 18/925

Applicant(s) William Fenelon

Type of Application Permission

Planning Authority Decision Grant with Conditions

Type of Appeal Third Party

Appellant(s) 1. Tomas & Laura Peare & Others

2. Bernie Morris/Cyril Connolly

3. Rebecca Gill/Edward Melvin

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Observer(s) Neil and Grainne Murphy

Date of Site Inspection August 2019

Inspector Hugh Mannion

1.0 Introduction - Addendum Report

1.1. In my previous report dated of the 24th September 2019 I recommended refusal of permission in this case for the following reason;

The Board considers that the density of the proposed development is contrary to the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), issued to planning authorities under Section 28 of the Planning and Development Act. The site of the proposed development is on serviced land zoned for residential development within the development boundary of Greystones which is designated a Large Growth Town in in the settlement strategy for the County set out in the Wicklow County Development Plan. Having regard to the proximity of the site to the transport infrastructure and established social and community services in the immediate vicinity it is considered that the proposed development is not at a sufficiently high density. In addition, the proposed development does not have an adequate mix of dwelling types, being predominantly semi-detached and detached housing. It is considered that the low density proposed would be contrary to these aforementioned Ministerial Guidelines, which indicate that net densities less than 50 dwellings per hectare should generally be discouraged in the interests of land efficiency. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2.0 Board Direction

2.1. The Board decided on the 11th October 2019 to defer a decision and request the parties to comment on additional matters which the Board would take into account when considering the application, as follows;

The Board has concerns regarding the proposed density of the scheme, at approximately 25 units per hectare on a site of just over 2 hectares. It is considered that this density may not be sufficient to provide for an acceptable efficiency in the utilisation of serviced zoned residential land within the development boundary of Greystones which is designated as a large growth town in the settlement strategy set out in the Wicklow County Development

Plan 2016-2022, on a site which is proximate to public transport infrastructure, including bus services and mainline rail including DART, and to established social, community and commercial services. In this regard it is considered that the proposed development may be contrary to the provisions of the Section 28 Ministerial Guidelines, 'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities 2009, which indicate that increased densities should be encouraged on residentially zoned lands.

Noting the commentary within the Ministerial Guidelines that within infill locations, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings and the need to provide residential infill, the Board nevertheless considered that the size of the subject site, at just over two hectares, would enable a more appropriate density of development to be accommodated, while ensuring reasonable protection of existing amenity in the environs, through high quality design and layout.

In addition, the Board also considered that the proposed development does not have an adequate mix of dwelling types and size, being predominantly semi-detached and detached housing.

3.0 Applicant's Submission – Revised Plans.

- 3.1. On the 20th November 2019, the applicant submitted revised plans providing for the following.
 - Eighty-two units on the original site with two access points, 136 car parking spaces and a density of 41 units per hectare. The mix of units is;

4 bed houses	5
2 bed terraced houses	5
3 bed semidetached houses	4
2 bed duplex units	34
3 bed duplex units	34
Total	82

4.0 Further Submissions.

- 4.1. Anthony Marston (for Bernie Morris/Cyril Connolly) commented in relation to the Board's notice under section 137 that it would take additional matters into account that:
 - The original grounds of appeal in relation to inadequate access, loss of hedgerow and trees, overlooking and negative impact on residential enmity of adjoining property remain valid.
 - The scheme is poorly laid out irrespective of density. The density of housing to the west is 10 units/ha and 18 units/ha to the north. There is 56 units/ha on the Marina site to the east, but this is offset by public open space provision.
 - The application site is 1.2km to the DART station and 900m to the town centre. Consideration must be given to the amenity of adjoining development.
 Permission should be refused making clear that the appropriate density of 30-35 units/ha.
- 4.2. Tomas & Laura Peare & Others, in response to the Board's notice under section 137 stating that it would take additional matters into account, stated that consideration should be given to protection of boundaries and traffic congestion in the area when assessing the appropriate density on the site.
- 4.3. The Board circulated the applicants revised plans to the parties on the 13th December 2019. Further submissions were received as follows.
- 4.4. Anthony Marston (for Bernie Morris/Cyril Connolly) commented that;
 - Despite the applicant's redesign the original unsatisfactory site layout has been retained.
 - The public open space is poorly laid out and inadequate.
 - The Sustainable Residential Development Guidelines makes the point that higher density must be achieved through high quality design and layout.

- 4.5. Rebecca Gill/Edward Melvin commented that;
 - Blocks D and E because of height, orientation and proximity will negatively impact on 3A Arch Villas.
 - The amended housing units should have led to a change of layouts to minimise impact on the adjoining properties.
- 4.6. The applicant (McGill Planning received by the Board on 13th January 2020) responded to the third-party submissions as follows;
 - The original planning permission granted by Wicklow County Council included conditions 15 (a) and (b) in relation to boundaries which required that the boundaries be in accordance with Landscape Design Drawing No 00. Rev 2.
 Additionally, a 2m high wall was required to be constructed to the rear of houses 42 to 52. This condition is acceptable to the applicant.
 - The development has two access points onto the adjoining road network which are acceptable in terms of road safety.
 - The newly proposed density of 41 units/ha is not high density but is an appropriate density for this location.
 - National policy requires provision of 10% of the site as public open space.
 The proposed provision in this case is 16.93% with is set out in 4 lots accessible to the proposed houses.
 - Compliance with Part V obligations will not give rise to difficulty and the details may be agreed by condition with the planning authority.
- 4.7. The Board invited comments in relation to this submission by the applicant/ McGill Planning. Anthony Marston (for Bernie Morris/Cyril Connolly received by the Board on the 11th February 2020) commented that;
 - The layout and public open space provision remain unacceptable.
 - The application should be refused for reasons of poor design and layout.
 - The County Development (appendix A) requires 15% of sites be set aside for public open space. Applying the standard 3,104m² of public open space is required whereas the two main areas come to 2,643m² only.

- 4.8. The applicant published revised public notices of the amended proposals on 10th February 2020 and commented on the additional submission received from Anthony Marston (for Bernie Morris/Cyril Connolly) and Rebecca Gill/Edward Melvin as follows;
 - The public open space provision meets the Development Plan standard and is adequate.
 - The existing site boundaries will be retained where possible.
 - The windows on the southern elevation of Block D are fitted with frosted glass.
 - The minimum distance from a balcony in Block D to 3A Arch Villas is 28.5m,
 therefore, overlooking will not seriously injure the amenity of that house.
- 4.9. Rebecca Gill/Edward Melvin commented on the applicant's submission as follows;
 - Blocks D and E will unreasonably impact on 3A Arch Villas.
 - The applicant's measurements may be incorrect.
 - There will be a loss of light/overshadowing of the appellant's property from the proposed development.
 - Block D is dangerously close to the appellants' property boundary.
 - The boundary planting should be carried out along the entire perimeter.

4.10. Observations

- 4.11. On foot of the new notices following submission of revised plans observations were received from Niall and Grainne Murphy (Brady Shipman Martin) making the following points.
 - The applicant has not examined the additional traffic impact arising from the revised unit numbers.
 - The access/egress arrangements have not been reassessed in the light of the increased unit numbers.
 - Construction management traffic will unreasonably impact on residential amenity of property close to the lane.

 The applicant has erected a gate on the main access without planning permission.

5.0 **Assessment**

5.1. I refer the Board to my earlier report in this case. I will address the recent changes to planning policy guidance, revised plans under the headings of density, mix of unit types, housing/apartment standards, building heights/overlooking and traffic safety.

5.2. **Planning Policy**

- 5.3. Since my previous report the Eastern and Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 (RSES) has been adopted. The settlement hierarchy set out in chapter 4 is summarised in table 4.2. Dublin City is the first tier followed by regional growth centres including Drogheda, Athlone and Dundalk. The third tier has 11 centres, including Bray, Maynooth and Swords. The fourth tier are designated as 'self-sustaining growth towns' and the RSES leaves the designation of these towns to the relevant County Development Plan. As set out in my previous report Greystones is designated a 'large growth town' in the Country's settlement hierarchy set out in the current County Development Plan.
- 5.4. There is no indication on Wicklow County Council's website that the lifetime of the Greystones-Delgany and Kilcoole LAP 2013-2019 has been extended however it appears that there is no specific legislative provision terminating the lifetime of the LAP and therefore I conclude, having regard to the residential zoning of the site in the LAP, that a condition requiring compliance with Part V may be attached.

5.5. **Density.**

5.6. The Board, when it considered the original application had regard to the application site's location within the built up area of Greystones and its proximity to public transport infrastructure and community facilities and concluded that the proposed density of 25 units per ha was too low to reflect the requirements set out in the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities 2009. The Guidelines recommend minimum net densities of 50 units per ha in areas which are within easy access of public transport infrastructure (that is, 500m of a bus stop or 1km of a Dart station/tram stop). The proposed development

- is about 1.1 km walk from Greystones DART station. The appellant in response to the Board's request for comment under section 137 makes the point that the site is 1.2km from the DART station.
- 5.7. The amended development provides a density of 41 units per ha which does not meet the minimum net density of 50 units per ha set out in the guidelines. However, having regard to the pattern of low-density housing in the immediate area and the increased density achieved through the revised plans I consider that this density is acceptable.

5.8. Mix of Housing Types.

- 5.9. The Sustainable Urban Housing: Design Standards for New Apartments (2018) provides (SPPR 1) that 50% of units may be one-bed or studio units. The Wicklow County Development Plan (paragraph 4.3) in its housing strategy commits to pursuing a housing policy which meets the needs of a diverse range of household types and age groups.
- 5.10. The revised application provides a majority of 2 and 3 bed units as houses and duplex apartments which in the circumstances of the application site reflects the advice set out in the County Development Plan, does not materially undermine the national guidelines and is acceptable.

5.11. Housing/apartment standards.

- 5.12. Appendix 1 to the Apartment Guidelines (2018) sets out minimum floor areas and other standards for apartments.
- 5.13. Two bed units should have a minimum floor area of 63m² to 73m² while three bed apartments should be 90m². The two bed duplex units in the current case are 79m² while the three bed units are 122m². The other standards (kitchens/living rooms, bedrooms and private open space provision) are also met. Bicycle parking is also provided in accordance with 4.15 of the guidelines. The five 2 bed terraced houses and the five 4 bed houses provide adequate amenity for future residents.
- 5.14. I conclude that the proposed residential quality is acceptable.

- 5.15. Building Heights and Overlooking.
- 5.16. The Urban Development and Building Heights, Guidelines for Planning Authorities, 2018, make the point that higher density in appropriate locations (town and city centre sites and sites with access to public transport infrastructure and public services) are appropriate locations for higher buildings. The Guidelines envisage that 3 to 4 storeys be the minimum in suburban areas outside town and city centres.
- 5.17. The amended application in the present case provides two and three storey units. Having regard to the single and two storey context of the application site I conclude that this arrangement is acceptable.
- 5.18. It may be noted in relation to overlooking of adjoining development that block D has 2 kitchen/living room windows 675mm wide and a WC window 675mm wide on the first and second floors respectively on the southern elevation facing onto the houses in Arch Villas at a distance of about 20m. I conclude that these windows do not have the capacity to seriously injure the residential amenity of houses to the south by way of overlooking. Given the orientation of the application site north of the houses on Victoria Road and Arch Villas and the separation distances between the proposed buildings and those houses I conclude that the proposed development will not overshadow the houses to the south on Victoria Road and Arch Villas.
- 5.19. Block E is a three-storey duplex building where the south facing elevation is about 40m from the closes house accesses from Victoria Road. There are two first floor kitchen/living room windows and a second-floor bathroom window on the southern elevation of the block. Having regard to the small size of these windows and their separation from property on Victoria Road and Arch Villas I consider that they will not seriously injure the amenity of adjoining property by overlooking.
- 5.20. House number 1 has a first-floor landing window on its western elevation about 36m from the house due west of it on New Road. House number 7 has two small (650mm) first floor bathroom windows on its western elevation set back 21m distant from the closest point of the nearest house on New Road. House number 20 has first-floor landing window on its western elevation about 20m from two houses due west of it on New Road. Having regard to these separation distances and the nature of the window openings I conclude that these houses will not seriously injure the amenity of neighbouring property by reason of overlooking. Houses 2, 3, 4, 5, 6, and

- 7 all exceed the recommended 22m separation distances between opposing rear windows. Units 37, 38, 39, 40 and 41 are single storey houses which will not overlook adjoining property.
- 5.21. Having regard to the foregoing I conclude that the proposed development will not seriously injure the amenity of adjoining residential property by reasons of overlooking or overshadowing.

5.22. Public Open Space

- 5.23. The County Development Plan (section 6 Community Developments and Open Space in Volume 3 Appendix 1 to the CDP) requires that public open space be normally provided at a rate of 15% of the site area.
- 5.24. The appeal makes the point that the public open space is inadequate in quantity and quality. The applicant makes the case that 15% of the site equates to 3,104m² of public open space whereas the proposed provision is 3,393m². There is a large element of public open space in the south eastern corner (2,358m²) which is overlooked by block D and C and from the rear of houses in Arch Villas. I consider this is acceptable as the main open space area serving the proposed development. The remaining elements are reasonably distributed throughout the development, adequately overlooked from nearby houses to ensure security and will provide a reasonable level of amenity for future residents.
- 5.25. I conclude that the public open space provision meets the Development Plan standards and is adequate in terms of quality and quantity to serve the future need of the proposed development.

5.26. Traffic

- 5.27. The observer makes the point that the revised application should have been accompanied with additional assessments of the different construction phase and operational phase traffic impacts arising from the revised development.
- 5.28. The southern access will serve 5 houses and 8 duplex apartments in Block E with a total of 22 car spaces. The original layout provides for access to 10 houses with 20 car parking spaces over this southern laneway. I conclude that this modest increase in traffic is not material and will not endanger public safety.

- 5.29. The northern access originally served 43 units with 94 car spaces. The revised plans provide that this northern access will provide access to 69 units and 116 car parking spaces. The planning authority's roads and transport department originally sought a re-design of this access (see section 7.11 of my previous report on this subject) and the applicant provided a redesign. The planning authority was satisfied with the road safety aspects of the proposed development and granted a planning permission.
- 5.30. Two aspects of this matter may be distinguished (1) the access junction with the public road and (2) the general traffic loadings in the area.
- 5.31. In relation to the junction of the estate road with the public road applicant submitted a revised drawing to the planning authority in the course of the application showing the visibility splays at the junction of the estate road with the public road. The sightlines accord with the DMURS standards and were deemed acceptable by the planning authority. I conclude on this point that the additional traffic loading arising from the revisions lodged with the Board do not require a deviation from the DMURS standard which reflects road safety standards in the urban location and speed limit which applies at this junction. Therefore, I am satisfied that the proposed access will not endanger public safety by reason of traffic hazard.
- 5.32. On the second point it may be noted that the public road system adjoining the application site serves a wide area and a multiplicity of housing developments. The additional 30 units proposed on foot of the revised proposal submitted to the Board do not have the capacity to materially affect the overall traffic loading in the area and I conclude that the revised proposal therefore will not give rise to traffic hazard or traffic congestion.
- 5.33. Finally, I note the additional point made in relation to construction traffic and the impact on residential amenity. I attach a condition in the draft order below requiring the submission of a construction management plan which requires the applicant to agree a management plan for construction related traffic so as to minimize impacts on neighbouring uses.

5.34. **Boundary Treatment.**

5.35. I note the comments in the submissions to the Board on foot of the revised application in relation to boundary treatments. This matter has been addressed at section 7.24 of my earlier report. The landscape design drawings lodged with the

planning authority with the original application (see especially Landmark Designs Limited drawings 00 Rev 2 submitted on the 2nd April 2019) illustrate areas where there is existing hedgerow and where foundation for new boundary walls may impact on root systems to the detriment of such hedgerow. I attach a condition (condition 5) in the draft order below requiring the applicant to agree boundary treatments with the planning authority which would factor in specific on-site conditions thereby respecting existing hedgerows where they exist.

6.0 **Recommendation**

6.1. I recommend that permission be granted for the reasons and considerations subject the conditions set out below.

6.2. Reasons and Considerations

The Board had regard to;

- the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018,
- the Eastern Regional Assembly Regional Spatial & Economic Strategy 2019-2031 (RSES),
- the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013,
- the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018,
- the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009,
- the Urban Development and Building Heights, Guidelines for Planning Authorities, 2018,
- The settlement strategy set out in the Wicklow County Development Plan

- the nature, scale and design of the proposed development,
- the availability in the area of a wide range of social, community and transport infrastructure,
- the pattern of existing and permitted development in the area,
- the submissions and observations received in relation to the application and appeal.

The Board concluded that the proposed development, subject to the conditions set out below, would provide an appropriate form and density of development within the development boundary of Greystones, would not seriously injure the residential amenity of property in the area through overshadowing or overlooking, would not give rise to flooding within the site or in adjoining areas and would not endanger public safety by reason of traffic hazard or traffic congestion and would, otherwise accord with the proper planning and sustainable development of the area.

7.0 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 An Bord Pleanála on the 20th day of November 2019, 13th day of January 2020, and on the 11th day of February 2020 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 developer shall enter into water and/or wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed standards of the planning authority for such works.

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

- 5. (a) The existing boundary hedgerow shall be retained except to the extent that its removal is necessary to provide appropriate boundary treatments.
 - (b) Prior to commencement of development the applicant shall submit for the written agreement of the planning authority details of the location, materials, and external finishes of proposed site boundaries.

Reason: In the interest of visual amenity and residential amenity.

6. All rear gardens shall be bounded by block walls, 1.8 metres in height, capped, and rendered, on both sides, to the written satisfaction of the planning authority.

Reason: In the interests of residential and visual amenity.

7. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

9. 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. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

Reason: In the interests of urban legibility.

10. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

- 11. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
 - a) Location of the site and materials compound(s) including area(s identified for the storage of construction refuse;
 - b) Location of areas for construction site offices and staff facilities;
 - c) Details of site security fencing and hoardings;
 - d) Details of on-site car parking facilities for site workers during the course of construction;
 - e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
 - f) Measures to obviate queuing of construction traffic on the adjoining road network;
 - g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
 - i) Provision of parking for existing properties at [specify locations] during the construction period;
 - j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
 - k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained.
 Such bunds shall be roofed to exclude rainwater;
 - Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

12. 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.

13. 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 social and affordable housing in accordance with the requirements of section 96 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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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.

14. 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. 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Hugh Mannion Senior Planning Inspector

1st September 2020