



An
Bord
Pleanála

Inspector's Report ABP-312888-22

Development	Construction of 66 dwellings (Phase 2)
Location	Broomhall & Ballynerrin, Broomhall Court Road, Rathnew, Wicklow, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	211187
Applicant(s)	Glenveagh Homes Limited
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Thomas D McConnell Fachtna Whittle
Observer(s)	None
Date of Site Inspection	19 th August 2022
Inspector	Ian Boyle

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	5
3.0 Planning Authority Decision	7
3.1. Decision	7
3.2. Planning Authority Reports	8
3.3. Prescribed Bodies	11
3.4. Third Party Observations	12
4.0 Planning History.....	13
5.0 Policy Context.....	13
5.1. Wicklow - Rathnew Town Development Plan, 2013.....	13
5.2. Wicklow County Development Plan 2022 – 2028.....	14
5.3. National and Regional Policy	17
5.4. Natural Heritage Designations	18
5.5. EIA Screening	18
6.0 The Appeal	18
6.1. Grounds of Appeal	18
6.2. Applicant Response	20
7.0 Assessment.....	23
7.1. Density	23
7.2. Design, Layout, and Residential Amenity.....	25
7.3. Traffic and Access.....	29
7.4. Drainage	30
7.5. Environmental Impact Assessment	31

7.6. Other	33
7.7. Appropriate Assessment	35
8.0 Recommendation.....	40
9.0 Reasons and Considerations.....	40
10.0 Conditions	40

1.0 Site Location and Description

- 1.1. The subject site comprises mainly greenfield lands which are approximately 3.6ha in total. It is roughly 1.2km southeast of Rathnew village, 1.9km west of Wicklow town centre and 2km southeast of the M11 / R722 Interchange.
- 1.2. The site is largely covered with gorse, scrub and low-lying vegetation. There are also some sporadic patches of semi-mature woodland, mainly near the northern boundary of the overall land. The site is on a steep incline and the ground level rises sharply moving from north to south. Views of the surrounding area, including of the coast to the east, can be attained from near the top of the site towards its southern boundary.
- 1.3. There is evidence of partially completed construction works near the northwestern corner of the site, including what appears to be abandoned foundations and an area of hardstand. The areas of disturbed ground and ground works were undertaken as part of site preparation works for a construction project in the early - mid 2000's, but which were subsequently ceased. There is a gated entrance to the site in this area and wire mesh security fencing runs for a short distance along the northern and western boundaries of the site from this corner location.
- 1.4. The site lies in between two existing residential developments; which are Kirvin Hill (west) and Sea Scape (east). The northern boundary of the site is bounded by a Local Road (the L1098-60) and further north, beyond this, is another residential estate. The L1098-60 has pedestrian footpaths and cycling lanes on both sides and the road travels in a west - east direction before connecting with the Hawkstown Road (R751) roughly 600m to the east. The land to the south is identified as 'Strategic Land Bank'.
- 1.5. The Broomhall Road Roundabout is near the northwestern corner of the subject lands. There is an existing access road / Right-of-Way (RoW) leading off the roundabout running in a southerly direction. The RoW forms part of the western boundary of the site and leads uphill to a water tower, which lies just outside the red line boundary for the site near its southwestern corner.

- 1.6. The character of the surrounding area is suburban. The predominant land use is residential. The area is undergoing rapid change and many residential housing estates in the vicinity have been recently built and are nearly completion.

2.0 Proposed Development

- 2.1. The proposed development is for the construction of 66 no. residential units, comprising:
- 1 no. 3 bedroom bungalow,
 - 18 no. 2 bedroom 2 storey houses,
 - 44 no. 3 bedroom 2 storey houses,
 - 3 no. 1 bedroom apartments in 1 no. 3 storey building, and
 - ancillary site development works.
- 2.2. The Applicant has attempted to the address of issue of ground slope and challenging terrain though a detailed design and engineering solution involving a combination of cut and fill, deep earthworks and retaining walls. Vehicular access is proposed to be from the western side of the subject site via the existing Broomhall Road Roundabout, which itself is proposed to be upgraded in accordance with the relevant engineering and road safety standards.
- 2.3. The proposed development comprises 'Phase 2' of a two-phase approach planning application approach. A separate, concurrent appeal is currently before the Board for their consideration (ABP Ref. 312889-21 applies). This application is for the construction of 84 no. dwellings and is referred is to 'Phase 1' in the relevant planning documentation. It also includes a crèche.
- 2.4. Phase 1 (separate application / ABP-312889-22) mainly comprises the western and north-central parts of the subject lands. The western boundary of the site is flanked by a narrow access road and, on the far side of this, lies a residential estate called Kirvin Hill.
- 2.5. Phase 2 (subject application / ABP-312888-22) mainly comprises the eastern and south-central parts of the subject lands. The eastern boundary of the site adjoins the residential development known as Sea Scape.

- 2.6. The overall original proposed scheme (Phases 1 and 2) accounts for a total of 150 no. residential units. It also includes within the individual red line boundaries for each site the proposed means of vehicular access, internal road infrastructure, footpaths, car parking, landscaping works, and other components, which would allow each proposal to be implemented independently, if so required.
- 2.7. In terms of vehicular access, the existing RoW is proposed to be upgraded to function as a future link road and provide vehicular access to the overall scheme via three separate access points.
- 2.8. The proposed development is to be connected to the public mains for surface water disposal, water supply and foul sewer purposes.
- 2.9. The application was submitted to the Planning Authority on 1st October 2021.
- 2.10. The Planning Authority requested further information on 18th November 2021, including:
- concerns in relation to the height, design and location of the proposed three-storey apartment block in the northeastern corner of the site and confirmation as to whether the proposed communal amenity space is to serve these apartments (Item 1);
 - revised elevations and photomontages showing how the retaining walls and related structures (railings etc.) would integrate with the design of the proposed public open space, cross-sections showing how a suitable gradient can be achieved between driveways and private open space, and an engineering report showing details of the proposed excavation works and earthworks required (Item 2);
 - details of wayleaves and if it is necessary to alter or build upon same (Item 3);
 - provision of a Traffic and Transport Assessment (Item 4);
 - how the proposed access arrangements from the Broomhall Road and Broomhall Road Roundabout would operate together and with the adjoining road network (Item 5);

- an engineering report addressing the layout and design of the proposed development in terms of internal road layout (corner radii, turning bays, car parking spaces) (Item 6);
- information showing how internal footpaths would be useable for all pedestrians having regard to the slope and topography of the site (Item 7); and
- a proposal for covered cycle parking spaces (Item 8).

2.11. The Applicant provided further information in December 2021.

2.12. The overall scheme design was revised during further information so that the proposed apartment block (triplex unit) comprising three units was replaced with 2 no. 2-storey houses (northeastern corner of the overall lands) (Phase 2) and the crèche was relocated from the north of the site to near the new access road, close to the Broomhall Road Roundabout (Phase 1). The original proposed location for the crèche was replaced with houses ensuring passive surveillance of open space in this area. [There was no change to the number of residential units proposed under Phase 2.]

2.13. The further information was deemed significant and therefore required to be readvertised by the Applicant. Two submissions were received by the Planning Authority. [The submissions reiterated the concerns raised in the original third party observations lodged with the application to the Planning Authority (see Section 3.4 below).]

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority issued a Notification of Decision to Grant Permission (NoD) on 2nd February 2022, subject to 24 no. conditions, which are mainly standard in nature.

3.1.2. Notable conditions include:

- Construction and Environmental Management Plan (Condition 7a)

- Hours of site development and building works (Condition 7c)
- Phasing programme for construction works (Condition 8)
- No dwelling to be occupied until the upgrade works to the existing Broomhall Junction Roundabout are completed, and that no more than 50% of the housing units to be occupied until sufficient childcare spaces are available to serve the development (Condition 9a and b, respectively)
- Road Safety Audit Stage 2 and 3 (Condition 11)
- Construction details of all retaining walls to comply with the requirements of the Road Authority and to be carried out under the supervision of a suitable and qualified Engineer (Condition 12)
- Materials and finishes (Condition 17)
- Public open space, landscaping and planting details (Condition 19)
- Excavation works to be supervised by a competent archaeologist (Condition 23)

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The density of the proposed development (30uph) is considered acceptable in this instance having regard to the constraints that apply in terms of levels and topography and prevailing pattern of development in the area.
- The housing mix provides an adequate variety in house type and size. The provision of a limited number of apartments is acceptable (i.e. 1 block of 3 no. apartments). The 3-storey apartment block omitted at further information and its replacement with 2 no. 2 storey houses is considered acceptable.
- The proposed development would not have a significant impact upon the visual amenities of the area. The site is greenfield and within an established built environment. The proposal would read as part of the existing urban area.
- The proposed layout has been influenced by the topography of the site and incorporates extensive excavation and high retaining walls and structures

across the site. While this is not the most desirable solution, it is considered acceptable, and it is noted that the Council's Roads Section is satisfied with the levels and proposed method of containment for the roads.

- The proposed private and public open space is acceptable. The public open space is well distributed through the development, adequately overlooked and has active and passive recreational areas.
- The Traffic and Transport Assessment (TTA) confirms there is adequate capacity to accommodate both phases of the proposed development on the existing road network.
- The Engineering Report submitted as further information shows how the proposed access arrangements from the Broomhall Road and Broomhall Road Roundabout would operate together and with the local road network. The proposal is acceptable, subject to condition requiring final details of the road construction and make-up.
- The details regarding the layout and design of the proposal in terms of internal road layout, including corner radii, turning bays, car parking spaces, etc., are acceptable.
- The proposal for surface water drainage has been assessed by the Council's Water Services section and is acceptable. Finer design details to be agreed in advance of works.
- The footpath layout is in accordance with DMURS, which states that in hilly terrain, steeper gradients may be required but that regard must be had that most wheelchair users can negotiate 8.3% over limited to shorter distances. The Development Plan states that new housing shall not exceed a gradient of 1:10. The proposal is for most footpaths to have a maximum slope of 1:20, which is acceptable. The details of the uncontrolled pedestrian crossing opposite Units 22 and 23 can be conditioned.
- The proposed bicycle stores at convenient locations at the front of the terraced units are noted and acceptable (shown on the revised site layout drawing).

- The submitted Archaeological Assessment and Ecological Impact Statement indicate that there are no significant issues arising in this regard. The contents outlined in each report are noted and considered reasonable.

3.2.2. Other Technical Reports

Roads

Report dated 7th October 2021 – requested further information

- The topography of the site is difficult. However, the internal footpath proposals must be useable for all pedestrians. The steps proposed would preclude some pedestrians from using footpaths.
- The proposed excavations on the link road should not interfere / extend outside with the red line boundary.
- Details required for the proposed earthworks in terms of vehicle containment measures, retaining walls, fencing, etc.
- Details requires for proposed layout and design in terms of internal road layout, corner radii, turning bays and number of car parking spaces.
- A Traffic and Transport Assessment must be completed and submitted.
- A Road Safety Audit (Stages 2 and 3) is required.
- Some of the lighting columns shown in the Public Lighting Plan are located away from road edge and should be raised / or lowered so as to allow easy maintenance. The Plan should also be in accordance with the Council's public lighting guidelines.

Report dated 5th January 2022 – no objection, subject to conditions.

Housing

Report dated 2nd November 2021 – no objection

- Satisfied with location and spread of the proposed Part V (social housing) units.

Water and Environmental Services

Report dated 4th November 2021 – no objection

- Comment: The proposed upgrades to the hydro-brake manholes to allow for future flow should only take place after the development is completed.

Email dated 17th January 2022 – no objection

- Confirmed no objection or request for further information and refers to the requirements of the previous Irish Water report (dated 1st November 2021).

District Engineer

Email dated 19th January 2022 – no objection

- Proposed road details abutting the L1098 (Local Road) and roundabout are acceptable.
- No mention of surface water drainage in the further information submitted. However, it is critical that SuDS or some onsite management of surface water runoff is included in the proposed development.

Fire Services:

Email dated 21st October 2021 – no objection, subject to standard conditions.

- Requires Fire Safety Certificate application to be submitted, adequate firefighting water supply, fire hydrants, and compliance with relevant technical guidance documentation.

3.3. Prescribed Bodies

Irish Water

Report dated 1st November 2021 – no objection

- No objection subject to standard conditions regarding public water and wastewater network operated by Irish Water – i.e., the Applicant must sign a connection agreement with Irish Water prior to the commencement of the development, the Applicant is subject to the constraints of the Irish Water Capital investment Programme and they must adhere to the standards and conditions set out in the Irish Water Standards codes and practices.

3.4. Third Party Observations

The Planning Authority received four third party observations. The main issues raised are as follows:

- Questions the validity of the planning application and whether it complies with the relevant legislation
- Scale and density (one observation states it is excessive while another states it is too low and contrary to national planning policy)
- Apartments not appropriate for this area
- Design and layout inappropriate
- Traffic congestion, unresolved issues identified in Road Safety Audit, sightlines inadequate, no EV charging points
- Nuisance during the construction phase
- Shortfall in open space
- Lack of recreational facilities and services in the area
- Lack of public transport
- EIAR required
- Impact on biodiversity, including bats, loss of hedgerows and stone walls
- Concerns regarding ownership of land and the proposed connection to water and wastewater services
- Drainage and surface water management proposal is not feasible
- Disregard for wayleaves on the site
- Archaeological sites within 500m of the site have been disregarded
- Location of the proposed crèche is not appropriate

4.0 Planning History

Subject Site

Reg. Ref. 21/1119 (ABP Ref. 312889): The Planning Authority issued a notification of decision to grant permission for a residential development comprising 84 no. residential units, crèche and ancillary site works in February 2022. The Decision was appealed and is now before the Board for consideration.

This application represents Phase 1 of a two-phase planning application approach being employed by the Applicant to deliver a total of 150 no. units on the subject lands (see Section 2.0 above).

[Phase 2 is the subject appeal (ABP-312888-22).]

Reg. Ref. 09/1146: The Planning Authority issued a notification of decision to grant permission for amendments, including a change of house types, site boundary revisions, elevation changes, and modifications to attenuation tank (previously permitted under Reg. Ref. 06/6917) in February 2011.

Reg. Ref. 06/6917: The Planning Authority issued a notification of decision to grant permission for 152 no. dwellings, crèche, new distributor road, vehicular access, connection to foul and stormwater services, underground attention and ancillary site works in August 2007.

5.0 Policy Context

5.1. Wicklow - Rathnew Town Development Plan, 2013

Zoning

- The appeal site is zoned 'New Residential' where the objective is 'to provide for new residential development at densities up to 28 units per hectare'.
- The Development Plan description for this zoning is to allow for the provision of high quality new residential environments at a medium-high densities with good layout and design, with adequate public transport and cycle links and within walking distance of community facilities. Provide an appropriate mix of

house sizes, types and tenures in order to meet household needs and to promote balanced communities.

Development Boundary

The site is within the designated development boundary for Wicklow - Rathnew.

Public Right of Way

The narrow access road connected to the Broomhall Road Roundabout at the northwestern corner of the site has a public RoW.

The road forms part of the western side of the subject site and is shown as a green-shaded line on the Heritage Map of the Development Plan (2013-2019).

5.2. Wicklow County Development Plan 2022-2028

The Wicklow County Development Plan 2022-2028 ('County Development Plan') is in effect as of 23rd October 2022.

Chapter 4: Settlement Strategy

- Rathnew is a Level 2 Key Town under the Development Plan.
- These settlements are large economically active service and/or county towns that provide employment for their surrounding areas and with high-quality transport links and the capacity to act as growth drivers to complement the Regional Growth Centres.
- Key Towns are identified for growth rates of c. 35% having regard to their identification in the RSES as towns suitable for higher levels of growth.

CPO 4.2

To secure compact growth through the delivery of at least 30% of all new homes within the built-up footprint of existing settlements by prioritising development on infill, brownfield and regeneration sites and redeveloping underutilised land in preference to greenfield sites.

CPO 4.6

To require new housing development to locate on designated housing land within the boundaries of settlements, in accordance with the development policies for the settlement.

CPO 4.13

To require that the design, scale and layout of all new residential development is proportionate to the existing settlement, respects the character, strengthens identity and creates a strong sense of place.

Chapter 6: Housing

CPO 6.1

New housing development shall be required to locate on suitably zoned or designated land in settlements and will only be considered in the open countryside when it is for the provision of a rural dwelling for those with a demonstrable housing social or economic need to live in the open countryside.

CPO 6.3

New housing development shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.

CPO 6.5

To require that new development be of the highest quality design and layout and contributes to the development of a coherent urban form and attractive built environment in accordance with the following key principles of urban design:

- *Strengthening the character and urban fabric of the area;*
- *Reinforcing local identity and sense of place;*
- *Optimise the opportunities afforded by the historical and natural assets of a site / area;*
- *Providing a coherent, legible and permeable urban structure;*
- *Promoting an efficient use of land;*

- *Improving and enhancing the public realm;*
- *Conserving and respecting local heritage;*
- *Providing ease of movement and resolving conflict between pedestrians/cyclists and traffic;*
- *Promoting accessibility for all; and*
- *Cognisance of the impact on climate change and the reduction targets for carbon emissions set out by the Government.*

CPO 6.7

The design and layout of new residential and mixed-use development shall deliver highly permeable, well connected streets which facilitate active street frontage in accordance with best practice set out in the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (DEHLG May 2009) and the Design Manual Urban Roads and Streets (DTTS & DECLG 2013)

CPO 6.16

To encourage and facilitate high quality well-designed infill and brownfield development that is sensitive to context, enables consolidation of the built environment and enhances the streetscape. Where necessary, performance criteria should be prioritised provided that the layout achieves well designed high quality outcomes and public safety is not compromised and the environment is suitably protected.

Section 6.3.2 of the County Development Plan is in relation to ‘**Location of New Residential Development**’. It states that in accordance with the NPF, RSES and the Core / Settlement strategies set out in Chapters 3 and 4 of this plan, new housing development shall be generally required to locate on suitably zoned / designated land in towns and villages. The priority for new residential development shall be in the designated town / village / neighbourhood centres, in the ‘primary zone’ or in the historic centre of large and small villages, through densification of the existing built up area, re-use of derelict or brownfield sites, infill and backland development. In doing so, particular cognisance must be taken of the need to respect the existing built fabric and residential amenities enjoyed by existing residents and maintaining existing parks and other open areas within settlements.

Section 6.3.5 of the County Development Plan is in relation to ‘**Higher Densities**’. It states that higher densities are encouraged to achieve an efficient use of land and create compact, vibrant and attractive settlements. The capacity of a site to absorb higher densities is influenced by a range of factors including the local setting, development context, neighbouring uses, access, topography etc. The preparation of a design statement, including a detailed contextual and site analysis, will help determine a site’s capacity and the appropriate density. The potential of brownfield sites to consolidate the built form and deliver higher densities should be capitalised subject to protecting existing amenities and achieving high quality standards for future occupants.

Volume 3, Appendix 1: Development and Design Standards

- The County Development Plan, under ‘Volume 3 - Appendix 1 – Development Design Standards’, sets out the requirements with respect to development and design standards. It sets out the principal factors that should be considered in the design of new development, including residential development.

5.3. National and Regional Policy

- *Sustainable Urban Housing: Design Standards for New Apartments, 2022* (*‘Apartment Guidelines’*)
- *Residential Densities in Towns and Villages* (*‘Circular Letter NRUP 02/2021’*)
- *Design Manual for Urban Roads and Streets, 2019* (*‘DMURS’*)
- *Project Ireland 2040: National Planning Framework, 2018*
- *Urban Development and Building Heights Guidelines for Planning Authorities, 2018*
- *BRE Guide: Site Layout Planning for Sunlight and Daylight, 2011*
- *Architectural Heritage Guidelines for Planning Authorities, DAHG (2011)*
- *Urban Design Manual: A Best Practice Guide, 2009*
- *Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, 2009*

- *Quality Housing for Sustainable Communities – Best Practice Guidelines, 2007*
- *Childcare Facilities: Guidelines for Planning Authorities, 2001*
- *Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 ('RSES')*

5.4. **Natural Heritage Designations**

The site is not located within, or adjacent, any European site.

The nearest European Site is the Murrough Wetlands SAC (Site Code: 002249), which is approximately 1km to the northeast.

The Murrough SPA (Site Code: 004186) is also roughly 1km to the east.

Wicklow Head SPA (Site Code: 004127) is roughly 3.4km to the southeast.

The Murrough pNHA (Site Code: 000730) is also roughly 1km to the east.

5.5. **EIA Screening**

See Section 7.5 below.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The main grounds of appeal are as follows:

Procedural and Legal Issues

- The overall proposal (both Phases 1 and 2) is for more than 100 residential units. Therefore, it should have been submitted as a single SHD application to be consistent with the Planning and Development Regulations, 2001 (as amended).
- There are wayleaves in place throughout the site. It is an offence to commence any construction works until the requisite agreements are in place.

Design and Layout

- The proposed residential density is too low and not in accordance with local or national planning policy.
- Multiple water assets traversing the lands have not been considered as part of the proposed design and the development is premature pending full agreement from Irish Water.
- The drawings submitted do not indicate the compliant areas of public open space. Most of the green areas are sloped embankments and are not suitable for use as open space.
- Concerns raised regarding access for people with disabilities as the majority of paths, gardens and driveways appear to exceed the maximum permissible gradients specified by the Building Regulations.
- The proposed design does not relate to the site topography. The proposed development is generic and reliant on large amounts of cut and fill, high retaining walls and large concrete retaining structures throughout the site.
- Proposed Units 21 – 31 and retaining infrastructure fronting onto the main road would be overbearing.
- Proposed housing situated on the upper-level slopes would have views over and into adjoining properties resulting in privacy issues.

Crèche

- The location of the proposed crèche, which is part of a separate application, is poorly chosen and would be difficult to access as it is situated at the top of the hill.
- The proposed crèche and housing units at the top of the site / steepest part of the hill would be visually obtrusive and visible for miles around.

Traffic and Access

- There is significant cut and fill required to access the units and crèche (separate application). This would remove access to the existing water tanks and adjoining upper lands.

- Traffic congestion problems will be made worse. The ‘Old Spine Road’ between Broomhall Roundabout and the Rocky Road (south) should be upgraded first to cater for additional traffic volumes; and before any new housing development is permitted in the area.
- There is a lack of public transport and local facilities in the area.

Drainage and Surface Water Disposal

- The proposed method of drainage and surface water disposal for the scheme has not been demonstrated as feasible. The proposed onsite attenuation seems implausible given the amount of cut required.

Other Issues

- The potential clearance of trees, hedgerows and vegetation should take place only between 1st March and 31st August to protect bird species and bird breeding habitats.
- Allowing building works until 1900 on a Saturday, as per the Council’s NoD to grant permission, is contrary to safeguarding the amenities of property in the vicinity and not in accordance with previous Board Decisions.
- An Ecological Impact Assessment should have been submitted with the application.

6.2. Applicant Response

The Applicant lodged an Appeal Response on 29th March 2022, which includes the following main points:

- Trees and hedgerows: There are limited trees and hedgerows on the subject lands and there is a comprehensive tree planting programme and landscaping strategy proposed. Any tree/hedgerow removal will be outside the bird breeding season.
- Wayleaves: The Applicant is aware of their statutory obligations regarding wayleaves, which have been marked these accordingly on the application drawings. The wayleaves are being relocated in agreement with Irish Water

(IW) and in accordance with Condition 15 of the Council's NoD to grant permission.

- Working Hours: Condition 7(c) sets out the of hours for site development and building works, which is reasonable considering the context of the site and that there are no immediate neighbouring properties.
- Traffic and Pedestrian Safety: A Road Safety Audit (1+2) and Traffic and Transport Assessment (TTA) was submitted as further information and the Planning Authority accepted that the proposed development can be accommodated on the road network without any safety or junction capacity issues arising. The Appellant submits no evidence to the contrary. The delivery of the Old Spine Road is outside the control of the Applicant and was required as part of a previous and much larger residential scheme.
- Development Design Standards: The layout and design of the proposed development, amended by way of further information, would ensure a high-quality living environment and is in accordance with the relevant development management standards.
- Building Height, Privacy and Open Space: The proposal is for mainly two and three storeys, which is acceptable at this location. The 3-storey apartments are in the northern part of the site on land of lower levels. There are adequate rear garden depths and public open space is usable and comprises 15.6% of the total site area.
- Strategic Housing Development: There is nothing to prevent the Applicant from taking a phased approach and choosing to not submit the proposal via the SHD application route. Planning legislation allows for this.
- Ecological Impact Assessment / Environmental Impact Assessment: The application included an Ecological Impact Assessment (EcIA) which states there will be no significant impacts on the environment. The development is sub-threshold for the purposes of EIA and was subject to EIA Screening by the Planning Authority, which concluded no EIA was required.

- Public Transport: The nearest bus stop is 1.2km from the site and not over 2km as claimed by the Appellant. It provides several bus services, including to Dublin city centre and Dublin Airport. Wicklow Train Station is approx. 2.6km.
- Density: The subject lands are an outer suburban site at the edge of a large town (Wicklow). As such, a density of 30.6uph net is permissible under the SRD Guidelines and therefore supported by LG Circular 02/2021 and the County Development Plan.
- Gardens and Driveways: There are 3 no. character areas within the overall proposed scheme and access is in accordance with the Building Regulations.
- Local Facilities: Wicklow is a Key Town and provides a wide range of amenities and facilities. The Appellant has not provided any evidence showing how local facilities are at a maximum.
- Site Topography: The design of the proposed scheme underwent a series of studies to minimise the amount of cut and fill and retaining structures.
- The Spine Road / Adjoining Lands: The application is accompanied by a Landscape and Visual Impact Assessment (LVIA) which notes that potential for visual impact would be slight to neutral. The previously approved Spine Road was in relation to a 448 no. unit scheme (permission since expired).
- Crèche: The crèche was relocated as part of further information from the cul-de-sac area near the top (south) part of the site to near Broomhall Roundabout (northwest corner). The previous crèche location now comprises houses instead which ensure passive surveillance of public open space.
- Drainage: The proposed development has been designed to incorporate SuDS measures to help address stormwater management. Adequate details have been provided as part of the application and in the accompanying Services Report. Surface water runoff will be attenuated using a Hydrobrake.

7.0 Assessment

The main planning considerations are:

- Density
- Design, Layout, and Residential Amenity
- Traffic and Access
- Drainage and Services
- Environmental Impact Assessment
- Other
- Appropriate Assessment

7.1. Density

- 7.1.1. The subject application, which is Phase 2 of an overall proposed scheme, comprises 65 no. residential units, site access points, internal roads, car parking and open space. The proposed density is approximately 31 units per ha (uph) based on a net developable area of 2.1ha (for the phase 2 lands). [The net density for the overall proposed scheme, i.e., Phase 1 and 2, equates to approx. 30uph.]
- 7.1.2. 'Wicklow - Rathnew' is identified as a 'Level 2 - Key Town' in the Wicklow County Development Plan 2022-2028 ('County Development Plan'). Key Towns are identified in the Settlement Strategy for growth rates of c. 35% having regard to their identification in the RSES as towns 'suitable for higher levels of growth'.
- 7.1.3. I note that the site is zoned 'New Residential' under the Wicklow - Rathnew Town Development Plan 2013, where the objective is to provide for new residential development at densities up to 28 units per hectare. The description for this zoning is to allow for the provision of high quality new residential environments at medium to high densities with good layout and design, with adequate public transport and cycle links and within walking distance of community facilities. It is also to provide an appropriate mix of house sizes, types, and tenures to meet household needs and to promote balanced communities. The principle of a residential housing development

on the subject site is therefore considered acceptable, in my view, subject to meeting the relevant local and national policies and objectives.

- 7.1.4. In terms of its physical context, I note that the subject site lies between two existing residential developments called Kirvin Hill, which is to the west, and Sea Scape, which is directly east. To the north, on the far side of the L1098-60, is another residential estate. The general character of the surrounding area is therefore suburban housing, and the predominant land use is residential. There is no public transport within the immediate vicinity of the site. However, the surrounding road network has pedestrian footpaths and cycling lanes and Rathnew town centre is roughly 1.2km to the northwest. Wicklow Train Station is roughly 2.7km to the west, which is approximately a 30min walk or 8/10min cycle.
- 7.1.5. Having regard to this, I consider the site to be within an established residential area, which is located near the transition between the edge of centre and outer town area, as per the description set out in the 'Sustainable Residential Development Guidelines in Urban Areas for Planning Authorities (2009)'. The Guidelines states that the emphasis here is on achieving a successful transition from central areas to areas at the edge of a smaller town or village. I also note Local Government Circular 02/2021 which states that net densities ranging between 30-35 dwellings per ha may be regarded as acceptable in certain large town contexts and that net densities of less than 30 dwellings per ha, although generally discouraged, should not be precluded in large town locations.
- 7.1.6. The Circular states that large towns can be from 5,000 people up to the accepted city scale of 50,000 people and that given the very broad extent of this range and variety of urban situations in Ireland, it is necessary for An Bord Pleanála and Planning Authorities to exercise discretion in the application and assessment of residential density on the periphery of large towns. Accordingly, the full range of outer suburban densities, from a baseline figure of 30uph (net), may be considered.
- 7.1.7. The appeal site is at the edge of a large town ('Wicklow - Rathnew') and, as such, it is my opinion, particularly when considering the challenging topography and undulating terrain of the subject lands, that a proposed density of approximately 31 uph is acceptable in this context. I consider the principle of residential development and consolidation of this existing zoned and serviced area consistent with the

principles set out in national and local policy regarding urban consolidation and densification. It is also in accordance with Policy CPO 4.6 of the County Development Plan, which requires new housing development to locate on designated land within the boundaries of settlements, and CPO 6.1 which requires new housing development to be located on suitably zoned and designated land within existing settlements.

- 7.1.8. In summary, and in view of the site's location between edge of centre and outer town area, and the prevailing pattern of traditional suburban residential development surrounding it, I conclude that the density, as proposed, is acceptable in this instance.

7.2. Design, Layout, and Residential Amenity

- 7.2.1. The proposed development mainly comprises 2-storey terrace and semi-detached conventional style houses. The dwelling mix is predominantly for 2 and 3-bedroom dwellings and car parking is at surface level and a mixture of on and off-curtilage. This generally reflects the prevailing style of residential development in the surrounding area. I consider that the proposal has a layout that reflects a standard residential estate both in design and scale.
- 7.2.2. I acknowledge the third party observations in that the design and layout of the proposal has been heavily influenced by the topography, layout, and sloping nature of the lands. The proposal seeks to address this physical constraint through significant excavation works and to compensate for the change in site levels through an engineering solution involving constructing high retaining walls in certain locations, particularly across the middle of the site.
- 7.2.3. The presence of the retaining walls could potentially be visually jarring and discordant given they are of a significant scale and height. This type of heavy engineering solution is often discouraged for this reason. However, the Applicant has placed an emphasis on delivering a high-quality layout, design, and landscaping response to mitigate against such impacts which would help soften the appearance of these retaining structures. The landscaping proposed promotes the usability of public open space throughout the scheme and I note that each of the main spaces

are connected by various pedestrian linkages and corridors, which is positive, in my opinion.

- 7.2.4. The various retaining walls and components have been integrated into the overall design of the proposal in a sensitive and visually appealing way. In this regard, I have referred to the technical drawings and photomontages accompanying the application. I consider that the images are an accurate depiction of how the proposed development would appear as if constructed. However, it is important that the proposed landscape planting be well maintained, established and replenished, where necessary. In this regard, I note that Condition No. 19 of the Planning Authority's NoD requires planting on the retaining walls to be undertaken so as to allow for 'greening' to occur and that monitoring / replacement of plants will be required for at least three years post occupation of the final dwelling onsite, which is appropriate, in my opinion. Having regard to this, I do not consider that use of retaining walls in this way would be so visually incongruous that permission be refused and that the potential for visual impacts arising has been appropriately addressed.
- 7.2.5. Furthermore, and in relation to the general appearance, design, form and scale of the development proposed, I note the application is accompanied by a comprehensive Landscape and Visual Impact Assessment (LVIA). The LVIA shows that the potential for visual impact caused by the scheme would be slight to neutral only with no significant effects on the landscape character or quality of views. I would concur with this, noting that there are no particularly tall or elevated buildings proposed as part of the scheme. There is also an absence of any protected views or prospects involving the site, or its surrounding area, generally, and the receiving environment could not be considered as sensitive in this regard.
- 7.2.6. I note that the taller element of the overall scheme, i.e., the 3-storey apartment block, which was previously situated on the lower lying part of the site, to the, was part of the original application. However, this block was replaced with 2 no. 2-storey houses during further information to reduce height and massing and to address the Planning Authority's concerns regarding potential visual impact on the adjoining streetscape. The dwellings as now proposed would be viewed from the public road against a backdrop of similar style residential housing, thus, allowing them to assimilate into

the suburban landscape harmoniously and avoid being overly conspicuous or visually apparent.

- 7.2.7. In relation to the proposed childcare facility, I note that this is included in the Phase 1 Application for the scheme and, as such, is not part of this appeal case currently before the Board for consideration. However, as the two phases are interlinked, I consider it appropriate to address this issue as part of this report. The crèche was relocated from the northern part of the site to near the proposed access road (close to the Broomhall Road Roundabout) in the northwestern corner of the Phase 1 lands. This change allowed for a spacious turning area to be incorporated as part of the scheme and for improved vehicle manoeuvrability / ease of drop-offs. The concerns raised in relation to access to the crèche being difficult, or that it would be visually obtrusive for the surrounding area due to its location 'at the top of the hill', have also therefore been addressed, in my opinion.
- 7.2.8. I do not have any concerns in relation to proposed Units 21 - 31, where an issue has been raised by an Appellant that the retaining infrastructure fronting onto the main road in this location would present as overbearing. I note that these units are well setback from the road edge, approximately 15m at the nearest point, and that there is intervening surface car parking, a green verge and an internal access road situated in between. The units are not overly tall and adopt a standard housing type typology in terms of layout and general appearance.
- 7.2.9. I note that many of the public open space areas on the site are sloped and have a level difference of varying degrees. For example, the Central Public Space, which is at the centre of the overall proposed scheme has a level difference of approximately 9m from its highest point to its lowest. The proposal has sought to address this however, through including flattened sections and connecting steps, as well as pathways, to cater for people of varying mobility. Other areas, such as the Southwest Public Open Space do not have the same sloping nature or ground fall but still retain the same general high-spec and overall quality.
- 7.2.10. Each of the main public open space areas provide good opportunities for active and passive recreation, play and exercise, in my opinion, and are useable and well-distributed throughout the scheme. The resulting sloping nature of the open space would not be excessive and, therefore, consistent with the requirements of the

Development Plan. The spaces would be adequately overlooked by nearby houses and the Applicant has sought to screen the otherwise potentially domineering retaining walls in these areas through planting trees and shrubs, which is welcome. The overall proposed public open space accounts for approximately 15.6% of the overall site area. This meets the quantitative standard set out under the County Development Plan and I consider the open space areas as user friendly.

- 7.2.11. Whilst I acknowledge the concerns in that paths, gardens and driveways appear to exceed maximum permissible gradients, I note that the layout of the scheme is such that rear gardens have been specifically designed to perform as useable private open space and achieve the minimum depths required by the County Development Plan. Furthermore, the issue of compliance with detailed sections of the Building Regulations regarding construction standards is required to be evaluated under a separate legal code and this need not concern the Board for the purposes of this appeal.
- 7.2.12. Concerns have also been expressed by third parties that units situated on the upper slopes of the site would have downward views over and into adjoining properties, thus, causing privacy issues. Whilst I acknowledge that some units would be on higher ground than others, I do not consider that this would result in unacceptable levels of overlooking. The scheme is of not of an excessive density, or height, and the required separation distance of 22m for opposing windows above ground level between habitable rooms has been met (Section 3.1.3 of Appendix 1 of the County Development Plan refers).
- 7.2.13. In relation to wayleaves traversing sections of the site, I consider that the Applicant has addressed this issue satisfactorily through consultation with Irish Water. The standard procedure in relation to moving or altering the direction of such wayleaves can take place as part of future discussions outside the planning process. Nonetheless, I note that the Applicant has submitted a Diversion Application to IW and that an initial agreement appears to have been reached. The new location for the IW wayleaves is shown on Drwg. No. 2021-120-010110 'Wayleave – Layout' (excerpt on Page 9 of the Applicant Response) and it is clear to me that the Applicant is aware of their statutory obligations in this regard.

- 7.2.14. In relation to the Right-of-Way (RoW) shown in green on Drwg. No. 2021-120-010110, I note that this area will remain unimpeded on foot of the proposed scheme and no works are proposed in this location.

7.3. Traffic and Access

- 7.3.1. The application is accompanied by a Road Safety Audit (Stages 1 and 2) and DMURS Statement (Design Manual for Urban Roads and Streets). Condition 11 requires the preparation of a Road Safety Audit (Stages 2 and 3). A Traffic and Transport Assessment (TTA) was submitted as further information (prepared by NRB Consulting, dated December 2021). The TTA shows that the surrounding road network has adequate capacity to accommodate the overall proposed development for both Phases 1 and 2.
- 7.3.2. The DMURS Statement notes that the internal road and street network, and proposed new access points, have been designed to accommodate the movement of motor vehicles, but that a high priority has been placed on meeting the requirements of pedestrians and cyclists and to encourage sustainable modes of travel. This is evident in the provision of DMURS compliant pedestrian footpaths, crossing points, drop kerbs, cycle facilities, etc.
- 7.3.3. I note that the main entrance to the overall lands is via a new (fourth) arm off the Broomhall Road Roundabout. A link road connecting the roundabout to the site is proposed in accordance with the Planning Authority's requirements and the Roundabout upgraded to meet DMRUS standards. The proposed recommendations of the Road Safety Audit (RSA) are also expected to be fully complied with.
- 7.3.4. The TTA shows that the additional vehicular movements arising would not result in any significant changes to the prevailing residential environment or vicinity. It is clear from reviewing the information on file that the road network can accommodate the increased traffic volumes without giving rise to vehicular or pedestrian safety issues. In this regard, I refer again to the RSA which sets out several recommendations in terms of addressing and improving the interface between vehicles and pedestrians / cyclists.
- 7.3.5. The RSA has identified that the drawings submitted as part of the original application did not show how the water treatment plant access and private accesses along the

existing laneway (west of site) could be accessed safely from along the new Link Road. This issue was also raised by one of the Appellants. However, I note the RSA includes a specific recommendation to address this matter. It states that each new access point should include a detailed interface with the link road and be checked for visibility for both vehicles and vulnerable road users. I consider this acceptable and note that the Link Road would be able to safely continue to provide access to the water treatment plant (Drwg. 2021-120-010293 refers).

- 7.3.6. In relation to the delivery of the 'Old Spine Road' between the Broomhall Road Roundabout and the Rocky Road (south), I note that the future delivery of this route and lands zoned 'Strategic Land Bank' lie outside the control of the Applicant. The proposed development is not reliant on this road to accommodate the envisaged increased in traffic volumes, which, as noted above, are not considered likely to result in any significant intensification in traffic generation or congestion for the area.
- 7.3.7. I note also that this Spine Road was required to accommodate a previously permitted development and likely resultant traffic volumes. However, this proposal was significantly larger and comprised 448 no. residential units. There should be no such requirement for a comparable piece of road infrastructure to accommodate the overall subject proposal, which is considerably smaller (i.e., 149 no. residential units).
- 7.3.8. To conclude, I note the report completed by Roads Section of the Planning Authority (5th January 2022), which confirms they are satisfied with the traffic, transport and access arrangements provided as further information, including the information contained in the TTA, and that they have no objection to the proposal subject to conditions.

7.4. Drainage and Services

- 7.4.1. The proposed method of drainage and surface water disposal for the scheme has been demonstrated as feasible. I note that one of the Appellants submits that the onsite attenuation system seems implausible due to the amount of cut required from the site.
- 7.4.2. I have reviewed the Engineering Services Report on file and note that it is proposed to discharge surface water from the site to an existing connection at Burkeen

(residential estate), which forms part of the public system. The information is shown on Drwg. No. 2021-101-010311 ('Surface Water & Foul Sewer Layout').

- 7.4.3. The overall proposed scheme also includes various SuDS measures to assist with stormwater management and this would help with reducing stormwater runoff. The proposal seeks to upgrade the existing hydro-brake manholes to accommodate future flows and this is acceptable to the Council's Water & Environmental Services Section
- 7.4.4. Furthermore, I note that a report provided by Irish Water (dated 1st November 2021) confirms that there is adequate capacity within the network for water and wastewater generated by the scheme. IW have no objection to the proposal, subject to standard conditions, including that the Applicant must sign a connection agreement prior to the commencement of development.

7.5. Environmental Impact Assessment

- 7.5.1. The proposed development (Phase 2) comprises 66 no. residential units on a 3.57ha site (revised to 65 no. units as part of further information). There is a separate inter-linked application (Phase 1) which comprises the construction of 84 no. dwellings.
- 7.5.2. The overall proposed scheme (Phases 1 and 2) therefore accounts for a total of 149 no. units. It also includes many of the other significant works and components of the development proposed, such as vehicular access points, internal road infrastructure, car parking and landscaping. These are within the red line boundary for both applications which means each proposal could be implemented independently, or concurrently, as required. For this reason, and given the interrelationship between the two applications, I consider it appropriate to assess each development proposed jointly for the purposes of EIA.
- 7.5.3. The development falls within the class of development described in Class 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001 (as amended). EIA is mandatory for developments comprising over 500 dwelling units, or over 10ha in size, or over 2ha if the site is within a business district. ['Business district' means a district within a city or town in which the predominant land use is retail or commercial use].

- 7.5.4. The overall proposal for 149 no. residential units is within the existing development boundary and built-up area of Rathnew, Co. Wicklow. It is not within a business district. The lands comprise mainly greenfield lands and are largely covered with gorse, scrub and bramble. The site is not designated for the protection of the landscape or of natural or cultural heritage. There are no protected scenic views, vistas or prospects affecting the site.
- 7.5.5. The proposed development would not have an adverse impact in environmental terms on surrounding land uses. It would not give rise to waste, pollution or nuisances that are at variance to that arising from other residential uses in the vicinity. It would not give rise to a risk of major accidents or pose a risk to human health. The site is not within a designated European Site. The nearest European Site is roughly 1km to the east, which is The Murrough SPA (Site Code: 004186) and it is considered that any issues arising from proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive.
- 7.5.6. The application is accompanied by a Traffic and Transport Assessment, Ecological Impact Assessment (including bat survey), Archaeological Assessment, Construction and Environmental Management Plan, Arboricultural Assessment, and a Road Safety Audit (Stages 1 and 2). The latter is also required to be advanced to Stage 3 under condition (no. 11). I consider that these reports address the issues arising in terms of the sensitivities of the site and its surrounding vicinity.
- 7.5.7. Therefore, and having regard to:
- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended),
 - the location of the site within the development boundary for Wicklow - Rathnew under the Wicklow-Rathnew Town Development Plan (2013)
 - the setting of the site, which is within an existing built-up area and served by public infrastructure,
 - the location of the site outside of any sensitive location specified in article 109(4) of the Planning and Development Regulations 2001 (as amended), and the absence of any relevant connectivity to any sensitive location,

- the separation distance between the site and the recorded Archaeological Sites to the north and the results of the archaeological desktop study and field survey investigations,
- the guidance set out in the Guidelines on the Information to be contained in EIA Reports (2022), and
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report is not therefore required.

7.6. Other

Strategic Housing Development (Applicant has avoided making a single application)

- 7.6.1. The Appellants argue that as the overall proposal exceeded 100 residential units the Applicant should have been required to enter into the Strategic Housing Development (SHD) application process. They submit that a single application should have been made, as is required under the Planning and Development Regulations, 2001 (as amended), rather than the making of two separate applications to the Planning Authority.
- 7.6.2. The Applicant is not prevented under planning legislation from making two separate applications, as per Section 34 of the Planning and Development Act, 2000 (as amended). This is a valid approach, in my opinion, and I do not consider that the Applicant has failed to follow due process in this regard.
- 7.6.3. The overall proposed scheme (Phases 1 and 2) accounts for a total of 149 no. residential units. It also includes within each individual red line boundary the proposed means of vehicular access, internal roads, drainage infrastructure, car parking, landscaping works, and other components, which would allow each phase to be implemented completely independently, if so required.
- 7.6.4. I also note that one of the Appellants submits that the overall scheme would be contrary to the 'Housing for All – A New Housing Plan for Ireland'. However, I do not consider this to be the case and note that the Appellant has not provided any

evidence to support this assertion. Conversely, I note that the proposal is seeking to deliver housing on zoned and serviced lands within the designated development boundary for Rathnew.

Trees and hedgerows

- 7.6.5. There are limited trees and hedgerows on the overall subject lands. There is a detailed Arboricultural Impact Assessment and landscaping strategy proposed as part of the application, which I consider acceptable. Any tree/hedgerow removal is required to be outside the bird breeding season under the Wildlife Act 1976 (1st March – 31st August each year), and this is acknowledged by the Applicant in their Response.
- 7.6.6. The proposed tree planting schedule and landscaping measures would improve the overall appearance and condition of the subject lands, in my opinion, which is currently largely covered with gorse and scrub together with the remnants of abandoned site works and redundant areas of hardstand.

Working Hours

- 7.6.7. In relation to site working hours during the construction phase of the project, I note that Condition 7(c) sets out the of hours for when this can occur (Monday to Saturday, 7am - 7pm).
- 7.6.8. I acknowledge the concerns raised in relation to Saturdays and consider that a more appropriate time for construction works would be between 8am and 2pm (on a Saturday), which can be achieved by condition.

Ecology

- 7.6.9. The application was accompanied by an Ecological Impact Assessment Report. The findings and mitigation measures outlined in the report are considered acceptable, including the installation of bird boxes and bat sensitive lighting, so that bat populations and related activity would not be negatively impacted.
- 7.6.10. The EclA notes that the subject lands, and its immediate surrounds, are considered of local importance for bats. The bat survey did not record any bat roosts on the site and bat activity was observed as being low.

Phasing

- 7.6.11. I note that the Planning Authority's NoD to grant permission requires that no dwelling can be occupied until the upgrade works to the existing Broomhall Roundabout are complete and that no more than 50% of the housing units be occupied until sufficient childcare spaces are available to serve the development (Condition 9a and b apply, respectively).
- 7.6.12. I consider that each of these requirements, and others similar, can be adequately addressed by requiring the Applicant to prepare and submit a Phasing Plan to Wicklow County Council under condition. The Plan should be agreed in writing with the Planning Authority prior to commencement of development. This would ensure the timely provision of services and facilities required to serve the proposed scheme.

7.7. Appropriate Assessment

Compliance with Article 6(3) of the Habitats Directive

- 7.7.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 7.7.2. Given the interrelationship between the two applications, I consider it appropriate to assess the overall proposed development, comprising both Phases 1 and 2, for the purposes of Appropriate Assessment.

Background on the Application

- 7.7.3. The application is accompanied by a Stage 1 AA Screening Report prepared by NM Ecology Ltd Consultant Ecologists (dated 28th September 2021). It was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. It is also accompanied by an Ecological Impact Assessment (including bat survey) and a Construction and Environmental Management Plan.
- 7.7.4. The AA Screening Report concluded that the overall proposed residential development in this location, roughly 1.2km southeast of Rathnew, Co. Wicklow, either alone or in-combination with other plans and/or projects, would not have the potential to significantly affect any European Site, in light of their conservation

objections. Therefore, a Stage 2 Appropriate Assessment is deemed not to be required.

- 7.7.5. Having reviewed the documents and submissions I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Screening for Appropriate Assessment - Test of likely Significant Effects

- 7.7.6. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s).
- 7.7.7. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Brief description of the development

- 7.7.8. The Applicant provides a description of the project on Pages 5 and 6 of the Stage 1 AA Screening Report. In summary, the development comprises:
- 149 dwelling units (amended from 150 no. units during further information)
 - Vehicular access from the western side of the subject site via the existing Broomhall Road Roundabout, which itself proposed to be upgraded, and
 - Connection to the public sewerage and water supply networks.
- 7.7.9. The location of the subject site is described on Page 4 of the Screening Report. It is largely covered with gorse and scrub. It is on a steep gradient and the ground level rises moving from north (low ground) to south (higher ground). There are no open drains on the site.
- 7.7.10. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

Construction Phase:

- Surface water run-off from the site containing silt, sediments and/or other pollutants impacting water quality in downstream Natura 2000 sites.
- Disturbance / displacement impacts.
- Habitat loss or fragmentation.

Operational Phase:

- Surface water run-off from the site containing silt, sediments and/or other pollutants impacting water quality in the downstream Natura 2000 site.
- Foul effluent discharges impacting water quality in downstream Natura 2000 sites.
- Disturbance / displacement impacts.

European Sites

The site is not located within, or adjacent, any European site.

The nearest European Site is The Murrough Wetlands SAC (Site Code: 002249) which is approximately 1km to the northeast. The Murrough SPA (Site Code: 004186) is also roughly 1km to the east.

Wicklow Head SPA (Site Code: 004127) is roughly 3.4km to the southeast.

<i>European Site</i>	<i>Qualifying Interests</i>
The Murrough Wetlands SAC (Site Code: 002249)	Annual vegetation of drift lines [1210] Perennial vegetation of stony banks [1220] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210] Alkaline fens [7230]
The Murrough SPA (Site Code: 004186)	Red-throated Diver (Gavia stellata) [A001] Greylag Goose (Anser anser) [A043]

	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Little Tern (<i>Sterna albifrons</i>) [A195]</p> <p>Wetland and Waterbirds [A999]</p>
Wicklow Head SPA (Site Code: 004127)	Kittiwake (<i>Rissa tridactyla</i>) [A188]

Detailed conservation objectives have been drawn up for the site, their overall aim is to maintain or restore the favourable conservation status of habitats and species of community interest.

Identification of likely effects

- There is nothing unique or particularly challenging about the proposed urban development, either at construction phase or operational phase. The character of the surrounding area is mainly suburban housing, and the predominant land use is residential.
- There are no watercourses in the vicinity of the site.
- The measures to be employed at construction stage are standard practices for urban sites and would be required for a development on any urban site to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites.
- The site is to connect to the existing public sewer and water supply networks.
- The pollution control measures to be undertaken during the operational phase are standard practices for urban sites and would be required for a development on any urban site to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites.

- The foul discharge from the proposed development would drain, via the public network, to the Wicklow Waste Water Treatment Works. The AA Screening Report notes that the latest Annual Environmental Report (2019) states that the plant was a population equivalent of 34,000 and provides secondary treatment. It was compliant with all Emission Limit Values during this period and does not have an observable impact on either the water quality or Water Framework Directive status at the discharge points in coastal waters. Irish Water has also reported no objection to the proposal, subject to standard conditions.
- On the basis of the foregoing and the separation distance, the potential for significant impacts on waterbirds that are qualifying species of The Murrough SPA and Wicklow Head SPA due to disturbance or displacement can be screened out.

In combination effects are addressed in Section 4.3 of the Screening Report. It considers various residential developments under construction to the east and west of the site. It concludes that there would not be any in combination effects on any European site, either directly or indirectly.

Mitigation Measures

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon as part of the screening exercise.

Screening Determination

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually or in combination with other plans or projects, would not be likely to give rise to significant effects on any other European site, in view of the site's Conservation Objectives and Appropriate Assessment, and submission of an NIS is not, therefore, required.

8.0 Recommendation

I recommend that planning permission be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Wicklow - Rathnew Town Development Plan 2013, the Wicklow County Development Plan 2022-2028, the residential zoning objective for the site, the location of the site within a designated settlement boundary, and the nature, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, or the amenities of property in the vicinity, would not endanger public safety by reason of traffic hazard, and would provide an acceptable standard of amenity for future residents. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 22nd 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>

3.	<p>Prior to the commencement of any house in 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, as amended, that restricts all houses and duplex 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.</p> <p>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.</p>
4.	<p>The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.</p> <p>Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.</p>
5.	<p>Ducting shall be provided for house car parking spaces facilitating the installation of electric vehicle charging points.</p> <p>Reason: In the interests of residential amenity.</p>
6.	<p>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 –</p> <ul style="list-style-type: none"> 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.

	<p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>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.</p>
7.	<p>Drainage arrangements for the site shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of environmental protection and public health.</p>
8.	<p>All planting/landscaping required to comply with the specification of the landscaping scheme lodged with the application, and as amended by the further plans and particulars submitted to the planning authority on the 22nd December 2021, shall be maintained, and if any tree or plant dies or is otherwise lost within a period of three years, it shall be replaced by a plant of the same species, variety and size within the planting season following such loss.</p> <p>Reason: In the interest of visual amenity.</p>
9.	<p>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 landscaping scheme submitted to the planning authority on 22nd December 2021. 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.</p> <p>Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.</p>
10.	<p>a) Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and be sensitive to the receiving environment and ecology. Such lighting shall be provided prior to the commencement of use of the proposed development.</p>

	<p>b) The developer shall appoint a suitably qualified ecologist to verify that the proposed lighting plan complies with the recommended mitigation measures of the Bat Survey.</p> <p>Reason: In the interest of wildlife protection and public safety.</p>
11.	<p>a) A Road Safety Audit (Stages 1, 2 and 3) shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development, in order to demonstrate that appropriate consideration has been giving to all relevant aspects of the development including in accordance with the road design standards of Transport Infrastructure Ireland.</p> <p>b) The measures recommended by the Auditor shall be undertaken, unless the Planning Authority approves any departure in writing. A detailed drawing(s) showing all accepted proposals and a feedback report should also be submitted.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
12.	<p>The construction of the development shall be managed in accordance with a Construction Environmental 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:</p> <ul style="list-style-type: none"> 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; Measures to obviate queuing of construction traffic on the adjoining

	<p>road network;</p> <p>Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>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;</p> <p>Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>f) 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;</p> <p>g) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>h) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>i) 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.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
13.	<p>Construction and demolition waste shall be managed in accordance with a Construction Waste and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The Plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p>

	Reason: In the interest of sustainable waste management.
14.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
15.	<p>Site development and building works shall be carried out only 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 will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
16.	<p>Surface water drainage arrangements for the proposed development shall comply with the requirements of the Planning Authority.</p> <p>Reason: In the interest of public health.</p>
17.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
18.	<p>All service cables associated with the proposed development 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.</p> <p>Reason: In the interests of visual and residential amenity.</p>

19.	<p>Proposals for an estate name, street names, and house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
20.	<p>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.</p> <p>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.</p>
21.	<p>The developer shall pay to the planning authority a financial contribution of 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</p>

	<p>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. The application of any indexation required by this condition 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.</p> <p>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.</p>
22.	<p>The developer shall pay to the planning authority a financial contribution in respect of the Construction of the Wicklow Port Access and Town Relief Road in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>
23.	<p>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</p>

	<p>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.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
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Ian Boyle
Planning Inspector

25th January 2023