



An
Bord
Pleanála

Inspector's Report

ABP-313429-22

Development

Demolition of 1 Bow Lane and redevelopment of the site to provide retail / commercial units at groundfloor and 2 no. two-bedroom apartments at first floor within the existing buildings known as St. Helena Cottage, Mentone & Bethnell and the construction of 6 no. one-bedroom apartments in a new, separate building at the rear of the site.

Location

No. 1 Bow Lane, St. Helena Cottage, Mentone and Bethnell, Church Road, Greystones, Co. Wicklow.

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

21/1409

Applicant(s)

MGZ Properties Limited

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

First Party

| | |
|--------------------------------|-----------------------------|
| Appellant(s) | MGZ Properties Limited |
| Observer(s) | None. |
| Date of Site Inspection | 25 th April 2023 |
| Inspector | Ian Boyle |

1.0 Site Location and Description

- 1.1. The appeal site is at the corner between Church Road and Bow Lane, in Greystones, Co. Wicklow. It is approximately 0.07ha and has an irregular layout. It accommodates four existing dwellings, which are No. 1 Bow Lane, St. Helena Cottage, Mentone and Bethnell. The buildings are currently vacant and boarded up and the front of the site is closed off with hoarding and security fencing.
- 1.2. The site is at a highly visible location and has frontage onto a busy main street. The southwestern boundary of the site is towards Church Road, which is the main thoroughfare and retail shopping street for the village. The northern boundary of the site is defined by Bow Lane. The northeastern (rear) boundary adjoins an overgrown green space which recently received permission for nine apartments. The eastern side of the site is against a property which also has frontage onto Church Road.
- 1.3. The site is at a prominent corner setting in the heart of Greystones village and therefore has a strong visual presence, particularly on the approach from the west. It is within walking distance to many facilities and amenities available in the core area. Greystones Train Station is to the rear of the site and can be readily accessed on foot via Bow Lane.
- 1.4. Bow Lane is a relatively narrow laneway. It is unmarked; except for double yellow lines on either side to prevent vehicles parking on it, and which could otherwise interfere with the normal flow of traffic or obstruct or endanger other road users.
- 1.5. The surrounding area is mainly characterised by a mix of housing, commercial, retail and recreational uses.

2.0 Proposed Development

- 2.1. The proposed development is seeking permission to redevelop the appeal site, which currently accommodates four vacant buildings. The application is for:
 - the demolition of 1 Bow Lane,
 - the provision of retail / commercial units at groundfloor and 2 no. two-bedroom apartments at first floor within the existing buildings known as St. Helena Cottage, Mentone & Bethnell, and

- the construction of 6 no. one-bedroom apartments in a new, separate building to the rear of the property.
- 2.2. The proposal affectively comprises the internal alteration, change of use and extension of the three existing properties facing on Church Road. The overall scheme comprises 8 no apartments (6 no. one-bedroom units and 2 no. two-bedroom units) and c. 223sqm of commercial floorspace.
- 2.3. The Planning Authority requested further information on 26th January 2022 in relation to the proposed means of vehicular access to the site (Item 1), landscape and paving details (Item 2), the proposed method of stormwater discharge and outfall (Item 3), revised surface water calculations (Item 4) and a Part V proposal and related costings (Item 5).
- 2.4. The Applicant provided further information on 11th March 2022 addressing the above items.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Grant Permission on 31st March 2022, subject to 12 no. conditions.

The following are relevant to this appeal:

Condition 11

‘No occupation of the development shall occur until the upgrade works to Bow Lane as required under the permission granted under Plan Ref. 20/1068, and as in accordance with the requirements of the Planning Authority, have been completed to the written satisfaction of the Planning Authority.

REASON: In the interests of traffic safety, residential amenity to highlight the shared status of Bow Lane to prevent parking at the junction of Bow Lane and Church Road and proper planning and sustainable development.’

Condition 12

'No occupation of the development shall occur until connections to an outfall arrangement as per Aecom Drawing Number PR457025-ACM-XX-00-DR-10-0502 Rev B, as submitted under Further information, for the grant of planning permission for PRR: 20/1068 have been completed to the written satisfaction of the Planning Authority.

REASON: In the interests of proper planning and sustainable development.'

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The initial report of the Council's Planning Officer noted the characteristics of the site and the internal reports received, particularly the report from the Council's Municipal District Engineer (MDE) (see below). It stated that the redevelopment of the site for retail/commercial and residential uses is acceptable in principle. Further information requested for 5 no. items (see Section 2.2 above).
- The second Planner's Report recommended that permission be granted, subject to conditions. The report states that the proposed development would not detract from the character of the Architectural Conservation Area, would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience.

3.2.2. Other Technical Reports

Roads Department:

- *14th December 2021:* No objection, subject to conditions requiring a Construction Management Plan, adherence to details outlined in Condition 4 of Reg. Ref. 20/593, compliance with other relevant conditions included for Reg. Refs. 20/593 and 20/583 and that improvements to Bow Lane should be made if the subject development proceeds in advance of the development permitted under Reg. Ref. 20/1068 (Condition 8 refers).

Water and Environmental Services:

- *7th January 2022*: Noted the surface water calculations provided were not in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) and requested that the Applicant submit revised surface water calculations.
- *22nd March 2022*: No objection following receipt of further information.

Municipal District Engineer (MDE):

- *24th January 2022*: Raised the following issues:
 - Lack of visibility of cars and pedestrians on the proposed shared space road for drivers exiting the proposed vehicular access. Therefore, this should be omitted, and the space given over to private open space or increased bike parking.
 - The stormwater discharge outfall is not permitted to connect to the public foul sewer as proposed. The discharge pipe should be brought down Bow Lane with the outfall arrangement as per Aecom Drawing number PR457025-ACM-XX-00-DR-10-0502 Rev B, which was submitted as under Further information for Reg. Ref. 21/1068 – whichever development commences first should carry out the works.
 - A detailed landscape and paving plan for the Church Road side of the development should be submitted.
- *23rd March 2022*: The Applicant's further information response is considered generally acceptable. However, there are concerns regarding the Proposed Site Plan (Drwg. No. 250/1/002) as it states the foul sewer conversion works are to be carried out as part of Reg. Ref. 20/1069 (granted on the 9th August 2021) and this could be inferred by the Applicant that they would not have to carry out these works, should permission be granted. If the proposed development goes ahead the works will still need to be carried out, regardless of Reg. Ref. 20/1068. Therefore, the wording of any condition under a grant of permission should make that clear.

3.3. Prescribed Bodies

Uisce Éireann (Irish Water): No objection subject to standard conditions

4.0 Planning History

Subject Site

Reg. Ref. 20/593: The Planning Authority **granted** permission for the demolition of a single storey dwelling and construction of a mixed use development (residential and retail / commercial units) in January 2021.

Reg. Ref. 20/583: The Planning Authority **granted** permission for the construction of a mixed use development (residential and retail / commercial units) in December 2020.

Reg. Ref. 15/639: The Planning Authority **refused** permission for the demolition of an existing single storey dwelling and construction of a 2-storey design studio in August 2015. The reasons for refusal were that the proposed development was considered to be of an inappropriate design, which would be an incongruous feature in the streetscape, and that it would seriously injure the amenities and depreciate the value of the opposing dwelling to the north because of overlooking.

Reg. Ref. 15/63: The Planning Authority **granted** permission for a change of use from residential to retail (ground floor) and offices (first floor) and alterations including construction of a new shopfront and entrance in May 2015.

Reg. Ref. 15/884: The Planning Authority **granted** permission for a rear extension and internal modifications, including new first floor rooms and dormer windows at front in December 2015.

Adjoining Site

Reg. Ref. 20/1068: The Planning Authority **granted** permission for 9 no. apartments, a vehicular entrance off Bow Lane and ancillary site works in August 2021 on the adjoining site to the northeast. Condition 8 requires final design details for the written agreement of the Planning Authority for the proposed upgrade works to Bow Lane and its junction with Church Road, including resurfacing and provision of a footpath.

Reg. Ref. 20/62: The Planning Authority **refused** permission for 3 no. terraced 3-storey dwellings and 1 no. detached 3-storey dwelling, provision of vehicular entrance off Bow Lane and associated site works in March 2020 on the adjoining site to the northeast. The reason for refusal was that the proposed development would not result in the application site being developed at a sufficiently high density to ensure the efficient use of serviced land which would be contrary to national and local policies in relation which encourage higher residential densities at suitable locations.

5.0 Policy Context

5.1. Greystones, Delgany and Kilcoole Local Area Plan 2013-2019

Zoning

The appeal site is zoned 'Town Centre' under the Greystones, Delgany and Kilcoole Local Area Plan 2013-2019 ('Local Area Plan' / 'LAP'). The Town Centre zoning objective seeks:

'To protect, provide for, and improve the development of a mix of town centre uses including retail, commercial, office and civic use, and to provide for 'Living Over the Shop' residential accommodation, or other ancillary residential accommodation. To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and promote urban design concepts and linkages between town centre activity areas'.

The proposed development is in accordance with the land use zoning for the site.

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

- Table 3.3 sets out the Wicklow Settlement Strategy. It identifies Greystones – Delgany as a Level 3 Self-Sustaining Growth Town.

- Self-Sustaining Growth Towns with a moderate level of jobs and services and include sub-county market towns and commuter towns with good transport links and capacity for continued commensurate growth to become more self-sustaining.

Other Chapters

- Chapter 5 is in relation to Town & Village Centres (Placemaking and Regeneration).
- Chapter 6 is in relation to Housing.
- Chapter 8 is in relation to Built Heritage.
- Chapter 10 is in relation to Retail.

Development & Design Standards (Appendix 1)

- Appendix 1 sets out the Planning Authority's requirements with respect to development and design standards.
- The standards and guidance contained within set out the principal factors to be considered in the design of new development.

5.3. Natural Heritage Designations

There are no European Sites affecting, or in the vicinity, of the subject site.

- The Murrough Special Protection Area (SPA) (Site Code: 004186) is roughly 1.2km to the south.
- The Bray Head Special Area of Conservation (SAC) (Site Code: 000714) is roughly 1.7km to the north.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party grounds of appeal (received 26th April 2022):

General

- Conditions 11 and 12 of the Council's Decision would unnecessarily restrict the delivery of the proposed development.
- The current application is the third on the site made in recent years, albeit of the two applications were made on smaller sites (St. Helena Cottage and Mentone / Stone Gallery). The Applicant has now purchased various land parcels to amalgamate a single site for the purposes of lodging the subject application. None of the previous applications were subject to conditions regarding the upgrade of Bow Lane and discharge of surface water runoff.
- The proposal is for a limited increase in floorspace compared with the previous, permitted development on the site (Reg. Ref. 20/593). The current application is for an additional 245sqm of floorspace when compared with Reg. Ref. 20/593. This is considered a minor comparative increase only and would not require the extent of works required under the condition.

Condition 11 (Upgrades to Bow Lane)

- Bow Lane serves five existing properties (one restaurant and four houses). There is limited vehicular movements along Bow Lane as a result. The houses have 8 no. dedicated vehicular parking spaces.
- The potential for increased pedestrian traffic along Bow Lane from the proposed development has been anticipated. The scheme includes a dedicated pedestrian entrance / access corridor which would serve the apartment block from Church Road. The accessway is situated between the properties St. Helena and Mentone.
- If residents decide to access the rear apartment block from Bow Lane, it is noted that the pedestrian exit from the site is close to the footpath running along Church Road (i.e., less than 14.5m).
- The cost of delivering the lane upgrades would be excessive and roughly €175,000.

Condition 12 (Stormwater Discharge / Connection to Outfall)

- This condition is haphazard and would render the proposal unviable. The Planning Authority is incorrect in that the existing referenced 'public foul sewer' is actually a combined sewer and not foul specific.

- The condition would require a pipe of 75m+ in length and excavating works along the entire length of Bow Lane, under the existing railway line and part of La Touche Road. None of these works were referenced in the public notices for the planning application.
- The pipe would need to cross the boundary of several properties and require liaison with prescribed bodies. It is exactly the type of works that Councils, and not small private developers, are mandated to deliver.
- The cost of delivering the drainage upgrades would be roughly €250,000.
- It is possible that the permission for the adjoining site (Reg. Ref. 20/1068) may never be built out and, by way of consequence, the proposed development would not then proceed.

Appended letter from Carraig Consultants

- There would be a marginal increase only in surface water runoff generated by the proposed development / site.
- There were no such onerous new surface water infrastructure requirements conditioned into Permission 20/593 for the smaller 'St. Helena / 1 Bow Lane' site, which had an increase in impermeable area of roughly 140sqm compared with the existing onsite development.
- The proposed development would have an expansion in impermeable area of roughly 211sqm compared with the existing onsite development. Therefore, the difference in impermeable area (71sqm) is small and does not justify the application of Condition 12.

6.2. Planning Authority Response

- None on file.

7.0 Assessment

- 7.1. The relevant planning considerations to this appeal is whether Conditions 11 and 12 of the Planning Authority's Notification of Decision to Grant Permission should be retained or omitted from the Decision.

7.2. The proposed development is in accordance with the relevant Development Plan and Local Area Plan policy and is considered acceptable. The appeal, therefore, is confined to the matters concerning the specific conditions, which the Applicant has appealed, and which, in this case, can be treated under Section 139(1) of the Planning and Development Act, 2000 (as amended).

7.3. I propose to address Condition 11 first, followed by Condition 12, as follows.

Condition 11

7.4. The full text of Condition 11 is as follows:

'No occupation of the development shall occur until the upgrade works to Bow Lane as required under the permission granted under Plan Ref. 20/1068, and as in accordance with the requirements of the Planning Authority, have been completed to the written satisfaction of the Planning Authority.'

REASON: In the interests of traffic safety, residential amenity to highlight the shared status of Bow Lane to prevent parking at the junction of Bow Lane and Church Road and proper planning and sustainable development.'

7.5. The condition references, and is linked to Reg. Ref. 20/1068, which is a permitted residential development comprising 8 no. apartments, a detached dwelling, new vehicular entrance off Bow Lane and ancillary site works. It is situated on the adjacent property to the northeast of the appeal site, near the railway line. Wicklow County Council granted permission for the development in August 2021.

7.6. Condition 8 of that permission (i.e., Reg. Ref. 20/1068) relates to upgrade works for Bow Lane and requires final design details, including resurfacing and the provision of a footpath, to be submitted to the Planning Authority for approval prior to commencement of development. The stated reason for the condition is in the interests of traffic safety, residential amenity and to highlight the shared status of Bow Lane to prevent parking at the junction of Bow Lane and Church Road.

7.7. The Applicant requests that Condition 11 be omitted as it would restrict the delivery of their development until such time the road improvement works to Bow Lane are carried out. The grounds of appeal submits that the subject development proposal can be constructed entirely independently of Ref. 20/1068 and that the specified laneway upgrades for Bow Lane are not necessary.

- 7.8. My assessment as to whether Condition 11 is appropriate is mainly centred on the 'basic criteria' for conditions as set out under Section 7.3 of the Development Management Guidelines for Planning Authorities (2017), and particularly as to whether the condition is *necessary and reasonable*.
- 7.9. The subject site accommodates four existing dwellings, which are No. 1 Bow Lane, St. Helena Cottage, Mentone and Bethnell. The buildings are vacant and boarded up and do not appear to have been used for some time. The proposed development is for 8 no apartments and c. 223sqm of commercial floorspace. It would bring an otherwise vacant and underutilised property back into viable use in the centre of Greystones.
- 7.10. The Development Management Guidelines state that a condition should be 'reasonable' and not imposed if it cannot be made effective or capable of being complied with. I note that the way in which the condition is worded is such that it is tied to the permission on third party lands, which are not connected to the appeal site (Reg. Ref. 20/1068). The Applicant submits that this 'neighbouring' permission may never be act upon citing various reasons regarding estimated costs of implementing it, as well as other potential impediments.
- 7.11. I would agree with the First Party that any such delay, or decision by the third party to not proceed with carrying out the permission – or to undertake the specified works on Bow Lane – would have significant and far-reaching implications in terms of their ability to execute their own development. Any such delay, postponement, or failure to proceed with the development permitted under Reg. Ref. 20/1068 is beyond the control of the Applicant. As such, I consider that the condition fails the test requiring it to be 'reasonable' as set out under Section 7.3.5 of the Development Management Guidelines.
- 7.12. I note that a further criterion for conditions under the Development Management Guidelines is whether it is 'necessary'. To justify the extent of works required by Condition 11, it is my view that the Planning Authority should be required to set out a clear case regarding the predicted estimated level of additional usage on the laneway, as generated by the proposed development, and why the condition is required to address issues regarding traffic and residential amenity concerns.

- 7.13. I have reviewed the report on file from the Council's Roads Department in this regard (14th December 2021). The report is brief and states that improvements to Bow Lane should still be made if the development proceeds in advance of the development permitted under Reg. Ref. 20/1068 (Condition 8 refers). It does not provide any justification for the condition or why the required upgrades to the Bow Lane are necessary to accommodate the development proposed. It does it identify any existing deficiencies with the lane or describe how it is in some way lacking in terms of its ability to cater for the existing volumes of vehicular traffic and pedestrians passing through it. Furthermore, the Planning Authority did not provide a response to the grounds of appeal.
- 7.14. I note that the site currently accommodates four existing buildings which cumulatively equate to c. 384sqm of floorspace. The proposed development is for eight apartments and c. 223sqm of commercial floorspace (c. 786sqm in total). Therefore, the difference in floorspace between the existing and proposed scenarios would be approximately +402sqm. This, in my opinion, is a relatively modest increase in the quantum of development sought, particularly in a town centre setting, and, in my view, it would be unlikely to generate significant new volumes of additional trips or increased usage. [I note also that the Planning Authority did not condition this type of upgrade to Bow Lane for the development previously permitted on the site under Reg. Ref. 20/593, which was for a similar amount of floorspace as that currently proposed. As noted, the current proposal is for roughly 786sqm, whilst Reg. Ref. 20/593 was approximately 541sqm (a difference of +245sqm).]
- 7.15. During my physical inspection of the site and the surrounding vicinity I observed that the overall layout and surface quality of Bow Lane to be in good condition. There were double yellow lines on either side of the laneway and a limited presence of parked vehicles. A small number of vehicles were parked next to the deliveries and services area at the rear of the restaurant facing onto Church Road. They did not appear to be staying for a prolonged period and were not interfering with other vehicles or road users.
- 7.16. There was a relatively frequent number of pedestrians passing through the lane, many of whom appeared to be going to / coming from the Dart station, which I note can be accessed from its northeastern end. The condition of the lane did not appear to impede any pedestrians or give rise to conflict between vehicles and other users

during the time I spent observing it. Having regard to this, I consider the laneway, in its current form and specification, adequate for the purposes of catering for the number and type of traffic passing through it – which is mainly pedestrians.

- 7.17. I further note that the proposed development is pedestrian-focussed and that there would be no onsite car parking, or new vehicular access, proposed as part of the scheme. The development makes provision for an anticipated increase in pedestrian traffic by providing a dedicated pedestrian entrance / access corridor between the properties St. Helena and Mentone. This is shown clearly on the Proposed Site Layout Plan (drwg. no. 2112-P01-5).
- 7.18. The access serves the apartment block at the rear of the site and would allow for future occupants to gain access directly from Church Road rather than having to walk around to Bow Lane. I acknowledge residents could still potentially use the pedestrian access on Bow Lane. However, this is for a short section of the laneway only and it would appear to me that the more convenient and preferred way to enter and exit the site would be by the new dedicated pedestrian entrance instead.
- 7.19. In summary, I do not consider that the proposed development would result in any discernible impact, or additional demands, being placed on Bow Lane. Therefore, it is my view that the test relating to the ‘necessity’ of the condition as set out under Section 7.3.1 of the Development Management Guidelines has not been met. I recommend that Condition 11 be omitted.

Condition 12

- 7.20. The full text of Condition 12 is as follows:

‘No occupation of the development shall occur until connections to an outfall arrangement as per Aecom Drawing Number PR457025-ACM-XX-00-DR-10-0502 Rev B, as submitted under Further information, for the grant of planning permission for PRR: 20/1068 have been completed to the written satisfaction of the Planning Authority.

REASON: In the interests of proper planning and sustainable development.’

- 7.21. Condition 12 is in relation to stormwater discharge. It is linked to Reg. Ref. 20/1068, which is the permitted residential development on third party lands directly northeast.

- 7.22. The Report completed by the Council's Municipal District Engineer in respect of the subject proposal states that a stormwater discharge outfall is not permitted to connect to the public foul sewer and that the discharge pipe should instead be brought down Bow Lane, run under the railway line, and connect to an existing foul sewer on La Touche Road. This arrangement is set out under a drawing submitted as part of a separate application, being Reg. Ref. 20/1068 (Drwg. No. PR457025-ACM-XX-00-DR-10-0502 Rev B).
- 7.23. The Applicant raises concerns that Permission Reg. Ref. 20/1068 may never be implemented and, as such, they could be required to undertake the full extent of drainage works themselves if such a scenario were to play out. They submit that the cost of delivering this infrastructure would impose an excessive financial burden on the project such that it would jeopardise the viability of the development.
- 7.24. I consider that the surface water drainage strategy required by the Planning Authority under Condition 12 is overly onerous and not commensurate with the quantum of development being sought by the Applicant. The subject application is of a relatively modest size and scale (8 no. apartments and c. 223sqm of commercial floorspace). This would equate to a small capacity increase for the overall stormwater system.
- 7.25. I do not consider it reasonable for the Applicant to provide the full extent of network improvements required under Condition 12. Such an upgrade to the system would undoubtedly improve its overall capacity. However, it is my view that the extent of works envisaged, and the likely related cost for their delivery, would be far in excess of the resultant demand placed on the system by the proposed development alone. I note that the Planning Authority did not require new surface water infrastructure to be constructed under the recent previous permission on the site (Reg. Ref. 20/593), which is a further consideration. It is not explained in the Planner's Report, or relevant interdepartmental reports, as to why this condition is now considered necessary. The current proposal – whilst slightly larger in size and scale than its recently permitted predecessor (Reg. Ref. 20/593) – is for a comparable quantum of development. The amount of impermeable area created on the site would also be similar.
- 7.26. The option of discharging stormwater directly into the foul network acceptable is not appropriate, in my view, however. Such an approach is suboptimal and not an

efficient use of resources as it normally requires a wastewater treatment plant to process stormwater that would otherwise flow back into a natural watercourse, subject to prior treatment, removal of pollutants, etc. I also note the observation on file from Irish Water which states no objection, but that runoff is not permitted to be connected into the foul network (Item 3 of observation, which is date stamped 6th January 2022).

- 7.27. The Engineering Services Report (2nd November 2021) submitted as part of the original application proposes a surface water drainage strategy whereby stormwater run-off would discharge into an existing 600mm diameter combined sewer on Bow Lane. The strategy includes attenuation storage on the site with a flow control mechanism to limit the discharge rate from the site to the acceptable standard (2L per second). Various SuDS measures are also incorporated to assist in managing and controlling drainage from the site; albeit these measures are somewhat limited given the relatively small size of the site.
- 7.28. This proposed drainage strategy is the optimum arrangement, in this particular circumstance, in my opinion, and would allow for an otherwise appropriate form of development to proceed. In this regard, I would like to emphasise the central location of the site in a zoned town centre setting, how the land and buildings are currently underutilised and in a dilapidated state, and that the proposal represents a good opportunity to rejuvenate this part of the street.
- 7.29. The Board may consider the option of requiring a special financial contribution as part of the future cost of upgrading the network. However, in my opinion, and given the relatively limited information available on the file, it would not be feasible to assess an overall cost of the improvement works. I also consider that it would not be possible to accurately assess the extent to which these costs should be apportioned to the proposed development. In any case, I consider that the type of works required in this instance are those which government bodies are typically delegated to oversee and complete.
- 7.30. Furthermore, Condition No. 2 requires payment of a financial contribution under section 48(1) of the Planning and Development Act, 2000 (as amended) in the order of €49,164. The stated reason for the condition is that it is considered reasonable that the developer should contribute to the cost of public infrastructure and facilities

included in the Wicklow County Council Development Contribution Scheme (DCS). I note that Class 1 of the DCS is for 'roads and transportation' and Class 2 is for 'stormwater drainage'.

7.31. In summary, it is my opinion that the tests relating to necessity and reasonableness for Condition 12, as set out at 7.3.1 of the Development Management Guidelines, have not been met. I also do not consider that the conditioned works would be necessary for the permission to be implemented, or that the omission of the stated condition would require permission to be refused.

7.32. I recommend that the condition be omitted.

8.0 Recommendation

8.1. It is recommended that Condition Nos. 11 and 12 attached to the Council's Notification of Decision to Grant Permission be omitted from the Final Decision.

9.0 Reasons and Considerations

Having regard to the following:

- the scope and costs of the works, which would be required by Condition Nos. 11 and 12 of the Planning Authority's Notification of Decision to Grant Permission, would not be necessary or reasonable to facilitate the construction or operation of the proposed development which, it is further considered, would not have any appreciable impact on the capacity of Bow Lane, or the existing public drainage network for the area, and certainly not such that would justify the requirement of the entirety of the cost to be borne by the developer; and
- the Planning Authority has not made a coherent case in the reports on file, or as part of a response to the grounds of appeal, which would justify the extent and scope of the works as required by Condition Nos. 11 and 12;

it is considered that Condition Nos. 11 and 12 of the Planning Authority's Decision would be contrary to the Development Management Guidelines for Planning Authorities (2017) and specifically the basic criteria for conditions as set out under section 7.3, and would, therefore, be contrary to the proper planning and sustainable development of the area.

[I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.]

Ian Boyle
Senior Planning Inspector

28th June 2023