



An  
Bord  
Pleanála

## Inspector's Report ABP-320980-24

<b>Development</b>	Removal of existing structure, construction of 2 dwellings and all associated site works.
<b>Location</b>	Mill House, Mill Road, Killincarrig, Greystones, Co. Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	2460070
<b>Applicant(s)</b>	Una Dillon & Tom O'Shea.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	As above.
<b>Observer(s)</b>	Michelle and Benjamin Boehm
<b>Date of Site Inspection</b>	16 <sup>th</sup> December 2024.
<b>Inspector</b>	Kenneth Moloney

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## **1.0 Site Location and Description**

The appeal site is located off the Mill Road in Killincarrig, Co. Wicklow. The configuration of the appeal site is irregular and measures approximately 0.2 ha in size. The site comprises of a long driveway to the existing two-storey residential house on the site and a narrow garden plot situated to the south of the existing house.

The existing house on the site is a period house attached to neighbouring house on an adjoining site. There is also a detached garage building located opposite the subject house. The house and a detached garage building are located at the end of the driveway.

The appeal site also includes a garden area located to the south of the residential house, described above, and this garden area immediately adjoins an Old Mill Building and the car park to a discount supermarket located to the north of the site. The existing garden area is narrow in width and measures approximately 9.7 m wide at the western end and narrows to approximately 6 metres wide at the eastern end of the site.

The garden area is subdivided into two parts by a wall and gate. The most eastern part of the garden area drops in level towards the site boundary and narrows in width. The eastern boundary of the appeal site is adjoined by a public footpath which provides access from the Mill Road to the Kilcoole Road

The southern boundary of the appeal site is adjoined by a field, which includes woodland, and is located to the south of this garden area.

## 2.0 Proposed Development

The proposed development is to comprise of the following;

- Removal of existing garage structure,
- New 4-bedroom dwelling (approx. 150 sq. m.)
- New 1-bedroom dwelling (approx. 93 sq. m.)

The proposed houses are both two-storey in height and are located in the garden area to the immediate south of the former mill building. Access to each of the proposed houses is from the main driveway that serves the existing two-storey house on the site.

The proposed dwelling no. 1 (western most unit) is served by a rear garden area, and the proposed dwelling no. 2 (eastern most unit) is served by a smaller rear garden area.

## 3.0 Planning Authority Decision

The Planning Authority **refused** planning permission for the following reasons.

1. The Planning Authority is not satisfied on the basis of the information provided in support of the application, that the proposed development, by virtue of:
  - a. The proximity to the historic Mill building, located within 1.5m of proposed House No. 1, which has the potential to impact on the security and safety of the structure and its foundations which do not appear to have been accurately surveyed;
  - b. The proposed alterations to the dam wall required to access House No. 2 and the proximity of House No. 2 to said dam wall, which has the potential

to impact on the security and safety of the structure and its foundations which do not appear to have been accurately surveyed;

- c. The likely need to remove / alter other structures / features on this site, associated with the Mill, the mill pond and millrace to facilitate the development; and
- d. The lack of detailed archaeological and geophysical survey to determine the extent and location of other structures or historic features on the site relating to the Mill, the mill pond, the dam wall and the millrace;

would not adversely impact on the physical integrity and protection of the historic Mill adjacent and would not remove and / or seriously impact on the remains, setting and character of the historic mill race, mill pond and dam wall on which the proposed structures are located. To permit the proposed development would therefore be contrary to the protection adjoining properties and of the history and heritage of this site and immediate surrounds, would contravene County Policy Objectives 8.10, 8.18, 8.19 of the Wicklow County Development Plan and would therefore be contrary to the proper planning and sustainable development of the area.

- 2. Having regard to the proximity of proposed development to the southern boundary of the site, and the existence of zoned lands to the south in separate ownership, the Planning Authority is not satisfied that the proposed development would not unduly impact on or limit the developability of lands to the south. The proposed development would not therefore meet the required development and design standards set out in the Wicklow County Development Plan, which require cognisance be taken of the potential of adjacent plots to be developed in a similar manner and that separation between site boundaries, location of windows etc. must not prejudice development options on the adjacent plot; and would therefore be contrary to the proper planning and sustainable development of the area.
- 3. Having regard to the proposed layout and design of the development, in particular:

- a. the severely restricted width of the site and the proposal to develop new dwellings within 1.5m of the northern site boundary and 0.6m of the southern site boundary,
- b. the close proximity of proposed House No. 1 to the high walls of the old Mill adjacent,
- c. the proximity of bedrooms and other private spaces of both proposed houses to the southern site boundary,
- d. the limited amount of natural light that would be available to internal spaces due to the design and position of windows particularly on the south facing elevation of House No. 2; and
- e. the narrow passageway proposed to access House No. 2,

The Planning Authority is not satisfied that the proposed development would provide for an adequate level of amenity for occupants of the proposed development, or an adequate level of privacy having regard to the proximity of bedrooms and private spaces to adjoining properties in separate ownership. The proposed development would not therefore meet the required development and design standards set out in the Wicklow County Development Plan which require that new residential developments shall be so designed and constructed to ensure maximum amenity and privacy for residents; and would therefore be contrary to the proper planning and sustainable development of the area.

### **3.1. Planning Authority Reports**

- 3.1.1. The Planner's report, in summary makes the following points.

- The initial planners report (dated 22.03.24) sought additional information for the following;
  - Address impacts on the structural integrity of the adjoining mill.
  - Demonstrate that the proposal will not impact adjoining site to the south.
  - Submit landscaping plan.
  - Car parking details.
  - Clarify common areas.
  - Address the incorrect labelling on the floor plans for dwelling no. 2.
- The subsequent planners report (dated 11.09.24) considered that all the responses to the additional information requests were adequately addressed and recommended a grant of permission subject to 9 conditions.
- A subsequent report from the A/DOS (dated 16.09.24) recommended refusal for the reasons outlined in paragraph 3.0 above.

### 3.1.2. Other Technical Reports

- None

### 3.2. Prescribed Bodies

- A report from Uisce Éireann submitted that should permission be granted that a number of conditions are recommended.

### 3.3. Third Party Observations

- None

## 4.0 Planning History

### On-Site Planning History

PA Ref. 10/2326 - Retention permission **granted** to Gretchen Montgomery for the subdivision of an existing two-storey single dwelling into two individual dwellings, comprising of a 2-bed two storey 169sqm dwelling and a 3-bed two-storey 204sqm dwelling, all of the above along with associated site works, landscaping and site services.

## 5.0 Policy Context

### 5.1. Development Plan

Relevant policy objectives of the Wicklow County Development Plan, 2022 – 2028, including CPO 4.2 (Compact Growth), CPO 4.3 (Density) and CPO 6.16 (Infill Development), all with objectives to achieve infill development.

Policy Objective CPO 6.13 requires that new residential development represents an efficient use of land and achieves the minimum densities as set out in Table 6.1 subject to the reasonable protection of existing residential amenities and the established character of existing settlements. In promoting higher densities and more compact development, new development should demonstrate compliance with:

- the Sustainable Urban Housing Guidelines for Planning Authorities (DEHLG 2009) and accompanying Urban Design Manual – A Best Practice Guide;
- Quality Housing for Sustainable Communities (DoEHLG 2007);
- Design Standards for New Apartments Guidelines for Planning Authorities (2018)
- Design manual for Urban Roads and Streets; and any subsequent Ministerial guidelines.

Appendix 1 – ‘Development & Design Standards’ sets out relevant guidance for the proposed development including the following.

- Section 3.1.3 ‘Privacy’



- Section 3.1.4 ‘Open Space’
- Section 3.1.5 ‘Car Parking’
- Section 3.1.6 ‘Infill / backlands development in existing housing areas’
- Section 8.6 ‘Private Open Spaces – gardens, terraces and balconies’

## 5.2. Local Area Plan

The Greystones – Delgany Local Area Plan, 2013 – 2019, has expired and is currently under review. The appeal site was zoned ‘Neighbourhood Centre’, in the expired LAP, and the objective for this land-use zoning is ‘*to protect, provide for, and improve a mix of neighbourhood centre services and facilities, which provide for the day-to-day needs of the local community*’.

Residential development was a use generally appropriate for neighbourhood centres in the expired Greystones – Delgany Local Area Plan, 2013 – 2019.

## 5.3. Natural Heritage Designations

- None relevant

## 6.0 EIA Screening

Having regard to the nature and limited scale of the development and the separation of the site from the nearest sensitive receptor, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Refer to Form 2 in Appendix 1 of report.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

### Heritage Protection

- Old Mill building is not a protected structure. Council have afforded such protection to the structure in refusing permission.
- Old Mill Building is not recorded on the National Inventory of Architectural Heritage, accordingly no legal grounds for treating structure as statutorily protected.
- Council had opportunity to statutorily protect the structure as they were previous owners of the building.
- The proposal not contrary to policy CPO 8.20 of the CDP  
(as does not seek to remove the Old Mill structure)

### Structural Stability

- Previous reports from history files confirm the structure will never be renovated due to financial and structural reasons.
- Remedial works in 2013 addressed any structural stability concerns.

### Development Plan Policies

- Policy objectives contained Refusal reason no. 1 relate to actual development of historic properties and is irrelevant to the proposed development.
- CPO 8.10 is too general for any relevance to the proposed development.
- CPO 8.18 and CPO 8.19 both relate to vernacular buildings. The Old Mill Building does not fall within this category.
- Section 8.3 of the Plan, relating to architectural heritage, and is not relevant to the Old Mill building.
- No intrinsic historic value within the subject building was identified in LA reports.
- The rural environs of the Old Mill Building which originally surrounded the structure is now developed.

### The Council's Assessment

- The case officer accepted the additional information response in relation to structural stability.
- The A/DOS rejected the case officer's recommendation stating report has not addressed concerns in relation to structural stability, however A/DOS provides no basis for demurring and breaches the requirements to provide reasons, as per *Damer-v-An Bord Pleanala*.
- Council have not appropriately taken account of the report on planning file 126885 by John O'Hanlon and Associates (Dec. 2012) concluding the Old Mill building is beyond repair and reuse.

### Planning Conditions

- Concerns in relation to the safety and security of the Old Mill are artificial.
- Appeal site is not identified as an area of archaeological potential.
- No record of any archaeological study or findings on the site.
- Board can seek further information and impose standard planning conditions to allow for possibility of further work being undertaken such as archaeological / geophysical testing.

### Second Reason for Refusal

- The scale of the proposed development with a site area 0.14 acres would not be strategic to compromise the development of a large tract of land covering approximately 9.25 acres.
- Consideration in relation to *Ashbourne Holdings-v-An Bord Pleanala* is relevant to this case.

### Third Reason for Refusal

- Fails to demonstrate how proximity to the Mill wall would diminish residential amenities in respect of proposed dwelling no. 1.
- Council fails to clarify how the proposal would result in limited daylight for the residents of house no. 2.

- Unclear how the proposal does not meet the required development and design standards of the CDP.
- Proposed entrance would not contravene any planning or building standards.
- The LA reports fail to identify adjoining properties in separate ownership that would be affected by the proposed development.

## **7.2. Planning Authority Response**

- Council refutes the claim that they used its general powers as a landholding authority to oppose much needed housing development, and therefore using the planning process for landownership purposes.
- The PA only has regard to adjoining lands, in the case of a planning application, in such cases where the proposed development is reliant on such lands or in the case of lands outlined in blue.
- The PA has a role in assessing whether a proposal does not unduly impact on the amenities or the development ability of adjoining lands, which is supported by the Development and Design Standards of the CDP.
- The additional information request raised concerns in relation to potential impacts on adjoining lands to the south.
- The impact of the proposal on adjoining lands is not readily apparent and should the Board consider refusal reason no. 2 is unwarranted the PA has no objections to its removal.

## **7.3. Observations**

The following is a summary of an observation received by Michelle and Benjamin Boehm, of 14 Carrig Mill, Killincarrig.

- Observers support the proposed development to address housing shortage.
- Procedural issues raised in relation to short length of time A/DOS considered case officer's report and absence of a local authority Engineer's Report prior to the additional information request.

- No Council engineer report has countered the submitted appellant's Engineer's Report.
- No archaeological or heritage status relates to the subject building.
- Any development of adjoining lands would be subject to planning process
- Claims that the proposed dwelling house 2 would diminish amenities lacks substance.

## 8.0 **Assessment**

Having examined the application details and all other documentation on file, carried out a site inspection, and having regard to the relevant local/regional/national policies and guidance, I consider that the key issues on this appeal are as follows:

- Principle of Development
- Built Heritage
- Infill Development
- Residential Amenities
- Structural Stability of the Old Mil Building
- Impacts on Adjoining Site
- Other Matters

### 8.1. Principle of Development

The subject site is essentially an infill site and residential development on this site would be consistent with several Development Plan policies including policy objectives CPO 4.2 (Compact Growth), CPO 4.3 (Density) and CPO 6.16 (Infill

Development) of the Development Plan. Overall, the proposed residential development on a site zoned 'Neighbourhood Centre' is acceptable in principle.

The appeal site is in the boundary of the expired Greystones – Delgany Local Area Plan, 2013 – 2019, (LAP), and was zoned 'Neighbourhood Centre'. The LAP is currently under review.

The proposal is located within the built-up area of the settlement and therefore the proposed two-house development, the subject of this appeal, would be consistent with the pattern of development in the area and the Section 28 Guidelines Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024). Section 11 of the expired LAP confirms that residential development as a use is generally appropriate within the land-use zoning objective 'Neighbourhood Centre'.

## 8.2. Built Heritage

A key issue in this appeal is the proximity of the proposed development to the Old Mill Building situated immediately north of the appeal site.

Although I would acknowledge that the Old Mill Building is an historic building, owing to the date of the structure, which pre-dates 1837, the Old Mill Building is not listed on the Record of Protected Structures (RPS) and therefore is not afforded any statutory conservation protection in the Wicklow County Development Plan, 2022 – 2028, in accordance with the provisions of the Act. As such the curtilage of the Old Mill building, including walls and any associated features, are also not protected.

The Council's first refusal reason cites several Development Plan heritage policies stating that the proposed development would contravene including CPO 8.10 (built heritage protection), CPO 8.18 (vernacular buildings) and CPO 8.19 (vernacular buildings).

Although the Old Mill Building is an historic building the structure has no conservation designation, and therefore I would agree with the appellant that the Built Heritage policies, cited in the Council's refusal reason, do not specifically relate to the protection of the Old Mill Building.

In terms of potential impacts on the Old Mill Building the proposed development does not intend to remove or alter any component of the Old Mill Building, which is

situated on a neighbouring site, nor does the proposed development impact on the future development potential of the Old Mill Building.

Therefore, having regard to the nature of the proposed development, on an adjoining site to the Old Mill Building, which is not a protected structure, the proposal, in my opinion, would not unduly impact on the integrity of the Old Mill Building as an historic building. Therefore, I would not share the Planning Authority's view in respect of the potential impact on the Old Mill Building.

### 8.3. Infill Development

Section 3.1.6 of Appendix 1 'Development and Design Standards' of the Wicklow County Development Plan, 2022 – 2028, includes guidance in respect of 'infill development' in relation to density, design, location of windows, location of proposed gable walls, access and implications for adjoining developments.

Having regard to prevailing density of the immediate area, including that in the adjacent housing development Carrig Mill, the proposed development would have a density consistent with the character of the immediate area and therefore I would consider acceptable.

In relation to design, location of windows, location of proposed gable walls, access and implications for adjoining developments the proposed development, in my view, having regard to the proposed design, layout and set back distances from adjoining properties, would not give rise to any concerns. As such the proposed development would be consistent with Section 3.1.6 'Infill Development' of Appendix 1.

### 8.4. Residential Amenities

In considering residential amenities for the proposed development, I would have regard to amenity standards in Appendix 1 'Development and Design Standards' of the Development Plan, and also policy objective CPO 6.13 which requires that new development should demonstrate compliance with Quality Housing for Sustainable Communities (DoEHLG 2007). I will assess each amenity standard in turn below.

#### 8.4.1. Internal Floor Areas

In terms of assessing amenity for future occupants, the proposed houses shall comply with the principles and standards outlined in Section 5.3: 'Internal Layout and Space Provision' contained in the DEHLG 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007).

Table 5.1 of these guidelines includes sizes for typical dwellings and for a two-storey 4-bed unit the target floor area is 120 sq. metres, and 44 sq. metres for a 1-bedroom unit.

The floor area of the proposed 4-bedroom house is 150 sq. metres and the floor area for the proposed one-bedroom house is 93 sq. metres. The proposed residential units, therefore, the subject of this appeal, provide an adequate provision of floor areas and accordingly an acceptable level of residential amenity for the future occupants consistent with the provisions of the DoEHLG Guidelines 'Quality Housing for Sustainable Communities' (2007) and Policy Objective CPO 6.13 of the Wicklow County Development Plan, 2022 – 2028.

Further to the above, in terms of daylight or potential overshadowing I would note the proximity of house no. 1 to the existing Old Mill building which has a large south facing elevation and further I acknowledge the level of the site, for proposed house no. 2, is situated at a lower level than the site of the proposed house no. 1.

Notwithstanding the potential of any overshadowing along the northern elevations of the proposed houses, I would note that the living areas of proposed house no. 1 and house no. 2 adjoining the Old Mill Building are not primary living areas. The proposed internal areas immediately adjoining the Old Mill Building are mainly bedrooms or hallways, and therefore would not unduly affect the proposed residential amenities.

In addition, the primary living areas in both house no. 1 and house no. 2 are situated at first floor level and face southwards which would offer a good level of amenity in terms of orientation and sunlight for future occupants.

The internal floor areas would offer a good standard of residential amenity for future occupants of the proposed development.



#### 8.4.2. Private Open Space

In the case of a 4-bedroom house the Development Plan<sup>1</sup> recommends a minimum private open space provision of 60 – 75 sq. metres, and in the case of a 1-bedroom house 50 sq. metres is recommended as the minimum private open space provision.

The private open space provision for the proposed two houses primarily comprises of east facing rear gardens. The rear garden of house no. 1 (westernmost dwelling) measures approximately 64 sq. metres and additionally includes a 9 sq. m. of a ground floor terrace. Overall, this would be a satisfactory level of private open space provision for house no. 1, having regard to the amenity standards in the Development Plan, therefore providing for a good standard of amenity for future occupants.

In relation to house no. 2 the submitted drawings indicate the private open space calculation is 46 sq. m. I would acknowledge that the rear garden space for proposed house no. 2 is supplemented by a first-floor terrace of 6.5 sq. metres, and two further terraces at the lower level. In quantitative terms this would provide an adequate provision of private open space for the proposed 1-bedroom house.

In terms of a qualitative assessment of the proposed private open space provision it is notable that in both proposed houses the primary living areas are situated at first floor level. Whereas the primary private open space (rear gardens) is situated at ground level meaning no direct access to the primary amenity spaces or alternatively that the private open space is accessed from a bedroom.

In the case of house no. 1 accessibility is from a side communal passageway and a ground floor bedroom (bedroom no. 3), at the rear of the house. The private open space would also be accessible from a south facing ground floor terrace which would necessitate the passing of 2 no. bedroom windows (bedroom no. 2 and no. 3).

Regarding proposed house no. 2, the primary private open space provision (rear garden) is situated at a lower level than the first-floor primary living area and is accessible via an external first floor to ground floor stair.

The configuration of the floor areas relative to the private amenity spaces is a factor in considering the overall quality of the private open space provision and the overall

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<sup>1</sup> Section 3.1.4 of Appendix 1 'Development & Design Standard'.

amenity value of the proposed development. However, on balance, I would consider, for the reasons outlined above, that the private open space would be consistent with the Development Plan provisions and offers a good standard of residential amenity for future occupants.

#### 8.4.3. Car Parking

In relation to car parking provision, the proposal provides sufficient space for 4 no. car parking spaces which would therefore exceed the minimum car parking requirements in section 3.1.5 of the Appendix 1 of the Development Plan, as such the car parking provision for the proposed two-house development would be acceptable.

#### 8.4.4. Privacy

The proposed development offers an adequate level of privacy for future residents and therefore would offer a good standard of residential amenity for future occupants.

#### 8.5. Structural Stability

In considering the issue of structural stability I would have regard to the two Engineer's Reports on the file. I note from the correspondence on the file that the applicant submitted an Engineer's Report (dated 19<sup>th</sup> August 2024) confirming the engineering methodology to secure both the existing mill wall to the north of proposed dwelling no. 1, and the existing mill wall situated between proposed dwelling no. 1 and dwelling no. 2.

The Area Planner's report (dated 11<sup>th</sup> September 2024) accepted the findings in this Engineer's Report and recommended a grant of permission without the benefit of a report from the Council's Municipal District Engineer.

The report by the Municipal District Engineer (dated 13<sup>th</sup> September 2024), based on a site inspection and included observations outlining concerns in relation to the structural stability of the Old Mill building. The report had regard to stone wall area to the south of the mill, and connected to the mill, and the walls that extend into the site to the immediate south of the appeal site which has a number of walls protruding from it.

The Municipal District Engineer report also highlights concerns in relation to the existing earthen ramp to the immediate east of the existing mill wall between house no. 1 and house no. 2.

The Engineer's reports on the file are not like for like, as the applicant's Engineer's Report, as referenced above, includes a methodology to protect the mill walls to the north and the wall situated between the proposed houses. In relation to the mill wall to the north it is proposed that the new foundation level of proposed dwelling no. 2 will be lowered using leanmix concrete placed at the same level as the base of the existing stone wall. This proposed engineering methodology is illustrated in the submitted drawing S1116-010, and the Report submits that the proposal will ensure that each foundation (the existing wall and the proposed house) will not affect the other.

In relation to the proposed mill wall located between the proposed house no. 1 and proposed house no. 2 it is proposed to underpin the existing stone wall, if necessary, to bring down the foundation of the stone wall in relation to foundation of Dwelling no. 2.

The report from the Municipal District Engineer (MDE) does not respond to the applicant's proposed engineering methodology, however instead the MDE report refers to additional connecting mill walls on the site and raises concerns about their relationship with the structural stability of the Old Mill Building.

I would consider, based on the information available that the applicant's Engineer's Report provides a basis for structurally protecting both the Old Mill wall to the south, of the proposed development, and the mill wall situated between house no. 1 and house no. 2.

I would recommend to the Board, should they be minded to grant planning permission, that a condition is attached to a grant of permission. The condition shall require the applicant to agree in writing with the Planning Authority, details of construction methodology for the permitted development, including any required survey work, that safeguard the structural integrity of the adjoining former Mill Building and Mill Wall to the north of proposed house no. 1, and the mill wall situated between proposed house no. 1 and proposed house no. 2.

#### 8.6. Impacts on Adjoining Site

I would acknowledge that the Council has concerns, in relation to future development potential, in respect of to the adjoining site to the south which has development potential. I would consider, based on the set back distances of the proposed development from the adjoining site to south the proposed development would not unduly affect the amenities to the south of the appeal site or compromise any future development proposals for the same site. I would also note that the proposed development would not compromise access to the adjoining site to the south.

In this regard it is worth noting the response submission from the Planning Authority (dated 17<sup>th</sup> October 2024) also concludes that no detail has been provided to support the Council's opinion that the proposed two-house development could impact on the future redevelopment of the adjoining lands to the south. Further the submission states that on this basis the Planning Authority advises the Board that should they consider refusal reason no. 2 unwarranted, the Planning Authority would not object to its removal. Therefore, I do not agree with the second reason for refusal.

#### 8.7. Other Matters

I note the concerns from the Municipal District Engineer (dated 13<sup>th</sup> September 2024) in relation to the measurements of the submitted drawings and the argument in relation to inaccurate site dimensions to accommodate the proposed development.

Having regard to my measurements of the submitted ground floor plan of house no. 2, I would acknowledge that the width of the site varies and measures 6m wide at certain points of the site. However, I would also note, from my measurements, that side passage at the northern end of the proposed house no. 2 would range from 0.7 metres in width (at a particular pinch point) to 1.25 metres at the western end of the proposed house. Overall, this would be consistent with Section 3.1.6 of Appendix 1 'Development and Design Standards'. The width of the side passageway on the southern end of the proposed house is wider again and therefore acceptable.

I note that the appeal submission refers to two separate legal judgements, including *Darmer-v-An Bord Pleanala*, and *Ashbourne Holdings-v-An Bord Pleanala*. In relation to *Darmer-v-An Bord Pleanala*, I note that the appellant's concern relates the Acting Director of Services demurring the Area Planner's recommendation in respect of structural stability of the Old Mill Building, which is now addressed in the course of

this report in paragraph 7.5 above. In relation to *Ashbourne Holdings-v-An Bord Pleanala*, the appellant has concerns in relation to the local authority approach in using the planning process for landownership purposes, however this is now addressed following the response submission from the Planning Authority (dated 17<sup>th</sup> October 2024).

## **9.0 AA Screening**

Having regard to the nature and small scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

## **10.0 Recommendation**

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

## **11.0 Reasons and Considerations**

Having regard to the location of the appeal site within a designated settlement boundary and in a built up area, and the Wicklow County Development Plan, 2022 – 2028, policy objectives CPO 4.2 (Compact Growth), CPO 4.3 (Density) and CPO 6.16 (Infill Development), and Section 3.1.6 ‘Infill / backlands development in existing housing areas’ of Appendix 1 of the Development Plan, and Quality Housing for Sustainable Communities (DoEHLG 2007), the pattern of development in the area and the overall scale, design and layout of the proposed development it is considered that, subject to compliance with the conditions set out below the proposed development would be acceptable in terms of visual impacts, would not contravene built heritage policy objectives of the Wicklow County Development Plan, 2022 – 2028, and would not seriously injure the amenities of property in the area.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 20<sup>th</sup> August 2024 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. Prior to commencement of development, the applicant shall agree in writing with the Planning Authority, details of construction methodology, for the hereby permitted works, including any required survey work, that safeguard the structural integrity of the adjoining former Mill Building and Mill Wall to the north of proposed house no. 1 and Mill Wall situated between proposed house no. 1 and proposed house no. 2. In default of agreement on any of these

requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to ensure and secure the protection of the Old Historic Mill building.

3. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to the planning authority for agreement.

**Reason:** In the interest of orderly development and the visual amenities of the area.

4. Prior to commencement of development, proposals for development name, unit numbering scheme and associated signage shall be submitted to the planning authority for written agreement. The name(s) shall reflect the history or topography of the area.

**Reason:** In the interest of orderly development.

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

**Reason:** In the interest of public health and to ensure a proper standard of development.

6. All existing services (electricity, telephone, etc) adjacent to and within the development shall run underground.

**Reason:** In the interest of visual amenities.

7. Prior to commencement of development, a landscaping scheme shall be submitted to the planning authority for agreement. This scheme shall include details of all existing trees and hedgerows on the site, specifying those

proposed for retention, together with measures for their protection during the period in which the development is carried out. The site shall be landscaped in accordance with the agreed scheme, which shall also include a timescale for implementation.

**Reason:** In the interest of visual amenity.

8. Prior to the commencement of development, the developer shall submit details of all boundary treatment for the agreement of the planning authority. This shall include boundaries between the proposed houses and boundaries to the exterior of the site.

**Reasons:** In the interest of residential privacy.

9. Prior to the commencement of development the developer shall submit a full and detailed construction management plan which shall include a construction programme for the works, hours of operation, a traffic management plan, noise and dust mitigation measures (including details of truck wheel wash at the site entrances) and details of construction lighting. A Construction Manager shall be appointed to liaise directly with the council. Details to be agreed in writing with the Planning Authority.

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

10. That all necessary measures be taken by the contractor to prevent spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

**Reason:** To protect the amenities of the area.

11. Prior to the commencement of development the developer shall submit, and obtain written agreement of the planning authority to, a plan containing details of the management of waste (and, in particular, recyclable materials) within



the development including the provision of facilities for the separation and the collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

**Reason:** To provide for appropriate management of waste and in particular, recyclable materials, in the interest of protecting the environment.

12. 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 - (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. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**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.

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and

the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Kenneth Moloney  
Senior Planning Inspector

30<sup>th</sup> January 2025

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-320980-24		
<b>Proposed Development</b> <b>Summary</b>	Removal of existing structure, construction of 2 dwellings and all associated site		
<b>Development Address</b>	Mill House, Mill Road, Killincarrig, Greystones, Co. Wicklow		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	✓	Class...	Proceed to Q3.
<b>No</b>			
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			
<b>No</b>	✓	Class 10(b)(i) of Part 2: threshold 500 dwelling units (iv) urban development.	Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes		Threshold = 500 houses Proposal = 2 houses	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	✓	Pre-Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-320980-24
<b>Proposed Development Summary</b>	Removal of existing structure, construction of 2 dwellings and all associated site
<b>Development Address</b>	Mill House, Mill Road, Killincarrig, Greystones, Co. Wicklow
<p><b>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b></p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The subject development comprises of two dwellings in a rear garden plot in a mature suburban area, characterised by residential development and commercial development. The floor area of the proposed 4-bedroom house is 150 sq. metres and the floor area for the proposed one-bedroom house is 93 sq. metres. The proposed houses are similar in size to houses in the vicinity. The proposal is not considered exceptional in the context of neighbouring houses.</p> <p>The proposed development would not be exceptional in the context of the existing environment.</p>

	<p>During the construction phases the proposed development would generate waste. However, given the moderate size of the proposed development, I do not consider that the level of waste generated would be significant in the local, regional or national context. No significant waste, emissions or pollutants would arise during the demolition, construction or operational phase due to the nature of the proposed use.</p>
<p><b>Location of development</b></p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The proposed land use is residential, which is consistent with the pattern of development in the immediate area of the appeal site. The location of the subject development is located within an urban area that is defined in the Wicklow County Development Plan, 2022 – 2028, as within settlement boundary of the Greystones – Delgany LAP, currently under review with the pre-draft consultation paper completed in January 2024.</p> <p>The subject site is not located within or adjoins any environmentally</p>

	<p>sensitive sites or protected sites of ecological importance, or any sites of known for cultural or historical significance. The site also has no connectivity to any environmentally sensitive sites.</p> <p>Owing to the serviced urban nature of the site and the infill character of the scheme, I consider that there is no real likelihood of significant impacts having regard to the location of the proposed development.</p>
<p><b>Types and characteristics of potential impacts</b></p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>The application site is not located in or immediately adjacent to any European site. The closest Natura 2000 site is c. 2 km, The Murrough SPA site code 004186. There are no waterbodies or ecological sensitive sites in the immediate vicinity of the site.</p> <p>The site is located within a serviced urban area and the site would be connected to public surface and foul sewers. I do not consider that there is potential for the proposed</p>

	<p>development to significantly affect other significant environmental sensitivities in the area.</p> <p>Owing to the date of the Old Mill Building, dating from pre-1837, the building is an historic building. However, the structure has no conservation designation, Built Heritage in the Development Plan, do not specifically relate to the protection of the Old Mill Building. In terms of potential impacts on the Old Mill Building the proposed development does not intend to remove or alter any component of the Old Mill Building, which is situated on a neighbouring site, nor does the proposed development impact on the future development potential of the Old Mill Building. Therefore, having regard to the nature of the proposed development, on an adjoining site to the Old Mill Building, which is not a protected structure, the proposal, in my opinion, would not unduly impact on the integrity of the Old Mill Building as an historic building.</p>
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<b>Conclusion</b>		
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>	<b>Yes or No</b>
There is no real likelihood of significant effects on the environment.	EIAR is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	
There is a real likelihood of significant effects on the environment.	EIAR required.	

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_

**Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)