

File With _____

**LARGE RESIDENTIAL
DEVELOPMENT
CORRESPONDENCE FORM**

Appeal No: ABP 322 476-25Please treat correspondence received on 30/6/25 as follows:

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| 1. Update database with new agent for Applicant/Appellant _____
2. Acknowledge with LRD <u>23</u>
3. Keep copy of Board's Letter <input type="checkbox"/> | 1. RETURN TO SENDER with LRD _____
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Amendments/Comments

BP7e response rec'd from E. Howell by email.

4. Attach to file

 (a) SHD/LRD Unit ☐ (b) Inspector ☐
RETURN TO EO ☒Catherine - in power.
 EO: Ronan Adams
 Date: 3/7/25.

 Plans Date Stamped ☐
 Date Stamped Filled in ☐

 AA: Laoise Foley
 Date: 04/07/25

Daniel O'Connor

From: KOM.ie | Raymond O'Malley <raymond@kom.ie>
Sent: Monday 30 June 2025 10:42
To: Appeals2
Subject: ABP-322476-25
Attachments: Section 131 Response 30.06.2025.pdf

Caution: This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

Dear Sir or Madam,

Please see Section 131 response attached.

Kindly acknowledge receipt in due course.

Regards,

Raymond O'Malley, Director

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30th June 2025

An Coimisiún Pleanála (by e-mail)
64 Marlborough Street
Dublin 1

Case Number: ABP-322476-25 (previously ABP-319137-24)
Plan No.: 23/60219
Proposal: LARGE SCALE RESIDENTIAL DEVELOPMENT - (a) Construction of 352 no. residential units
(b) The proposed development will connect to the Tinakilly Park residential development and Rathnew Village via a new section of the Rathnew Inner Relief Road. The proposed road will join the constructed/under construction elements permitted under WCC Ref. 17/219/ ABP Ref. PL27.301261 and amended under WCC Ref. 22/837 to the south with a section of the link road to the northwest of the site at the R761 roundabout in Rathnew granted under WCC Ref. 21/1333. Tinakilly Country House Hotel (which is a Protected Structure RPS No. 25-15), to the west/southwest by commercial development, the R750 Wicklow – Rathnew Road and Rathnew Village; and to the south by the Tinakilly Park residential development currently under construction..

Re: SECTION 131 RESPONSE

Dear Sir or Madam,

The Board's letter dated 13 June 2025 and the accompanying response by Brock McClure on behalf of the applicant, Keldrum Limited refers. This is a further submission from our client, *Eileen M Howell, Rathkilly Lodge, Tinakilly, Rathnew, Co. Wicklow*, for the consideration of An Coimisiún Pleanála.

As set out in our client's appeal, which should be read in conjunction with this submission, there are valid planning grounds to overturn the decision of Wicklow County Council and refuse planning permission. Inter alia, these include infringement on our client's right of way along Tinakilly Avenue and the detrimental impact on the architectural heritage of Tinakilly Avenue and the setting of Tinakilly House, which is a protected structure. Given the clear and undisputed existence of the right of way and that the proposal would permanently infringe on it, An Coimisiún is invited to afford it due planning consideration and not to dismiss it on the basis that our client and others benefiting from the right of way can revert to the Courts.

There are enough cases already in the Courts without this proposal going there again. Therefore, without prejudice to our client's position that permission is refused, in the event An Coimisiún elects to grant permission, it is respectfully requested to include a planning condition that maintains all means of access at Tinakilly Avenue in compliance with the legal right of way. Any proposal shall be agreed in writing with the Council and affected landowners prior to commencement of development.

With regard to architectural heritage, we have reviewed the inspector's report on the now quashed appeal decision and disagree with their conclusion that "*The house and its lands do not therefore include Tinakilly Avenue.*" As stated in the applicant's EIAR and repeated in our client's appeal, Tinakilly Avenue is shown on the Ordnance Survey Map from 1840 (see figure 12.5 of the EIAR) and it is also partially shown on Historic Map No.2: Rathnew Village - Historic 6-inch Map First Edition in the Wicklow Town Rathnew Local Area Plan 2025. It therefore follows that the avenue is part of the historic curtilage of Tinakilly House.

The EIAR has failed to even consider the potential impact on the architectural heritage instead only assessing archaeology and cultural heritage. As a result, it is again submitted that the EIAR is flawed because it has not assessed one of the aspects of the environment that the applicant is obliged to consider. As presented in the planning application and the revision in the further information response, the proposed development would have a profound negative impact on architectural heritage and should be refused on that basis.

The applicant's submission to An Coimisiún argues compliance with the recently adopted Wicklow Town Rathnew Local Area Plan 2025 and in particular, the provisions set out in SLO 2 Tinakilly/Newrath. It is noted that the applicant's response refers to the interim variation that appears to be slightly different to the now published plan e.g. the concept plan shown in the applicant's submission does not appear in the adopted version of the LAP. Notwithstanding, it is submitted to An Coimisiún that the proposal does not comply fully with the following provisions for SLO2:

Any development proposal shall comply with the County Development Plan, this Local Area Plan and the following:

- *Provision of a childcare facility at an appropriate location on the RN1 zoned lands in line with the relevant Guidelines for Planning Authorities;*
- *Provision of a mixed use games area of not less than 0.75ha on lands zoned RN1 or OS1 comprising at a minimum: an equipped playground of not less than 2,000sqm; one tennis court; one basketball court; and a '7-a-side' size mixed use pitch. No more than 20% of the dwellings, unless otherwise agreed with the Planning Authority, shall be occupied on the lands zoned RN1 before this facility is complete and available for use. Any proposed development on the subject lands should be accompanied by a detailed phasing programme and rationale to be agreed with the Planning Authority.*

The proposed development does not include the provision of a childcare facility at any location on the RN1 zoned lands. The provision of a creche at Broomhall Business and Enterprise Park should be ignored by An Coimisiún because it is not relevant to complying with the specific development plan provisions that apply to the appeal site. An Coimisiún will note that the requirement for a creche is a new provision in the LAP that is presumably required to address the additional residential zoned lands have been identified in the LAP at Tinakilly and to provide for a creche within the specific development that is generating the demand for the creche. As worded in the development plan and LAP, the creche shall be provided on the RN1 lands. This proposal does not comply with that requirement.

The applicant's response to An Coimisiún admits that the proposal does not include the required tennis court, basketball court and '7-a-side' mixed use pitch that must be located on RN1 or OS1 zoned land.

Notwithstanding that admission, the applicant does not identify any location within the proposal to accommodate this essential amenity infrastructure instead it is "willing to agree a suitable location" within the SLO2 with the Council. This 'let's agree it later' approach does not comply with the development plan provision for SLO2 and in any event, that infrastructure is not exempted development so a planning application must be made to the Council. The proposal is contrary to the proper planning and sustainable development of the area and should be dismissed by An Coimisiún.

Please acknowledge receipt of this response and direct all future correspondence to this office.

Regards,



Raymond O'Malley

Kieran O'Malley & Co. Ltd.

ROM: rom