

**34, Main Street
Rathdrum
Co. Wicklow**

**An Bord Pleanála,
64 Marlborough Street,
Dublin 1**

29 February 2024

Planning Register Number : 23/60219

Appeal against Order of Wicklow County Council dated 02/02/2024 to grant permission for development of land, namely:-

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. This includes all associated vehicular and pedestrian access, carriageways, paths and junctions. (c) No proposed works to Tinakilly Country House Hotel (a protected structure Reference No. 25-15) save for works to close the western portion of Tinakilly avenue to vehicular traffic and the provision of a new vehicular entrance and gates along the eastern portion of Tinakilly Avenue off the Rathnew Inner Relief Road to facilitate access to Tinakilly House and other properties to the east of the site accessed from Tinakilly Avenue. (d) All associated site development works, service provision, infrastructural and drainage works, provision of esb substations, bin stores, bicycle stores, car parking, public lighting, landscaping, open space, and boundary treatment works. (e) The planning application is accompanied by an Environmental Impact Assessment Report and Natura Impact Statement. The application site is generally bounded to the north by greenfield lands, to the east by 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. at Site of c.16.8ha, at Tinakilly, Rathnew, Co. Wicklow

Applicant: Keldrum Limited

I Leslie Armstrong submitted a letter of observation to Wicklow County Council in relation to the above application on the 18th September 2024 and I attach a copy of their letter of Acknowledgement dated the 19th September 2024 herewith.

1. I am a director of Claremount Holdings Ltd. the registered owner of lands shaded red on the attached map and registered on Folio WW810. See **Figure 1**. My lands adjoin the site the subject of the above Order of Wicklow County Council dated the 2nd February 2024 of a Notification of Decision to Grant permission. My lands are located to the north and west of the applicant's lands and the applicant's lands slope to the north and west.
2. In my letter of observation I stated that my lands are bounded on the east by the Broomhall watercourse and on the north by the Rathnew watercourse. I used the description for both watercourses as given by JBA Consulting in its Flood Risk Assessment dated August 2023. See

AN BORD PLEANÁLA	
LDG-	<u>070403-24</u>
ABP-	_____
29 FEB 2024	
Fee: €	<u>220</u> . Type: <u>c/c</u>
Time: <u>15:34</u>	By: <u>HAND</u>

Figure 2. However I now note that the watercourse on the eastern boundary of my lands is described by Murphy + Sheanon Horticulture and Landscape Architects for the applicant as "Rosanna Lower stream". Therefore to avoid confusion I am using "Broomhall watercourse/Rosanna Lower stream" in this appeal.

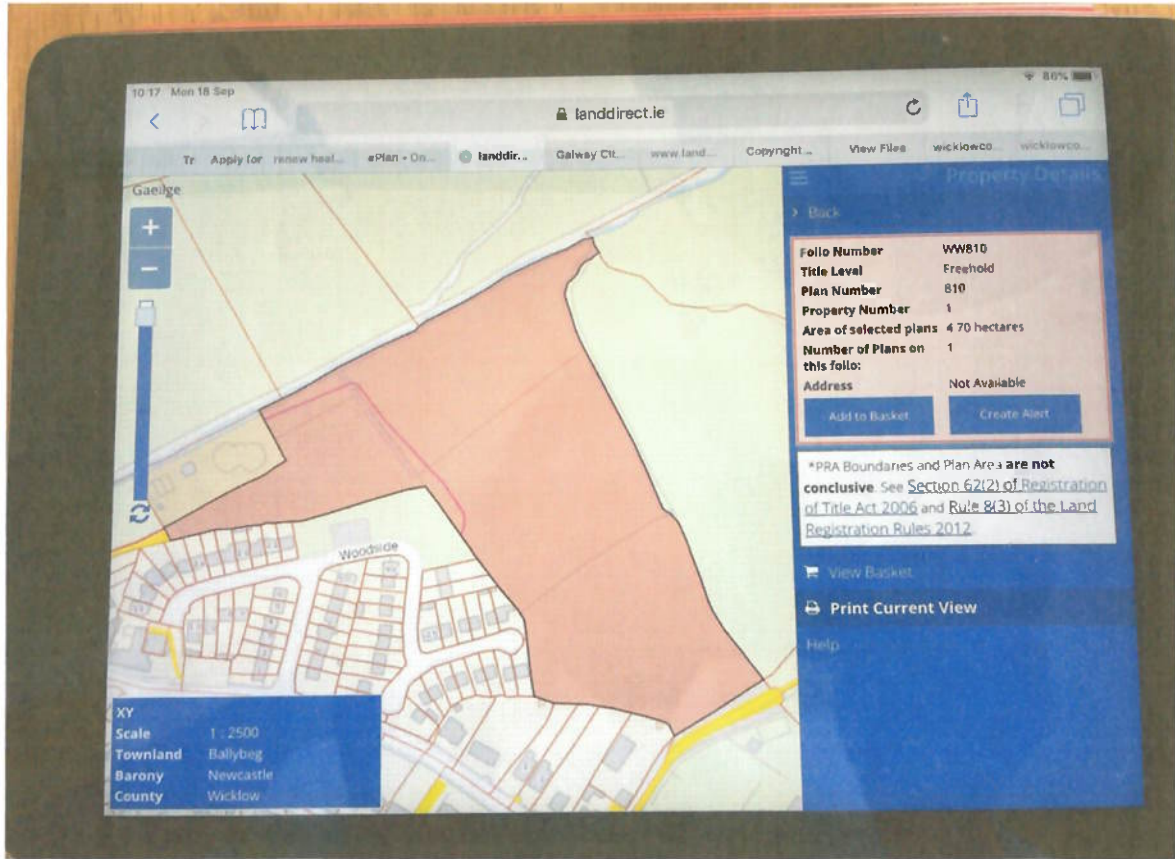


Figure 1: Folio WW 810.

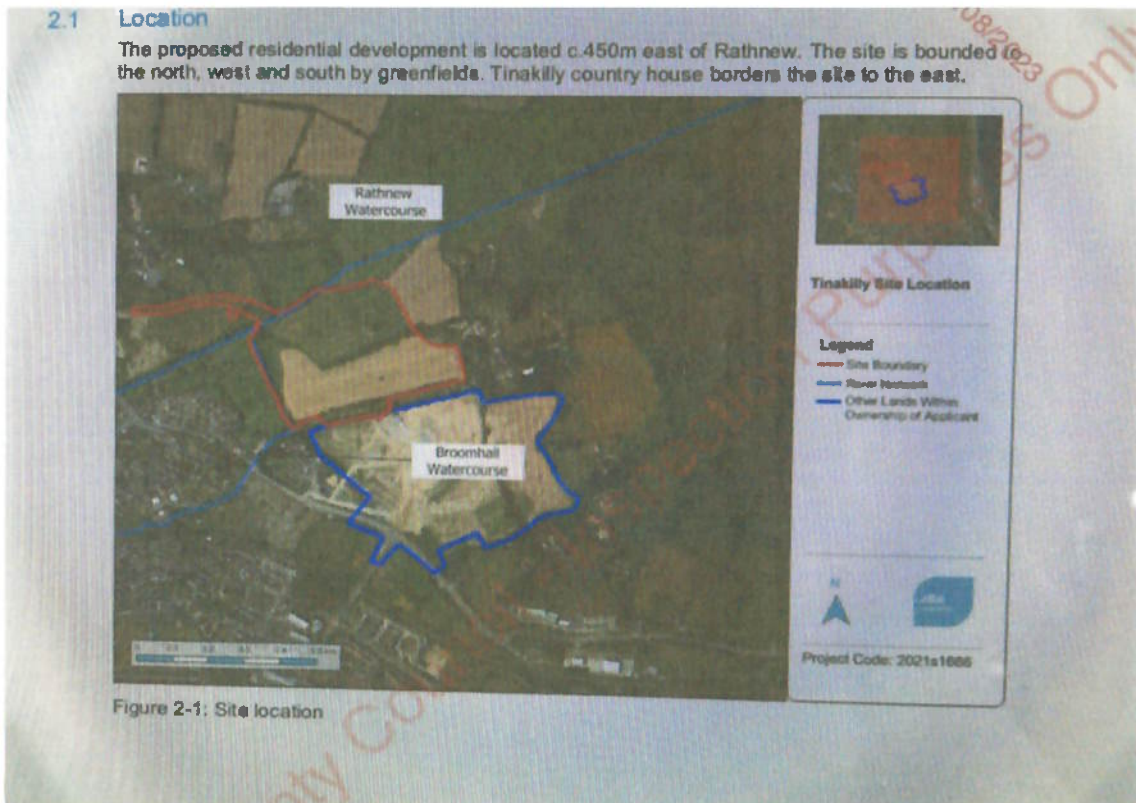


Figure 2: Screenshot of Site location taken from JBA Consulting in its Flood Risk Assessment

3. My lands are located to the east of the applicant's lands and are designated POS – Passive Open Space in the County Wicklow Development Plan. These lands are rented from March to November for grazing. In my letter of observation I requested Wicklow County Council to require the applicant to erect a 2 metre high concrete wall along the western boundary of the applicant site to protect my privacy, the amenity value of my lands, in the interest of proper planning and development, and to prevent illegal dumping by the residents of the proposed development on my lands and in the Broomhall watercourse/Rosanna Lower stream. A review of submissions indicate that concern was also raised by third parties in relation to parts of the boundary of this large development and amendments were subsequently made to the boundary based on these submissions. Of note is that another landowner made a submission in relation to part of the eastern boundary between their land and the applicant's land and Wicklow County Council required the applicant to erect a 2.5 mt. high block wall for this landowner. In contrast, Wicklow County Council disregarded my request and granted permission to the applicant for the existing natural boundary comprising hedgerow and scrub. – see Condition 20 and Landscape and Boundary drawings submitted to Wicklow County Council by Murphy + Sheanon on the 30/11/2023.

The Tree File Ltd., Consulting Arborists for the applicant in their report dated July 2023 state in relation to the hedging:-

“ 4.3 Where it exists, hedging about the site is of a typical agricultural format, often encountered in conjunction with ditch and embankment scenarios. There is much evidence to suggest there once having been continuous Hawthorn-based hedges however, in many instances, the hawthorns are becoming suppressed and discontinuous, with current hedge feature continuity being provided for by a combination of plants and sometimes little more than Bramble thicket.

4.4 The west and northwest of the site and particularly associated with the lower and apparently damp area; we note substantial natural thicket development. This thicket is dominated by goat willow, a species well suited to colonising damp zones that may suffer periodic flooding. This material is dispersed and random often covering large areas. Was a possible ecological interest, the material would not be regarded as suitable for retention within a developed context.”

I am of the view that the existing natural boundary between the applicant's lands and my lands as indicated on Landscape and Boundary drawings submitted to Wicklow County Council by Murphy + Sheanon on the 30/11/2023 is unsuitable as a boundary for this proposed large scale development for the following reasons:-

- (a) The existing boundary is comprised of scrub and thicket and does not provide an impermeable boundary between this large scale development and my lands;
- (b) It will not prevent residents in this proposed large scale residential development or their small animals from traversing the Broomhall watercourse/Rosanna Lower stream to access my lands without my permission;
- (c) It will encourage residents to try to take a short cut over my lands to the Main Street in Rathnew;
- (d) It will encourage illegal dumping in the Broomhall watercourse/Rosanna Lower stream and on my lands and this will place a disproportionate burden on me to take measures to prevent this illegal dumping;
- (e) It will encourage anti social behaviour; and
- (f) My lands are grazed by livestock for a significant portion of the year and are not suitable for access by members of the public or their animals.

In the interest of proper planning and development I request that An Bord Pleanála make it a condition of this grant of planning permission that the applicant erects a 2 metre high concrete wall, cement rendered and capped (similar to the boundary wall stipulated by Wicklow County Council at Condition 20) or a suitable alternative of the same height along the entire boundary between the applicant's lands and my lands.

Inland Fisheries Ireland in its letter dated the 11th October 2023 stated that both the Rathnew stream and Broomhall watercourse/Rosanna Lower stream are of the highest value in terms of fishery resource and are considered of equal importance as the Murrough Wetlands SAC into which they flow. In their letter they recommended that the riparian zone for both watercourses should be strictly protected with a minimum buffer of 15m from the proposed development in order to protect identified otter foraging and or nesting and breeding habitat. In the interest of environmental protection, I request that An Bord Pleanala make this recommendation a condition of the grant of planning permission.

5. Inland Fisheries also raised concerns about the deficiencies within the wastewater infrastructure servicing the Wicklow, Rathnew and Ashford Agglomerations and the risk of more frequent and more severe overflows to local waterbodies. The recommended that assurance is sought and given by Uisce Eireann that the receiving foul network can accept and convey the foul waste generated without overloading the existing foul networks capacity. I could not locate a letter from Uisce Eireann giving this assurance on the planning file. I request that assurance be obtained from Uisce Eireann that there is sufficient wastewater infrastructure to accommodate this proposed development and there is no threat of overflow.
6. When I purchased my lands in the mid 1990's both the Rathnew Stream and the Broomhall watercourse/Rosanna Lower stream were mere trickles of water during the Spring and Summer months with an increase in water volume in the Autumn and Winter months. However subsequent significant development upstream of both streams has resulted in a significant increase in the volume of water in both streams. There is no history of past flood events on the applicant's lands or on my lands, or of any flood event in the area surrounding my lands. Similarly the Ordnance Survey maps do not indicate that my lands are "liable to floods". However the OPW Eastern CFRAM study identifies a 10% Fluvial AEP Event on part of my lands adjoining the Broomhall watercourse/Rosanna Lower stream (1 in 10 in any 1 year period); a 1% Fluvial AEP Event on a very small portion of my lands adjoining Tinakilly Avenue (where the Broomhall watercourse/Rosanna Lower stream turns left to join the Rathnew watercourse) (1 in a 100 in any 1 year period) and a 0.1% Fluvial AEP Event on part of my lands adjoining the Rathnew watercourse (1 in a 1000 in any 1 year period). Of note is that the OPW qualify their findings by stating that the Ashford/Rathnew area has been modelled as an Area of Further Assessment (AFA) under the Eastern CFRAM Study. (see www.floodinfo.ie).
7. JBA Consulting in their Flood Risk Assessment dated August 2023 state that the applicant proposes to use Sustainable Urban Drainage Systems (SUDS), Settlement ponds and Attenuation tanks to store surface water from proposed hard surfaces in Catchment areas A – E of the proposed development and they state that the surface water from Catchment areas B and D will be released from two Attenuation Tanks in a controlled fashion into the Broomhall watercourse/Rosanna Lower Stream. They state that the greenfield runoff rate at the development site has been established as 6.56 l/s/ha. and that a total attenuation storage volume of 3,369m³ is required for the development site, and a total attenuation storage volume of 3,369m³ is provided. However they fail to provide extra storage capacity for the inevitable increase in hard surface areas as a consequence of home owners erecting extensions to their homes, together with patios and garden sheds and the tarmacing (albeit illegally) of their driveways. They also fail to take into account the run off from existing upstream developments. I request that the applicant be required to provide:-
 - (a) projected calculations for the inevitable increase of hard surfaces as a consequence of home owners carrying out further works to their homes, and
 - (b) the cumulative effect of run off from the proposed development when combined with existing developments upstream and future anticipated Climate change and how this cumulative figure will impact on my property.

8. Inland Fisheries Ireland in their letter dated the 11th October 2023 state that IFI are aware of difficulties being caused within the catchment areas of both the Rathnew stream and Broomhall watercourse/Rosanna Lower stream because of recent developments in the area. They cite *inter alia* poorly maintained SUDs infrastructure and a general lack of care and awareness from on-site practices and they go on to state:-

“IFI are witnessing real problems within watercourses resulting from poorly designed undersized and badly maintained SUDs and wastewater infrastructure”.

I am not aware of any Management Measures being initiated by Wicklow County Council to comprise *inter alia* a review of the maintenance of existing Attenuation tanks, Settlement ponds, Detention basins or swales in housing estates upstream of the proposed development, or the implementation of general river maintenance in the environs of Rathnew in consultation with Inland Fisheries Ireland.

IFI advocate the approach taken by DLRCC in relation to Stormwater Management Policy for new developments and they recommend the following in relation to maintenance:-

“..the Applicant must submit a post-construction maintenance specification and schedule for the drainage system, including SuDs measures and attenuation system to Wicklow County Council for their approval”

This wording was taken from the DLRCC “Stormwater Management Policy (including Stormwater Audit Procedure)” however DLRCC includes a further sentence that states:-

“This maintenance specification and schedule must be included in the Safety file”.

The density of this proposed development can only be achieved with the provision of Settlement ponds and Attenuation Tanks – both of which require long term maintenance in order to work effectively and prevent flooding of adjoining lands in the future. I am concerned that the applicant fails to outline how the Settlement ponds and Attenuation Tanks for this large scale development will be maintained once the estate is completed.

9. In it's Notification of Decision to Grant Wicklow County Council states at Condition 18 that the applicant shall comply with the requirements of the “Greater Dublin Strategic Drainage Study” and the Ciria SuDs Manual C753 for interception storage. I submit that:-

(a) The “Greater Dublin Strategic Drainage Study Volume 2 New Development” is a policy document that requires Local Authorities to develop policies for new developments that are appropriate for the provision of future drainage services in the Greater Dublin region. The study states that these policies would assist Local Authorities to comply with their legal responsibilities, their planning and development objectives and would, in so far as practicable, conform to good international practice. A particular requirement from the study is that policies adopted across the region should facilitate a uniform and consistent approach to urban drainage infrastructure planning, design, construction and operation with the identification of similar approaches for Local Authorities to adopt as to how drainage infrastructure for new development is managed. With respect the “Greater Dublin Strategic Drainage Study” is a policy document to assist Local Authorities in deciding whether or not to grant planning permission for a particular development and not a document to be adhered to by the applicant after the grant of planning permission.

(b) In relation to the SuDs Manual C753 Ciria state:-

“This publication covers the planning, design, construction and maintenance of Sustainable Drainage Systems (SuDS) to assist with their effective implementation within both new and existing developments. It looks at how to

maximise amenity and biodiversity benefits, and deliver the key objectives of managing flood risk and water quality. There is also supporting information covering topics such as materials, landscape design, maintenance, community engagement and costs and benefits.

The guidance provides the framework for designing SuDS with confidence and to maximise benefits. Its contents are relevant for a wide-range of professions and roles and it highlights that through engagement and collaboration SuDS can be integrated into the design of urban areas, to create high quality places for future generations.”

I submit that Wicklow County Council should have been satisfied that the applicant had submitted sufficient information to demonstrate that it would comply with the Greater Dublin Strategic Drainage Study and the Ciria SuDs Manual C753 prior to making the Order of a Decision to Grant Planning Permission and to ensure compliance, they should have inserted a specific condition either stating that the Council would satisfy itself that the applicant had complied with the Greater Dublin Strategic Drainage Study and the Ciria SuDs Manual C753, or requiring the applicant to submit a Report from an appropriate professional (with Professional Indemnity Insurance) certifying that all requirements of the Greater Dublin Strategic Drainage Study and Ciria SuDs Manual C753 had been complied with post completion of each phase of the development.

10. JBA Consulting state that the applicant proposes to construct two culverts under the proposed bridge over the Rathnew stream comprising part of the Rathnew Inner Relief road however they fail to state how these culverts will be maintained post development to prevent downstream flooding of my lands. My understanding is that the OPW has no statutory responsibility for the maintenance of the Rathnew and Rosanna Lower watercourses under its statutory Arterial Drainage remit and Wicklow County Council is not maintaining these watercourses under the statutory Drainage District Schemes. However the OPW states that outside of Arterial Drainage and Drainage District Schemes the obligation is on the landowner to maintain watercourses on or near their lands to mitigate flooding. (see www.floodinfo.ie). As I am bounded by both watercourses – both of which are of concern to the Inland Fisheries Board, this places a disproportionate burden on me.

I enclose payment in the sum of €220 and await the decision of An Bord Pleanala in due course.

Thank you,


Leslie Armstrong



Comhairle Contae Chill Mhantáin
Wicklow County Council

Forbairt Pleanála agus Comhshaoil
Planning Development and Environment

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Facs / Fax: (0404) 69462
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Suíomh / Website: www.wicklow.ie

19/09/2023

Leslie Armstrong
34 Main Street
Rathdrum
Co. Wicklow

**ACKNOWLEDGEMENT of RECEIPT of SUBMISSION or OBSERVATION on a
PLANNING APPLICATION**

THIS IS AN IMPORTANT DOCUMENT

KEEP THIS DOCUMENT SAFELY. YOU WILL BE REQUIRED TO PRODUCE THIS ACKNOWLEDGEMENT TO AN BORD PLEANÁLA IF YOU WISH TO APPEAL THE DECISION OF THE PLANNING AUTHORITY. IT IS THE ONLY FORM OF EVIDENCE THAT WILL BE ACCEPTED BY AN BORD PLEANÁLA THAT A SUBMISSION OR OBSERVATION HAS BEEN MADE TO THE PLANNING AUTHORITY ON THE PLANNING APPLICATION.

PLANNING AUTHORITY NAME Wicklow County Council

PLANNING APPLICATION REFERENCE No. 2360219

A submission/observation in writing, has been received from
Leslie Armstrong on 18/09/2023 in relation to the above planning application.

The appropriate fee of €20 has been paid. (Fee not applicable to prescribed bodies)

The submission/ observation is in accordance with the appropriate provisions of the Planning and Development Regulations 2001(as amended) and will be taken into account by the planning authority in its determination of the planning application.


SENIOR EXECUTIVE OFFICER
PLANNING, DEVELOPMENT AND ENVIRONMENT

Date 19/09/2023

Planning Authority Stamp

WICKLOW COUNTY COUNCIL
19 SEP 2023
PLANNING DEPT.