



An  
Bord  
Pleanála

## Inspector's Report PL27.249280.

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<b>Development</b>	Demolish Killingcarrig House, construct 33 residential units, 2 no. commercial units, all site works.
<b>Location</b>	Killincarrig, Delgany, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council.
<b>Planning Authority Reg. Ref.</b>	17/338.
<b>Applicant</b>	Targeted Investment Opportunities ICAV.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	1. Delgany Hills Management Company Ltd 2. Anne Whelan
<b>Observer</b>	None
<b>Date of Site Inspection</b>	27 <sup>th</sup> February 2018.
<b>Inspector</b>	Mairead Kenny.

## Site Location and Description

- 1.1. The site is located in Killincarrig, which is a small village in the north-east of the county of Wicklow just north of the crossroads of regional roads between Delgany and Greystones. The site is prominently and conveniently positioned at the entry point to Delgany / Greystones from one of the junctions of the N11 and is under 2km from that junction. The site is at the meeting point of the R761 and R762.
- 1.2. Killincarrig is described as the oldest surviving village settlement in the area and the extent of that survival is deemed to be remarkable. The most significant buildings in architectural terms are located at its western side, which would include part of the frontage of the site. The buildings along the eastern side are more recently constructed structures – that area was formerly the demesne lands of Killincarrig. The buildings along the western side of the road, which contribute to architectural character tend to be two-storey buildings which abut the public footpath or have very short front gardens.
- 1.3. The appeal relates to a plot of land which is of stated area of 1.0398 ha. A planned cycleway at this location will be constructed on part of the site and on lands in the ownership of the Council. Thus the site of the proposed development is of stated area of 0.95 hectares. The general form of the site is c-shaped and it is defined at the southern and eastern boundaries by the regional road and footpaths. Notable boundary features include stone walls and there are a number of mature trees at the edges and in the centre of the site.
- 1.4. Along the eastern boundary of the site is Killincarrig House (also known as Killincarrig Lodge), which is of architectural merit but in a dilapidated condition. Due to the presence of trees there are very limited views from the public realm to the house. It would appear that the building has been vacant for many years. I did not inspect the interior of the building, which is described in some detail in the application submissions including by way of a photographic record. I did notice during site inspections that the roof ridge appears fairly straight but otherwise I had limited views to the building.
- 1.5. To the north and west is residential development. To the east is an occupied residential property, which is in the ownership of a third party. To the north of the site is the rear garden of a dwellinghouse and a row of dwellinghouses which are part of

the Delgany Hills development, which is mainly to the west of the site. Delgany Hills is a mixed development of apartments and houses and in common with the subject site it is on sloping topography. Ground levels within the site are shown on the site surveys presented by the applicant. The general pattern across the site is a steep drop in levels from north to south. I will discuss this as relevant later in this report and also refer in more detail to the pattern of development in the vicinity and to the trees on site.

- 1.6. Photographs of the site and surrounding area, which were taken by me at the time of inspection are attached.

## 2.0 Proposed Development

- 2.1. The application was received on 31<sup>st</sup> of March 2017. In response to a request for further information there were significant revisions, which were advertised in public notices and described in the submission to the planning authority on 21<sup>st</sup> of July 2017 and 1<sup>st</sup> of August 2017.
- 2.2. In brief the **original proposal** provided for the demolition of Killincarrig House construction of a three-storey block of 22 apartments (Block 1), a mixed use two-storey building of 2 no. retail units and 2 no. apartments (Block 2) and 9 no. two-storey dwelling houses. Vehicular access to Block 1 to be from the R762 by way of Delgany Hills and from the R761 for the remainder of the proposed development.
- 2.3. The **revised proposal** incorporated refurbishment of Killincarrig Lodge to provide 2 no. ground-floor commercial units with an apartment at first floor level, construction of a three-storey 22 unit apartment block (Block 1) and construction of 9 no. two-storey dwelling houses. Thus the total number of residential units was reduced from 34 to 33 no. Modifications to the design of residential units were proposed in response to concerns identified by the planning authority including in relation to natural light, separation distance between the retaining wall and Block 1 and other issues. Other revisions incorporated in the revised submission included amendments to design, additional pedestrian connectivity and amendments to road layout.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The planning authority decided to grant permission subject to conditions including:

- the establishment of a management company with responsibility for maintenance of the entire site, services, buildings and infrastructure
- further detail on the use of open space to the rear of Killincarrig House
- revised proposals for a parking / home zone area to the north of Block 1 to allow the provision of a suitable landscaped barrier of 1m between the private open space and adjoining communal/parking areas
- revised proposals to ensure an increase in overlooking of the open space
- upgrading of existing entrance into Delgany Hills
- further details of proposed home zone areas
- specification for road construction and related matters
- provision along the northern side boundary of a 2 m high wall
- other details relating to the fence line along the northern boundary (condition 21) and boundary treatments elsewhere
- ground floor of Killincarrig House to be restricted to use as a shop
- refurbishment of Killincarrig House to be carried out using best heritage practice and to be supervised by an appropriate professional.

3.1.2. The issues of concern in the further information request included:

- impact on Killincarrig ACA
- permeability/connectivity within the site
- boundary treatment including in relation to the retaining wall system
- issues in relation to residential amenity of ground floor units in block 1 and overlooking of open space
- social infrastructure audit in order to determine adequacy of childcare facilities

- roads, pavements and parking and entrance details
- public lighting scheme and details of surface water drainage including in relation to the retaining wall.

### 3.2. Planning Reports

Final report of the Executive Planner dated 24<sup>th</sup> of August 2017 includes:

- issues raised in third party submissions are summarised under the headings of parking, construction phase impacts, traffic and access, pedestrian access, impact on Killincarrig ACA, flooding, childcare facilities, housing type and tenure, commercial units, landscaping, boundary treatment and retention of trees and design and layout - not all of these are relevant
- the applicant's response to each of the items of further information assessed - all substantive issues are deemed capable of being addressed by condition
- the development complies with the development standards and zoning objectives for the area and is acceptable in terms of design and layout and provision of public open space
- the development should not have a significant negative impact upon the residential amenities of adjoining properties beyond what would be reasonably expected from the development of the site in accordance with the plan and permission is recommended.

Original report of the Executive Planner dated 23<sup>rd</sup> of May 2017 includes the following comments:

- Notes the LAP policies including zoning objectives pertaining to the site and policies RT10, RES13, RES5, HER1 and the provisions of the Killincarrig ACA and policy HER12. Policies of CDP also referenced including BH18 and BH19.
- Commercial units are acceptable in principle given the extent of the SLC zoning. Residential use of upper floor conforms to SLC zoning.
- Killincarrig House is of 'Regional' importance under the NIAH listing. Recommendation of DAHRRGA noted. Principle of demolition was previously

accepted. Does not significantly contribute to ACA but due to prominent nature of the site the design of any replacement building is important.

- Retaining wall divides site and creates two separate developments with separate access points and there is lack of permeability.
- The apartment block will be significantly higher in terms of ridge level but there is an existing apartment block to the west. No significant overlooking from the balconies of Block 1.
- Mass, scale and proportions of Block 2 inappropriate and detract from ACA.
- Will not be a serious impact in terms of overlooking or loss of privacy subject to adequate boundary treatment along the northern side boundary. Issues relating to the potential for inadequate natural light in some units of Block 1.
- Open space provision in the amount of 2,520 square metres exceeds requirement of 1,425 m<sup>2</sup>. Garden depths adequate and each apartment is served by 30m<sup>2</sup> minimum private terrace or balcony and communal open space. Excess parking proposed for Block 1.
- Access to the site by way of Delgany Hills would minimise junctions onto the regional road and create connectivity. Planning history also refers.
- Given the quantum of housing development permitted / proposed in the vicinity it is appropriate to ensure that there are adequate childcare facilities.
- The site is not within a flood zone but it would appear that there is a history of flooding on the public road adjacent to the site. Installation of adequate measures on site for collection, storage and disposal of surface water should ensure that development does not create a flood risk.
- The landscape master plan includes proposals for the retention of a number of existing mature trees including a number of trees which are identified for protection under the LAP and mature trees along the western boundary of the site. Accepted that a number of trees will be lost due to condition and others removed to facilitate development. New trees will help mitigate.

- Development will not have a significant adverse impact on Conservation Objectives or integrity of European sites in the vicinity and an Appropriate Assessment would not be required.

### 3.3. **Other Technical Reports**

#### Municipal Engineer (Final)

Further information submissions are generally acceptable subject to planning conditions that the pedestrian ramp be constructed and details of the home zone the provided. Public lighting has not been provided along the R761.

#### Municipal Engineer (Original)

Requirements regarding detail of paths, roads and lighting.

#### Transportation and Roads Infrastructure

Report identifies some detailed issues which can be addressed by condition.

#### Water and Environmental Services (Final)

No further comments following further information submission.

#### Water and Environmental Services (Original)

Retaining wall drainage details not indicated.

#### Housing Directorate

Satisfied with the location and size of proposal to provide 3no. one-bedroom apartments.

### 3.4. **Prescribed Bodies**

#### Department of Culture, Heritage and the Gaeltacht (Final)

Revised proposals involving retention of Killincarrig House subject of favourable comment. No objection in principal.

Conditions recommended relate to supervision of works and that the works be in accordance with the Architectural Heritage Conservation Guidelines and the advice series on architectural heritage conservation.

#### Irish Water

No objections subject to standard conditions.

### 3.5. **Third Party Observations**

Third party submissions to the planning authority deal with a number of common issues, which are identified in brief and grouped together under the headings below.

#### Roads and traffic

Traffic through Delgany Hills will give rise to hazard. Pedestrian route through Delgany Hills detrimental to residential amenities. No consent obtained.

Access arrangements unsafe. Access needs to be fundamentally reconsidered as it will cause inconvenience and hazard. Contrary to policy HD 14.

Insufficient modelling to demonstrate that the use of the single entrance point onto the R762 is acceptable. Traffic lights or roundabouts may be required.

Inadequate parking for visitors. Revised proposal exacerbates inadequate parking provision and results in increased traffic. Need for a suitable covered bicycle store.

No general right of access to Delgany Hills to access open space or for any other reason. DHMC deny permission and the planning authority has no right to impose.

#### Layout, landscaping and open space

Excessive tree removal. Report underestimates the value of Group 2 trees including a large beech tree.

Trees could be retained if retaining wall repositioned closer to road serving houses or if parking to be closer to retaining wall.

Boundary treatments - undermine existing stone wall - inappropriate new structures.

Inadequate public open space / development plan requirements not met.

#### Architectural Heritage and Design

Killincarrig House is on the NIAH and demolition is unacceptable.

Development would have adverse impact on ACA. External finishes not compatible with area. Concerns about design of western façade.

Excessive level of development. Buildings are out of scale and do not harmonise with existing built environment in terms of character, elevation detail or materials.



### Residential Amenity and Related Issues

The revised proposal increases capacity while reducing the amount of floor space.

Retaining wall will have a physical and visual dominance affecting the apartments.

Need for more three bedroom units. Smaller number of larger apartments preferred.

The revised proposal is not represented suitably - hard to assess the design.

Parts of the car park are not secure and will require lighting which will impact on Delgany Hills.

Location of refuse store too close to Delgany Hills. Needs to be designed to address potential for noise and odour.

### Other issues

History of flooding. Development will exacerbate due to topography and layout and nature of surface water proposals. Need for full Flood Risk Assessment.

Need to provide disposal to separate sewers. Queries relating to surface water maintenance including in connection with the retaining wall and the ability of the local authority to undertake such work.

Type of tenure and housing units are not in keeping with area.

Need for a structural survey of existing houses to establish baseline where extensive ground excavation taking place.

Lack of demand for commercial units. Statements relating to adequacy of childcare facilities in area not correct as residents travel to Shankill due to scarcity in Delgany.

Submitted report is based solely on existing situation and is not forward-looking.

Scheme should be considered an extension of Delgany Hills for this purpose, resulting in a total of 101 units. Possible use of Killincarrig House for childcare.

Fire certification and disability access certificate issues.

Construction vehicles will cause damage and costs will arise. Overspill parking.

Hours of construction proposed (including 'after hours') are totally unsuitable.

Construction route unclear. Objection to use of access by way of the R762 at Delgany Hills. Access for construction should be only from R761. Timeframe unclear. Concern about noise and dust.

Failure to consult.

## 4.0 Planning History

### 4.1. On site

- 4.1.1. There is a live appeal in relation to inclusion of part of the site on the Vacant Sites Levy – ref. no. **300617-18** refers.
- 4.1.2. Under **reg. ref. 15/994** an application for development consisting of demolition of Killincarrig House, development of 2 no. apartment blocks of three-storey height over basement car park with a four-storey penthouse level, development of 10 no. two-storey houses, a two-storey mixed-use building and all site works was refused permission by Wicklow Co Council for the reason summarised below:
- would result in creation of substandard development for future residents, would be injurious to the visual amenities of the area and would be contrary to proper planning and sustainable development.
- 4.1.3. The reason for refusal in the above highlighted a number of detailed issues including in relation to the relationship between buildings, heights of retaining walls, layout, open space and the removal of a high-quality mature tree (T684) at the western side boundary.
- 4.1.4. Under **PL 27.234960** the Board upheld the decision of the planning authority under reg. ref. 08/2116 to grant permission for a mixed use development of a four-storey nursing home and 4 no. three storey dwellinghouses. The site defined overlapped with the current site, but was smaller and in particular it excluded the north-eastern corner where Killincarrig House is located. The sole vehicular access to the entire development was to be by way of Delgany Hills. The Board in its Direction noted the pattern of development in the area included some modern building forms and considered that the proposed departure from traditional scale and style buildings could integrated successfully into the area. I refer later to the tree survey and site layout.

### Sites in vicinity

- 4.1.5. Under **PL27.246530** the Board upheld the decision of the planning authority to refuse permission for a development at a site is immediately across the road from

the subject site. The reason for refusal related to the bulk, height, scale, orientation and design of the proposed development, which comprised 7 no. three-storey houses. The proposal involved demolition of 2 no. houses (which were neither protected structures nor included on the NIAH). The Board indicated that it was not satisfied that the demolition of the buildings of some historical and architectural merit had been sufficiently justified.

4.1.6. **PL27.244882** refers to alterations to a house.

4.1.7. **PL27.244528** refers to alterations to a house.

## 5.0 Policy Context

### Regional Planning Guidelines for the Greater Dublin Area 2010 – 2022

Greystones-Delgany is designated as a Large Growth Town II within the Dublin Metropolitan Area, which has a target population of 24,000 by 2022.

### Wicklow Co Council Development Plan 2016 – 2022

Greystones-Delgany will accommodate a high level of housing growth with a view to securing a population target for Greystones-Delgany for 2022 of 21,603, reaching 24,000 in 2028. Presently there is a shortfall in the amount of 1,267 units. This will be addressed in the future LAP. The plan identifies infrastructural improvements which are required including in the rail and national road network to support this growth.

It is an objective to prepare new plans for Greystones-Delgany and Kilcoole during the lifetime of the County Development Plan.

Chapter 4 refers to standards for residential development. It refers to the development plan design standards document, which accompanies the plan and to the key design factors set out in the guide issues which will be required to be addressed. These include context, connections, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking and detailed design.

Policy HD 5 refers to best use of land resources and services and the need that new residential development aim for the highest density indicated for the lands.

If there is no relevant local area plan density objective then the principles set out in 'the Development and Design Standards' apply; this is Appendix 1 of the plan. It states that heights more than one-storey above adjoining buildings will not normally be accepted unless provided for in the town plan. Small to medium scale housing developments are described as those which are intended to fit into the existing built fabric. Good modern architecture with a building language that is varied and forward-looking will be required.

New apartment developments will include a range of unit sizes. Dimensions, layout, open space and so on shall accord with the *Sustainable Urban Housing: Design Standards for New Apartments*.

### Greystones-Delgany and Kilcoole Local Area Plan 2013 – 2019

The overall vision is that the area will develop in a mutually dependent and complimentary manner while each settlement shall have a distinct identity and provide for the service and social infrastructure needs of residents and hinterland.

The objectives in relation to Killincarrig include:

- part of an area in which the implementation of 'greenroutes' is ongoing – the regional roads adjacent the external site boundaries are so designated
- Map C indicates that the site is not within Flood Zone A or B
- To protect and retain trees which contribute to the biodiversity value and the character and amenity of the area. This objective (HER 4) applies to the list of trees indicated in Appendix B and Map B.
- Map B identifies T22 a tree preservation objective , which is described in Appendix B as 'trees on grounds of private dwelling'
- the Killincarrig Architectural Conservation Area is also shown
- Killincarrig Village is identified as one of a number of designated small local centres which are similar to neighbourhood centres but not appropriate for the provision of the supermarket – size of units not to exceed 150 m<sup>2</sup> – RT10
- Map A indicates that the site zoning is RE and SLC

- policies relating to residential development include (section 3.4) a requirement to monitor and implement population targets, phasing in accordance with the sequential approach, strong emphasis on infill opportunities
- apartments encouraged only in a range of locations including SLCs
- RES 8 notes that there is no upper limit on densities and quantum of development on the site will be guided by adherence to standards of the County development plan relating to massing, height, design, fit with fabric of the area, plot ratio, parking, open space and protection of residential amenity
- RES 13 identifies a shortfall of affordable family type homes, generally semi, - detached in nature and typically not more than 125 m<sup>2</sup>.

## 5.1. Guidance

- 5.1.1. *Sustainable Urban Housing - Design Standards for New Apartments 2015* These set out minimum standards for apartments and present other guidance including in relation to qualitative aspects of schemes.
- 5.1.2. *Childcare Facilities Guidelines for Planning Authorities 2001*. This sets out planning requirements including that for developments of 75 residential units provision be made for 20 childcare spaces.
- 5.1.3. *Circular PL3/2016* published by the Department of Environment, Community and Local Government identified the possible revision to the above guidance in view of the likely increase in demand for childcare facilities over the coming years. No revision has yet been undertaken.

## 6.0 Heritage Designations

Killincarrig House is listed as being of regional importance under the National inventory of Architectural Heritage. The listing refers to the potential to improve the streetscape.

The nearest European site is Glen of the Downs SAC and other nearby sites include The Murroughs SAC / SPA and Bray Head SAC.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

### 7.2. Anne Whelan

#### 7.2.1. The main points of this appeal include:

- inconsistent with zoning SLC which pertains to 51% of the site
- objectives of WCDP prohibit access to existing established areas of predominantly single family homes for a new apartment development
- other requirements including RES 5 and RES 13 are also not complied with
- 42 units per hectare excessive in the context of 34 units per hectare at Delgany Hills
- RES 7 requires that the density be calculated based on lands which can actually be built upon - density is excessive
- HER4 relating to tree protection applies –T22 applies to about 50% of the site – however only 11 trees are to be retained from a total of 55 trees
- The report of CSR is not accurate including by reason of the omission of T 100, possibly the finest tree on the site – many trees in Group 2 are 14m
- Trees damaged during construction of Delgany Hills are recovering well
- Redesign the proposal involving relocation of the retaining wall and facilitate retention of mature trees on the western border
- Further permeability tests required, for the applicant to complete a risk assessment due to ground levels and the location of the site abutting flood zone 31 (flood zone A) – this should be a precondition of permission – OPW and SFRA have reported the area as a flood risk and local floods have recently occurred have this area and it is not simply a matter of blockages in surface water system
- Substantial proportion of the 2287 m<sup>2</sup> of open space provided is on land of excessive sloping gradients, inadequate width and a turning circle

- No hierarchy of open spaces for different play needs and not all houses are in visual range of usable public open spaces and there is limited passive surveillance –not clear if the open space calculations were checked
- Board is requested to specify permissible noise levels permissible dust and particulate emission levels and related matters
- Full review by a PSDP required
- Pedestrian entrance this will facilitate trespass and DHMC has the right to manage and control its own privately owned property (including the right to deny trespass) – no consent has been granted and should not be presumed and this access route should be removed - would also facilitate tree retention
- Combined development of 101 units - crèche facilities required under Guidelines and the development plan objective CD 24
- WCC did not specify the location of the construction site entrance - internal road in Delgany Hills not designed for HGVs - construction traffic would be detrimental to residential amenity
- To ensure consistency it is requested that ABP require the construction at western boundary of a 2m high wall
- Concerns in relation to the inappropriateness of attenuation chambers and bypass interceptors, the level of maintenance required and the potential for flooding - consideration may also be given to a performance bond
- Concerns relating to passive surveillance of parking, details of lighting including potential for overspill, cycle parking details of including the requirement to have enclosed spaces
- Attachments including in relation to planning policies, details of trees and matters referred in support of the submission made.

### 7.3. **Delgany Hills Management Company Ltd (DHMC)**

The main points of this appeal include:

- Delgany Hills is described as a high class residential development comprising substantial townhouses and relatively large apartments which are for the most part owner occupied
- Notable conditions which interest in our client are conditions 1, 2, 9, 10, 12, 20, 21 and 27
- Board is requested to refuse permission – would seriously injure residential amenities, constitute a serious traffic hazard and reduce the security and safety of Delgany Hills
- Delgany Hills owns all the roads, open spaces and services and it will never be taken in charge by WCC
- Proposed access through Delgany Hills is seriously deficient for reasons of layout, conflicting traffic movements, additional turning movements and traffic generation which would seriously interfere with the amenities of Delgany Hills and the activities of pedestrians, cyclists and children, inadequate parking provision in the context of the distance to the Greystone DART station and is likely to cause backups on the regional road at times of high traffic generation, leading to congestion and hazard
- Board is requested to consider conditions which would address these issues including all traffic for construction use only the Killincarrig village access to the site, that contributions be made to DHMC every year for maintenance and repair of roadway in Delgany Hills or alternatively conditions imposed requiring a new access to the provided from the south-west corner of the site from the regional road
- Cash bond should be required or alternatively the developer will be required to commit legally to full remediation of entrance and access road after completion of construction
- Planning authority does not have the right to create pedestrian link
- Site of 0.95 ha results in the density equivalent to 34 dwellings per hectare - when usable land is taken into account density rises by 10%
- Density is not acceptable having regard to established character



- Site access should be restricted for the construction phase to the northern entrance only to avoid massive disturbance to residents
- Car park to the west of Block 1 would seriously undermine the root system of existing mature trees along this boundary
- Loss of trees would be seriously detrimental to residential and visual amenities and revised proposals are required to protect existing natural trees along this boundary
- Relocation of the Terramesh retaining wall is proposed and this will benefit many aspects of the development
- Flood Impact Assessment required under 2009 guidelines
- Request that submission be positively considered and that permission be refused or that the development be modified.

#### 7.4. **Observations**

None.

#### 7.5. **Applicant's Response**

The applicant's response to the appeals includes a detailed response to the issues raised in the appeals regarding the following:

- vehicular access through Delgany Hills
- pedestrian access to the site and through Delgany Hills
- density
- construction -related issues
- boundary trees
- flood risk including submission of a flood risk assessment
- development plan related issues
- health and safety and fire safety
- childcare issues

- boundary treatment and parking.

7.5.1. The applicant's submissions in support of the proposed development include a range of specialist consultant's report and a set of drawings. The development is described as complying with all relevant standards and comprising a design of exceptional standard and the Board is requested to uphold the decision of the planning authority.

## 7.6. Further Responses

7.6.1. The further comments of **Ann Whelan** include:

- Applicant's voluminous submission of approximately 300 pages and the very short response deadline of 21 February does not facilitate my obtaining further detailed/technical analysis and briefing by external professionals
- Board is asked to read my detailed submission of 21 September 2017 in its entirety and not just to focus on the extracts which are referenced in the applicant's response submission, which does not address all issues
- Drive to maximise the dwellings should not be at the cost of disregarding statutory requirements, planning requirements and health and safety as well as destruction of long established facilities which enhance the area
- AECOM report of October 2017 has determined that the site is within flood zone A and that it represents a significant flooding risk
- FRA submission that the current culvert under the R762 is inadequate together with other reasons warrants a refusal of permission as the Council and / or applicant may be reluctant to commit to the necessary investment
- In terms of the traffic which would be generated the submission of AECOM is disputed and it is noted that it is not based on surveys but on modelling
- Commitment to undertake survey and follow-up survey to assess construction damage should be extended to the Delgany Hill lands
- Request that the Board require the applicant to enter into agreement to address matters such as future maintenance, insurance and public liability – the amount of the cash bond which would be available to the management company of Delgany Hills is unknown

- Width of the possible future pedestrian path is shown as approximately 20 m and there are no details of screening and this cannot be enforced
- Open-ended and uncertain approach to boundary treatment set down in condition 20 defeats the purpose of the planning application process
- Windows on the western elevation of the block are high level and the majority of parking spaces are not overlooked – redesign is required.

7.6.2. The response on behalf of **Delgany Hills Management Company** reiterates its previous permission that permission should be refused or the proposed development modified.

### 7.6.3. **Planning Authority Comment**

7.6.4. At the time of its assessment the planning authority considered that flooding that occurred historically on the site was due to blocking of a culvert under the road. The culvert is located west of the site and it was blocked with man-made objects and water over topped the bank and flow down the road to the site. The capacity of the culvert was not the reason for its failure, however there are plans to upgrade the culvert.

## 8.0 **Assessment**

8.1. I consider that the main issues arising in this appeal may be considered under the following headings:

- principle and policy
- flood risk
- tree retention, layout and design
- architectural heritage
- other issues
- Appropriate Assessment.

## 8.2. Principle and policy

- 8.2.1. The site is located within a designated growth settlement where there is considered to be a shortfall in residential units in the amount of 1,267 units. The site is well located in terms of access to local services, the road network and to the Greystones DART station. There are reasonable footpaths in the area and plans to improve such facilities. There is no indication of any water or sewerage constraints which affect the site. This is an infill site, which appears in principle to be eminently suitable for development.
- 8.2.2. The site zoning and the subject density together with a range of design and layout issues are of concern to the appellants. In terms of the policy provisions I consider that the zoning objectives of SLC and RE are both complied with under the proposed development. The SLC zone to provide for a mix of neighbourhood centre services and facilities would provide for an extension of the existing village street. The proposed development incorporating small retail units and an apartment overhead within the refurbished Killincarrig Lodge clearly comply with the zoning objective and contribute an appropriate mix of uses at this north-eastern corner of the site. The selected residential units comprising a mix of apartments and houses complies with the zoning objective SLC/RE. The proposed dwelling houses (9 no.) at the northern end of the site would address the identified shortfall of affordable family type houses in the area and thus fulfil objective RES 13.
- 8.2.3. Regarding the site density the applicant indicates that while the density of 34.7 units per hectare based on the site area of 0.95 ha is lower than the recommended 50 units per hectare for sites within 500 m of a bus stop, the density chosen respects tree root protection areas and allows for the majority of mature trees on site to be retained and incorporated. I will return to the matter of trees later. I note that the appellants dispute the calculations of density and open space and consider that the proposed development is of excessive density and lacking open space. I consider that it is reasonable in this case to assess the development more in terms of how it responds to the site constraints including the topography and the trees. In principle I consider that the development incorporating a mix of apartments and largely terraced houses provides an adequate response in density terms.

8.2.4. I address a range of other policy measures relating to more detailed aspects of the development below. In principle I consider that the development of this site for residential and retail uses is broadly supported by prevailing planning policy.

### 8.3. Flood Risk

8.3.1. The applicant acknowledges that there is a flood risk during a 1% AEP flood event. The requirement under the Guidelines for a FRA in the case of highly vulnerable development arises and the earlier omission is now rectified by the submission of a FRA to the Board. The report was circulated to the parties.

8.3.2. The site-specific flood risk assessment of October 2017 refers. Figure 21 shows the location of the site relative to the streams in the area, including culverted streams and notes the topography of the site including the lowest point which is on the south-west corner adjacent the Delgany Hill development. There is a significant flooding risk to the site from fluvial and pluvial (urban drainage and overland flow) flooding sources.

8.3.3. Based on the hydraulic model the flood experienced at the site can be attributed to a lack of capacity in culverts along the Delgany stream. This leads to a surcharge and subsequent overland flow. Flood waters travel along the R762 as shown in the screenshot of model run (figure 5.8) and part of the site floods to depths of 1 m.

8.3.4. Regarding the suitability of the proposal and the mitigation measures on site and at adjacent lands, these are now assessed in terms of surface water infrastructure design on the site (including attenuation measures and discharge as well as specific issues relating to the retaining walls) and the need for and feasibility of works outside the site.

8.3.5. The first issue of concern is whether the development of the site would exacerbate any existing flooding or give rise to surface water discharge to adjacent lands in general. The proposed development is deemed to result in a loss of almost 900 m<sup>3</sup> of flood water storage and measures are presented to compensate, including one surface water retention basin south of Block 1 and an underground flood water storage tank below the car park of Block 1. The operation of this system is described in detail in section 5.6.2 of the applicant's submission and I am satisfied that it is robust. I note the appellant's concern regarding the operation of the detention basin

(which is to double as a playspace). I agree with the applicant's contention that the measures are suitable noting that there will be infrequent filling of the detention basin. Lost surface storage capacity plus an additional 10% would be provided by the facilities proposed and discharge is to green-field rates. I conclude that the Board and be satisfied that the proposed development would not result in surface water discharge beyond the site except by way of the organised slow release discharged over a two-day period to the local surface network.

- 8.3.6. A further matter relates to the potential that the development proposed would be flooded in the event of the Delgany stream overtopping and flowing along the R762. The proposed development incorporates a finished floor level which is above the 1% AEP and which also includes a freeboard allowance of 600mm. As such I am satisfied that the proposed residential units would not be affected by flood events. Water depths at the location of the vehicular entrance would be around 200mm as shown on the *Proposed Condition Water Volume* drawing submitted in response to the appeals. The applicant indicates that other measures which might protect the site further such as construction of a wall adjacent the southern boundary were discounted due to the adverse consequences for other lands. In conclusion the development if permitted would be prone to flooding at part of the site access, parking and open space pending works by the local authority.
- 8.3.7. The applicant's submission is that the most appropriate method of protecting the site from flooding would be to increase the size of the culvert under the R762, which AECOM state should have been undertaken as part of previous developments. The relevant culvert carrying the Delgany stream under the R762 is several hundred metres west of the site. Wicklow County Council has explained that initial culvert designs were rejected by OPW as there is a requirement to relocate associated services and a failure to meet required cost benefit analysis. As an alternative therefore the decision has been made to widen the culvert by 300 mm on each side but this has not yet been constructed.
- 8.3.8. Further it is the submission of the planning authority that it was not the capacity of the culvert that was the problem but the fact that it was blocked by man-made objects. Despite this statement there are plans to upgrade the culvert. However, there is no definite time scale for the undertaking of these works and I am not satisfied that there is certainty regarding funding, design or matters relating to

procedure. I consider that it is inappropriate that the proposed development be permitted to be constructed and occupied without this matter being addressed.

- 8.3.9. The issue of retaining wall drainage is largely a technical matter, which I consider could have been addressed by condition but which has been detailed in his submission of AECOM. The system design details a free draining aggregate placement behind the structure, thus effectively allowing drainage to permeate through the porous retaining wall. I consider that the response provided on this matter is adequate and there is no requirement for it to be addressed other than by way of a standard surface water condition.
- 8.3.10. I conclude in relation to the surface water infrastructure design associated with the proposed development that it is acceptable and results in green-field run-off rates. I consider that the applicant has thoroughly investigated the specific flood risk pertaining to the site and I agree with the suggested remedy, but note that resolution of all factors lies outside of the applicant's control. Part of the site would remain prone to flooding pending these works. I consider that the development is premature for this reason.

#### **8.4. Tree retention, layout and detailed design**

##### *8.4.1. Tree retention*

8.4.2. I return this point to the matter of policy and consider whether the local area plan objectives relating to trees is reasonably adhered to in the layout presented.

8.4.3. The specific objective pertaining to the site is T22, which is to retain trees in the house of a private garden. The older OS maps and photo images show that the site previously contained large numbers of trees, especially in the north-east of the site. The LAP objective which is currently in place was also contained in the 2006 LAP, which was relevant at the time of the making of the previous decision of the Board (PL27.234960). The Board is referred to Drawing P-S-009 *Tree Survey Information* on that file, which is attached. This shows the full extent of tree coverage on the site at present. That information is not included in the documentation presented with the current application and / or appeal. The Board is also referred to the site layout A1-S-001 and the extent of tree retention proposed under PL27.234960 and subject of condition 8 of the decision.

- 8.4.4. I agree with the appellants that the current proposal provides for removal of about 80% of all trees on the site. I consider that the applicant's submissions on this matter are evasive and in particular I note that there is virtually no detailed information presented relating to Tree Group 2 and the fact that it contains fine specimens. The statement that the density for example is reduced to allow for the retention of trees is not supported by the proposed development, which provides for felling of the majority of trees on site. The requirement to install retaining walls is mentioned in the Arboricultural Impact report, which notes that the trees in the centre and north of the site are in conflict with the proposed development.
- 8.4.5. I agree with the third party comment that a Beech tree in Group 2 is one of the finest trees on site / at the boundary, yet it is not represented on the drawings or discussed in the written response. By contrast there are a number of mentions of T684 at the western side of the site. In my opinion there are many fine trees in Tree Group 2, which contribute to the wider amenity of the area and I note the presence of trees such as the yew and others to the front of Killincarrig Lodge, which also warrant consideration as part of this appeal in view of the LAP objective.
- 8.4.6. It is unclear to me why the tree survey has been revised as the survey presented with the previous appeal appears to me to be up to date. I consider that the application presented and the appeal submissions do not provide any reasonable justification for the extent of tree removal. I accept the applicant's position that the site is not covered by a TPO and I consider that some reasonable level of tree removal could be accepted provided it is demonstrated that it is necessary to secure a reasonable level of development. In this regard I also note that some of the trees are not in good condition. I also accept that the site levels complicate matters significantly and I note that the rear gardens associated with the houses previously permitted (PL27.234960) at the north of the site would have been in the region of 2m above the finished floor level of the houses. The current proposal provides a clean sweep for house owners to lay out their own gardens and does not give rise to different levels across the plot.
- 8.4.7. If the Board is to make a decision to grant permission on the basis that the site location and infrastructure, together with the need for suitable density of housing at this site overcomes the objective to protect trees then my opinion is that such a decision should be based on full knowledge (including a detailed tree survey and



written assessment) as well as consideration of alternative layouts and designs including split-level houses. My opinion is that the information provided is insufficient and that the development is grossly at odds with objective T22.

- 8.4.8. I note that the planning authority has previously considered a further application for development at this site under reg. ref. 15/994 and I have examined the planning history on the Council's website. The reference in the Planning Statement to the consideration of the Inspector under PL27.234960 is that 'this group of trees was not highlighted as being of particular concern by the Inspector'. The Board will note from the attached case file that not only were most of the trees at the northern and centre of the site to be retained but a number of them (to the rear of Killincarrig Lodge) were outside the defined site boundary.
- 8.4.9. In the absence of an up to date and comprehensive tree survey I do not propose to comment further on the merits or apparent longevity of trees within the site or on the appellants' suggested revised layout.
- 8.4.10. I consider that the proposed development contravenes the LAP objective T22 as well as more general objectives set out in the County Development Plan and permission should be refused for this reason.
- 8.4.11. *Layout and detailed design*
- 8.4.12. Any discussion of layout and design has to be considered in the context of my serious concerns relating to the scheme on the basis of the matter of tree removal and my recommendation above. Therefore, my comments below should not be interpreted as supporting the proposed layout except in a general way.
- 8.4.13. I broadly welcome the approach of the designers in relation to site layout and massing of buildings insofar as the selected form of the buildings is generally in keeping with the character of the immediate vicinity and a reasonable density is achieved.
- 8.4.14. I consider that the mix of residential units together with the size of the individual units and provision of open space and other facilities would meet the requirements of future occupants and would also result in provision of reasonably affordable homes, which are specifically required in this area. Some aspects of the design / standard were modified during consideration of the application by the planning authority. I am satisfied that the residential amenity afforded to future occupants would be good,

taking into account the design of the development and the location of the site relative to services.

- 8.4.15. The impact on the residential amenities of the area is minimised through use of high level windows and suitable screening and I consider that no significant issues arise. The most significant negative impacts would be on the amenities of the two houses at the location of the southern entrance. These houses (originally proposed as a crèche) are situated at a cul de sac and the advent of through traffic would constitute a change in the character of the immediate area. While I consider that this would be a negative effect it would not be sufficient to warrant a refusal of permission as this is in my opinion a suitable and safe means of accessing the site as is discussed further below.
- 8.4.16. Regarding the amount and form of open space provided the applicant describes the three zones which are proposed, which include the fenced surface water detention pond. I accept that the flooding of this area would be very occasional and that it would otherwise be suitable as a ball playing area in view of the fencing and subject to a period of disuse after any flood event. I accept the applicant's submission that the amount as well as the character and layout of the open space provision is adequate to serve the development. I note in this regard also the proximity to the Delgany Hills development and the large central open space therein. I do not consider that the appellants' concerns relating to the possible use of this land or the stated reliance on this space in the scheme design warrant a refusal of permission.
- 8.4.17. I note that the appellants consider that the condition of the planning authority regarding agreement on boundary treatment undermines the planning application process. There is merit in this approach in my opinion insofar as the detailed design and heights can be adjusted to suit a particular situation and to ensure that there is adequate screening between residential properties. Regarding the specific request that a 2m block wall be erected along the western side of the site I agree with the applicant that this would not be in keeping with the objective to protect trees and a lighter structure may be preferred.
- 8.4.18. I agree with the promotion of permeability through the site and consider that it is in accordance with the proper planning and sustainable development of the area as well as national guidance. The revisions submitted to the planning authority by way

of further information included additional measures internal to the site including a link between the proposed apartments and houses. This is necessarily stepped but its design is stated to have taken into account the requirements of Part M and provision for ambulant disabled users. Regarding the future stepped pedestrian link to Delgany Hills, I consider that this is acceptable in principle but its realisation is less clear. In terms of the width, it is clearly stated to be 1.5 m and is intended to accommodate only pedestrian pathway. I consider that the development is acceptable in terms of permeability.

8.4.19. Regarding the availability of car parking and cycle parking, I consider that both are adequately provided for in the proposed development (27 car spaces for residents of block 1 and 13 visitor spaces, 58 cycle spaces and further car parking for the houses). I note identified concerns relating to the adequacy of the cycle parking provision and agree that there is no requirement for security and consider proposals are acceptable.

8.4.20. Regarding the architectural qualities of the scheme I consider that the proposed development is in keeping with the character of the area in terms of the height, massing and finishes of the structures.

8.4.21. I conclude that the proposed development is generally of suitable design and layout in terms of its connections with and impact on the adjacent lands, would comprise a good quality residential scheme compliant with guidance and the development plan.

## **8.5. Traffic**

8.5.1. The scheme involves relatively low levels of development accessing onto two separate regional roads within the restricted speed limit and in a built-up area. As such, this is not an inherently unsafe type of development but the appellants have raised a number of issues to which I now respond.

8.5.2. I note that the applicant's submission includes a TTA incorporating results of a base traffic survey. I consider that the level of traffic which would be generated by an additional 22 no. apartments could readily be accommodated at the existing Delgany Hills vehicular entrance without any adverse consequences on its operational efficiency. From inspection I consider that the sightlines are adequate and I accept the applicant's submission that the AM and PM peak traffic generated will be of

negligible impact. I consider that there is no significant likelihood that the proposed development would lead to significant queueing, congestion or hazard.

- 8.5.3. The applicant's submission included swept past analysis which demonstrates that large vehicles can manoeuvre within the proposed internal road network.
- 8.5.4. I consider that it would be inappropriate that all construction traffic use the Killincarrig village access only. At that location the road is narrow and relatively poorly aligned and contains commercial uses which would generate relatively significant traffic and parking. I note that the use of Delgany Hills entrance is not ideal in particular due to the impact on the 2 no. houses adjacent the site. However, for the duration of the construction and having regard to the significant level difference on the site I consider that it is the suitable option for the construction of the apartment block. A full construction management plan would be appropriate.
- 8.5.5. Regarding the potential for damage to the Delgany Hills road network I consider that the applicant's proposal to undertake a condition survey of the surrounding road network (and follow-up survey) covers this matter adequately. This would be incorporated in the construction traffic management plan and I do not consider that a separate condition would be warranted.
- 8.5.6. Similarly I am unconvinced about the requirement for a bond to be set specifically to deal with the short length of private road which would be affected. Regarding any issues to do with access, indemnity, liability for construction and operation of the development as it affects the Delgany Hills scheme, I consider that these are matters to be resolved between the parties. I find that there are no exceptional circumstances in this case which would warrant diverting from this approach.
- 8.5.7. I conclude that in terms of roads and traffic issues, the development is acceptable.

## **8.6. Architectural Heritage**

- 8.6.1. Killincarrig Lodge is to be retained and restored under the revised proposal presented to the planning authority following a request for further information. The building is in poor condition and does not presently contribute significantly to the streetscape or to the character of the ACA. However, the structure is listed on the NIAH and the entry therein notes the prominent situation and states that this is potentially one of the most valuable assets to the Killincarrig streetscape.

- 8.6.2. In terms of the detail of the restoration works I note that while the external doors and windows are boarded up and the rooms are in a very dilapidated state, there remains a considerable level of architectural fabric including original or early doors, windows, cornices, architraves, to which the applicant has committed every effort to retain, protect and repair. It is however acknowledged in the application submissions that much of the architectural fabric will have to be replaced due to poor condition and in addition the remodelling of the ground and first floor uses to provide for residential and commercial layouts necessarily involves modification to layouts, which will have some impact on character.
- 8.6.3. I considered that the relevant reports presented by John Cronin and Associates, an accredited conservation architect 1, provide a framework within which the house can be satisfactorily restored and can once again contribute to the streetscape of the ACA. The work is to be undertaken with regard to the architectural heritage protection guidelines and the application submission includes general principles and a commitment to engage suitable staff to undertake and supervise works. In this regard I am satisfied that notwithstanding the likely need to undertake substantial modifications, the proposed development will ensure that the architectural character is retained and restored. The conditions recommended by DAAHRG refer in the event of a grant of permission.

## 8.7. **Other issues**

### *Part V*

The application details presented include proposals for compliance with the requirements of Part V of the Act. The applicant's proposal to transfer apartments are in line with Circular 33 of 2015. Final agreement is required prior to lodgement of the commencement notice. The Board's standard planning condition is deemed relevant.

### *Childcare Facilities*

Notwithstanding the small scale of the proposed development, the planning authority during the course of consideration of the application raised the issue of whether or not there was a requirement for a childcare facility. The construction of

Delgany Hills in the absence of a childcare facility is part of the context. The applicant's assessment indicates that within a 3.6 km radius of the site there are 25 registered childcare facilities. The proposed development of 32 no. residential units would give rise to a requirement for 8.5 child spaces under the Guidelines and the applicant indicates a spare capacity of 70 child spaces in existing facilities in the environs. The submission appears reasonably robust but it is disputed by local residents. The main issue is the small scale of the proposed development and taking this into account I consider that to require a childcare facility would be unduly onerous.

#### *Commercial units*

It is appropriate in my opinion to restrict the use of the ground floor units to use as a shop, having regard to the LAP policy to restrict the development of non-retail uses at ground floor, to the residential use overhead and to the proximity to the village centre. I note that the units comply with the LAP floorspace cap of 150 m<sup>2</sup>. Strict control on signage would be appropriate in view of the location of the site within an ACA.

#### *Other construction phase impacts*

I note concerns relating to noise and air emissions during construction, as well as traffic, general inconvenience and hours of construction. There are no particular issues in this case other than would arise during the construction of any significant development close to existing residential properties.

#### *Bats*

The site including Killincarrig House has been surveyed by a recognised bat specialist and the measures contained in that report are noted. The report is based on the original design including the removal of Killincarrig House, which is a night roost. It would be appropriate to seek an updated report to cover the revised proposal. Further investigation of the B-value trees (likely to be occasionally used as roosting sites) would also be warranted to ascertain the relative importance of the individual trees and to inform any design and ultimate decision.

#### *Fire safety and other regulations*

The appellants raise issues relating to a number of matters which I consider fall to be considered under other codes and are not material to the determination of this appeal.

## **8.8. Appropriate Assessment**

- 8.8.1. I refer to the Screening Statement for Appropriate Assessment prepared by Bridgedale and submitted to the planning authority on 31<sup>st</sup> March 2017.
- 8.8.2. The appeal site is situated 2.83km south of the closest European site Bray Head SAC, which is designated for sea cliff and dry heaths. There is a potential linkage with this site by way of treated wastewater. The treatment plant is a modern system which has been recently upgraded and the potential for pollution is thus eliminated. The use of best practice methods on site will control any construction phase related pollutants. There is no likelihood of any significant effect on this site.
- 8.8.3. The Murroughs wetlands SAC is located about 3.7km from the site. It is also an SPA. The potential for significant effects can be ruled out on the same basis as above.
- 8.8.4. There are a number of other European Sites within 15km of the development site. The nearest is the Glen of the Downs SAC, which is 1.59km away and which designated for its oak woods. In the absence of a hydrological connection and in view of the distance significant effects can be ruled out.
- 8.8.5. I consider that the sites listed in Table 2 of the Screening Statement would not be significantly affected.
- 8.8.6. There is no requirement for a Stage 2 assessment in this case. Having regard to the nature and scale of the proposal, the nature of the receiving environment and the separation distance to the nearest European sites, the lack of a hydrological connection other than by way of the wastewater treatment plant, 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.

## 9.0 Recommendation

9.1. I recommend that permission be refused for the reasons and considerations below.

## 10.0 Reasons and Considerations

1. Under objective HER 4 of the Greystones-Delgany and Kilcoole Local Area Plan 2013 – 2019 it is an objective to protect and retain trees which contribute to the biodiversity value and the character and amenity of the area. The development of this site is governed by a requirement to protect trees as identified by T22 on Map B of the plan. The proposed development would result in removal of high levels of mature trees particularly in the north-east of the site, which are considered have an intrinsic value and which contribute to the amenities of the area. It is considered that the proposed development would seriously injure the amenities of the area, would materially contravene Objective HER4 and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development is within Flood Zone A and the access road and parking would be subject to flooding. It is considered that the development is premature pending works at the R762 to alleviate overland flooding.

Mairead Kenny  
Senior Planning Inspector  
8<sup>th</sup> March 2018