



An  
Bord  
Pleanála

## Inspector's Report ABP-301005-18

---

<b>Development</b>	Construction of a two-storey house, along with associated site works, including access.
<b>Location</b>	Killincarrick Road (Rear Innisfree, Whitshed Road), Greystones, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	17/913
<b>Applicant(s)</b>	David & Georgina O'Donovan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	Third Party v. Decision
<b>Appellant(s)</b>	Burnaby Residents Association
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	23 <sup>rd</sup> April, 2018
<b>Inspector</b>	Robert Speer

## 1.0 Site Location and Description

1.1. The proposed development site is located in an established residential area known as 'The Burnaby Estate' in Greystones town, Co. Wicklow, where it occupies a 'backland' position to the rear (northwest) of an existing two-storey, semi-detached dwelling house known as 'Innisfree' along Whitshed Road, although the site itself retains frontage onto Killincarrick Road to the immediate northwest. The surrounding area is predominantly characterised by mature established housing which generally consists of a series of substantial two-storey dwelling houses developed on individual plots along a series of definable streets whilst the wider 'Burnaby Estate' includes properties which have been constructed in the "domestic revival style" incorporating influences from the 'Arts and Crafts' movement. In this respect it is notable that the wider area retains an attractive sylvan quality and is of considerable interest from a built heritage perspective. The site itself has a stated site area of 0.055 hectares, is rectangular in shape, and presently comprises part of the rear garden area of 'Innisfree'. It is bounded by substantial detached properties to the immediate northeast ('Inchamore') and southwest ('Behagloss') whilst mature hedging and fencing alongside the Killincarrick Road defines the site boundary to the northwest.

## 2.0 Proposed Development

2.1. The proposed development, as initially submitted to the Planning Authority, involves the subdivision of an existing housing plot (presently occupied by a two-storey, semi-detached property known as 'Innisfree' which is accessed from Whitshed Road) to facilitate the construction of a new detached partial single / two storey dwelling house (floor area: 164m<sup>2</sup>) and a new vehicular access to same from Killincarrick Road. The overall design of the proposed dwelling house is contemporary and based on an irregular 'T'-shaped plan incorporating a principle two-storey construction with a single storey annex extending perpendicularly from same. The proposed dwelling house will be positioned along a staggered building line with the adjacent properties

to the immediate northeast and southwest. Water and sewerage services are available from the public mains network.

- 2.2. In response to a request for further information, an amended proposal was subsequently submitted whereby a first floor balcony / terrace area previously shown on the southwestern elevation of the dwelling house was omitted. The finished floor level of the proposed dwelling house was also revised to provide for a stepped roof ridge line with the adjacent properties to the northeast and southwest.

*N.B.* The subject application was accompanied by an application for a Certificate of Exemption pursuant to Section 97 of the Planning and Development Act, 2000, as amended.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. Following the receipt of a response to a request for further information, on 29<sup>th</sup> January, 2018 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 7 No. conditions which can be summarised as follows:

Condition No. 1 – Refers to the submitted plans and particulars.

Condition No. 2 – Requires the payment of a development contribution in the amount of €11,073.

Condition No. 3 - Requires the lodgement of security in the amount of €1,500 to ensure satisfactory compliance with the conditions attached to the grant of permission.

Condition No. 4 – Refers to the connection to water services.

Condition No. 5 – Refers to the finished floor level of the proposed dwelling house and requires certification of same.

Condition No. 6 – Requires the public footpath to the front of the site to be completed to the satisfaction of the Municipal District Engineer prior to the occupation of the dwelling house.

Condition No. 7 – Refers to landscaping.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports:

With regard to the overall principle of the proposed development, an initial report noted the site context and its location within an Architectural Conservation Area before referencing the relevant planning history (i.e. PA Ref. No. 05/4312 / ABP Ref. No. PL27.216674) and indicating that the proposal would contravene the relevant zoning objective on the basis that it would exceed the specified maximum density of 10 No. units / hectare. However, following further analysis, the report concluded that the development of the site as proposed would not be inconsistent with the prevailing pattern of development and would not have a significant adverse impact on the character of the ACA. Furthermore, it was noted that given the close proximity of the site to Greystones town centre and the DART station, higher densities of development would normally be encouraged at such locations in accordance with current (national) policy guidance. Accordingly, the report determined that the proposed development would not amount to a material contravention of the Local Area Plan and that the proposal would be appropriate subject to compliance with normal planning criteria.

In relation to the design and layout of the development, the report refers to the variety of house types along the southern side of Killincarrick Road and states that the proposal cannot be held to be out of character with adjoining properties, although it proceeds to raise concerns as regards the overall height of the construction. Further concerns are raised as regards the inclusion of a first floor balcony which could give rise to the overlooking of an adjacent dwelling, however, it is not considered that the proposal would have any significant impact on residential amenity by reason of a loss of light / overshadowing.

The proposed access and servicing arrangements are considered to be acceptable and the report concludes by recommending that further information should be sought in respect of a number of items, including the separation distance from the north-eastern site boundary, the provision of a footpath along the site frontage, and a

review of the overall height of the proposal in addition to the inclusion of the first floor balcony feature.

Following the receipt of a response to a request for further information, a final report was prepared which recommended a grant of permission subject to conditions.

3.2.2. Other Technical Reports:

*Municipal District Engineer:* States that a condition should be included in any grant of permission requiring the construction of a footpath along the public road to the front of the proposed development in accordance with the directions of the Greystones Municipal District Engineer.

3.3. **Prescribed Bodies**

3.3.1. *An Taisce:* Notes that permission was previously refused on site under PA Ref. No. 05/4312 and states that an evaluation will be required in order to demonstrate that all of those issues which previously rendered the site unsuitable have been resolved.

3.3.2. *Irish Water:* No objection, subject to conditions.

3.4. **Third Party Observations**

3.4.1. A total of 7 No. submissions were received from 3 No. interested parties and the principle grounds of objection / concern contained therein can be summarised as follows:

- Overdevelopment of the application site.
- Detrimental impact on the residential amenity of neighbouring properties by reason of overlooking / loss of privacy and overshadowing / loss of daylight / sunlight
- The removal of a number of trees on site.
- The proposal materially contravenes the Greystones-Delgany and Kilcoole Local Area Plan, 2013 as regards land use zoning, density, and the impact on an Architectural Conservation Area.

- Permission was previously refused on site for the development of a dwelling house under PA Ref. No. 05/4312 / ABP Ref. No. PL27.216674 and the reasons for this decision continue to apply.
- Adverse impact on the built heritage value of the surrounding area, including The Burnaby Architectural Conservation Area.
- The overall design of the proposed dwelling house is not in keeping with the character of the surrounding area.
- The personal circumstances of the applicants are not a relevant consideration in the assessment of the subject application.
- Inadequate information has been provided with the planning application and, therefore, it should have been declared invalid.

## 4.0 Planning History

### 4.1. On Site:

PA Ref. No. 77/2075 / ABP Ref. No. PL27/5/47476. Was granted on appeal in February, 1980 permitting Thomas Larkin outline permission for the construction of a dwelling house.

PA Ref. No. 05/4312 / ABP Ref. No. PL27.216674. Was refused on appeal on 29<sup>th</sup> August, 2006 refusing David and Georgina O'Donovan outline permission for the construction of a single dwelling at the site on Killincarrick Road, Greystones, Co. Wicklow, for the following single reason:

- The proposed development would materially contravene a development zoning objective of the Greystones / Delgany Plan, 1999 because the proposal does not comply with the housing density objectives for "The Burnaby" and would be contrary to the zoning objective R 6 which provides that new development should be in keeping with the character of "The Burnaby," a low density area of historical and architectural interest composed mainly of large style family homes on generous sites. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

#### 4.2. On Adjacent Sites:

PA Ref. No. 97/6941. Was granted on 26<sup>th</sup> March, 1998 permitting Mrs. Maura Doyle outline planning permission for a house at Killincarrig Road, Burnaby, Greystones, Co. Wicklow.

PA Ref. No. 99/856. Was granted on 18<sup>th</sup> August, 1999 permitting Daniel & Paula Hughes approval for a dwelling at Killincarrig Road, Greystones, Co. Wicklow.

PA Ref. No. 09/1128. Was granted on 8<sup>th</sup> March, 2010 permitting James Smyth permission for the retention of alterations to a previously permitted house development under Reg Ref. 946/75 and permission to carry out alterations to the existing dwelling consisting of modifications to the roof structure resulting in an extension of 4m<sup>2</sup> to the existing 224m<sup>2</sup>; provision of solar panels; replacement of the existing roof covering with natural slates; partial cladding of all gables with terracotta tiles, new windows to southern elevation and minor revisions to the siteworks, all at Behagloss, Killincarrig Road, Greystones, Co. Wicklow.

#### 4.3. On Sites in the Immediate Vicinity:

PA Ref. No. 99/1498. Was granted on 26<sup>th</sup> January, 2000 permitting Mrs. Marie Keating permission for a dormer bungalow at Killincarrig Road, The Burnaby, Greystones, Co. Wicklow.

PA Ref. No. 06/6377 / ABP Ref. No. PL27.220996. Was refused on appeal on 27<sup>th</sup> April, 2007 refusing Stephanie and Edmund Brennan permission for the construction of a two-storey dwelling and garage adjacent to Carnalea, Whitshed Road, The Burnaby, Greystones, Co. Wicklow, for the following reason:

- The site of the proposed development is located within “The Burnaby”, which is a low density area of historical and architectural interest, composed mainly of large, family style homes on generous sites and is a designated architectural conservation area, as set out in the Local Area Plan for Greystones/Delgany. It is the land use zoning objective of the planning authority, as set out in the Local Area Plan, to preserve and improve

residential amenity and permit new development at a maximum density of 10 units per hectare. Having regard to the extent and contrived layout of the proposed site, which comprises the rear and side gardens of an existing house at a prominent corner location, it is considered that the proposed development would be out of character with the existing pattern of development in the vicinity, would conflict with the objectives of the planning authority for the area and set an inappropriate precedent for similar developments and would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. No. 15/872 / ABP Ref. No. PL27.245672. Was granted on appeal on 4<sup>th</sup> February, 2016 permitting Gerald and Mary Murphy outline permission for revised site boundaries, a two-storey dwelling, new western site boundary wall, connection to existing services and associated site works, all adjacent to Killincarrick House, Killincarrick Road, Greystones, Co. Wicklow.

PA Ref. No. 17/658. Was granted on 25<sup>th</sup> July, 2017 permitting Gerry Freeney permission consequent on a grant of outline planning permission (15/872) for the development of a new two storey detached dwelling (377 sqm) to include new front boundary treatment, new vehicular gates, new shed and bin store, connection to existing services and associated site works at Killincarrick House, Killincarrick Road, Greystones, Co. Wicklow.

#### 4.4. Other Relevant Files:

PA Ref. No. 09/899 / ABP Ref. No. PL27.235199. Was granted on appeal on 18<sup>th</sup> February, 2010 permitting Seamus Howley permission for the subdivision of existing house into two separate dwellings at Shalom, Burnaby Road, Greystones, Co. Wicklow.

PA Ref. No. 09/1143 / ABP Ref. No. PL27.235780. Was refused on appeal on 18<sup>th</sup> May, 2010 refusing James and Angela Molloy permission for the erection of a single storey dwelling (126 square metres) on lands to the rear of Travistock House, with existing access from Portland Road, Greystones, Co. Wicklow, for the following reason:

- The site of the proposed development located to the rear of Tavistock House, a dwelling of regional architectural importance, is located in an area that is



zoned in the Greystones/Delgany Local Area Plan, 2006, “to preserve and improve residential amenity” and is located in a designated Architectural Conservation Area. The proposed development, by reason of the subdivision of the plot and the inadequate separation distances from adjoining properties, would seriously impact on the value, setting and character of both Tavistock House and the Architectural Conservation Area. The proposed development would seriously injure the visual amenities of the area, would set an undesirable precedent for further similar developments in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

*N.B.* In addition to the foregoing, the supporting documentation provided with the subject application makes reference to a series of further planning applications in the wider area i.e. PA Ref. Nos. 027184, 038093, 039250, 039518, 039606, 053565 & 054085. In the interests of conciseness, I do not propose to provide any further details of these applications in the context of this report, although I can confirm that I have reviewed the relevance of same.

## **5.0 Policy Context**

### **5.1. National and Regional Policy**

- 5.1.1. The ‘*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*’ note that, in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.

## 5.2. Development Plan

### 5.2.1. Wicklow County Development Plan, 2016-2022:

#### Chapter 3: Settlement Strategy:

##### Section 3.2: County Wicklow Settlement Strategy:

##### Level 3 – Large Growth Town II: (2) Metropolitan Area: Greystones-Delgany

#### Chapter 4: Housing:

##### Section 4.3: Key Housing Principles:

##### Section 4.3.2: Zoning

##### Section 4.3.4: Densities:

It is an objective of the Council to encourage higher residential densities at suitable locations, particularly close to existing or proposed major public transport corridors and nodes, and in proximity to major centres of activity such as town and neighbourhood centres.

Maximum densities will normally be ascribed to each parcel of zoned / designated residential land in the relevant local plan. Densities are crafted following an assessment of the capacity and characteristics of the land in question, in the interests of providing the most compact and sustainable form of development. In order to achieve the housing growth targets set out in the Core Strategy, it is important that maximum densities are achieved, except where insurmountable impediments arise.

In existing residential areas, infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties.

##### Section 4.4: Housing Objectives:

**HD2:** New housing development, above all other criteria, shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.

*HD3:* All new housing developments (including single and rural houses) shall achieve the highest quality of layout and design, in accordance with the standards set out in the Development and Design Standards document appended to this plan, which includes a Wicklow Single Rural Houses *Design Guide*.

*HD10:* In existing residential areas, infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties. However, where previously unserved, low density housing areas become served by mains water services, consideration will be given to densities above the prevailing density, subject to adherence to normal siting and design criteria.

**5.2.2. Greystones-Delgany & Kilcoole Local Area Plan, 2013-2019:**

Land Use Zoning:

The proposed development site is located in an area zoned as '*R10: Residential*' with the stated land use zoning objective '*To provide for the development of sustainable residential communities up to a maximum density of 10 units per hectare and to preserve and protect residential amenity*'.

Other Relevant Policies / Sections:

*Section 3: Population and Housing:*

*Section 3.3: Settlement Strategy:*

*Section 3.4: Objectives:*

*RES1:* To adhere to the objectives of the Wicklow County Development Plan 2010-2016 in regard to population and housing as are applicable to the plan area. In the assessment of development proposals, regard shall be paid to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages), (DoEHLG, 2009).

*RES3:* The development of zoned land should generally be phased in accordance with the sequential approach:

- Development should extend outwards from centres with undeveloped land closest to the centres and public transport routes being given preference, i.e. ‘leapfrogging’ to peripheral areas should be avoided;
- A strong emphasis should be placed on encouraging infill opportunities and better use of under-utilised lands; and
- Areas to be developed should be contiguous to existing developed areas.

Only in exceptional circumstances should the above principles be contravened, for example, where a barrier to development is involved. Any exceptions must be clearly justified by local circumstances and such justification must be set out in any planning application proposal.

*RES5:* On undeveloped residentially zoned land, it is an objective of the Council to provide for the development of sustainable residential communities up to a maximum density, as prescribed by the land use zoning objectives indicated on Map A and described in ‘Table 11.1: Zoning Matrix’.

In existing residential areas, infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties. However, where previously unsewered, low density housing areas become served by mains sewers, consideration will be given to densities above the prevailing density, (up to 10 / ha, depending on local circumstances), subject to adherence to normal siting and design criteria.

Apartments generally will only be permitted within Greystones Town Centre, Kilcoole Town Centre, Delgany Village Centre, Neighbourhood Centres, Small Local Centres, Greystones Harbour and North Beach Action Plan, South Beach Action Plan and within 10 minutes walking distance of Greystones train station.

Within existing residential areas, regard shall be paid at all times to the overriding objective of the Council to protect the residential amenity of these areas and to only allow infill residential development where this reflects the character of the existing residential area. Apartments will not normally be permitted on sites surrounded by predominantly single family occupied housing estate developments.

*RES7:* Notwithstanding the zoning objectives set out within this plan, lower density residential developments may be required at certain locations; where by virtue of environmental, topographical and service constraints, including lack of public mains infrastructure, poor road access, steep gradients, flooding issues and significant coverage of natural biodiversity; a lower density of development is preferable. This objective applies to all land zonings within the plan area.

In particular, the planning authority will limit growth in the amount of housing on lands zoned 'R2.5: Residential (2.5/ha) along Blackberry Lane, Delgany and lands zoned 'RE: Existing Residential' at Kindlestown Upper and Bellevue Demesne. In these areas housing shall generally be restricted to the development of low density single housing, subject to all matters being addressed to the satisfaction of the planning authority.

On land zoned R17/R5/R22 in the Kindlestown Upper/Coolagad vicinity, the design and layout of developments shall be appropriate to the topography of sites and the necessity to ensure that there is a visual transition between these developed lands and the unzoned agricultural lands/Kindlestown Hill to the rear of the site. Regard shall be paid to the protection of the visual amenity of the area, including views of Kindlestown Hill and to the objectives of the Blacklion ACA.

### *Section 9: Natural and Built Heritage:*

#### *Section 9.1: Heritage Strategy*

#### *Section 9.2: Objectives:*

*HER1:* Protect and enhance the character, setting and environmental quality of natural, architectural and archaeological heritage, and in particular

those features of the natural landscape and built structures that contribute to its special interest. The natural, architectural and archaeological heritage of the area shall be protected in accordance with the objectives set out in the Wicklow County Development Plan.

*HER12:* To preserve the character of Architectural Conservation Areas (ACAs), in accordance with Appendix B. The following objectives shall apply to ACAs:

- Development will be controlled in order to protect, safeguard and enhance the special character and environmental quality of ACAs.
- The buildings, spaces, archaeological sites, trees, views and other aspects of the environment that form an essential part of the character of an ACA will be protected.
- Proposals involving the demolition of buildings and other structures that contribute to the Special Interest of ACAs will not be permitted. The original structure of the La Touche Hotel contributes to the Special Interest of this ACA.
- The design of any development in an ACA, including any changes of use of an existing building, shall preserve and/or enhance the character and appearance of the ACA as a whole.
- Schemes for the conservation and enhancement of the character and appearance of an ACA will be promoted.
- The character and appearance of the urban public domain within an ACA shall be protected and enhanced. The Council will seek to work in partnership with local community and business groups to implement environmental improvements within ACAs.
- Within the Church Road ACA, alterations to the front boundaries to accommodate off-street car parking will not normally be permitted.
- Historic items of street furniture and paving within ACAs shall be retained, restored and repaired.

- All electricity, telephone and television cables within ACAs shall be placed underground where possible.
- The placing of satellite dishes, television aerials, solar panels, telecommunications antennae and alarm boxes on front elevations or above the ridge lines of buildings or structures will generally be discouraged within Architectural Conservation Areas, except where the character of the ACA is not compromised.

It should be noted that the designation of an Architectural Conservation Area does not prejudice innovative and contemporary design. The principle of a contemporary and minimalist design style will be encouraged within ACAs, provided it does not detract from the character of the area. It is considered that new buildings should be of their own time in appearance and should not replicate the style and detailing of heritage buildings. The replication of historic architectural styles is considered to be counter productive to heritage conservation in principle as it blurs the distinction between what is historic and what is contemporary and can lead to the emergence of poorly considered and inauthentic buildings.

*N.B.* The proposed development site is located within ‘*The Burnaby Architectural Conservation Area*’ as identified on Map ‘B’ (Heritage Map).

### **5.3. Natural Heritage Designations**

5.3.1. The following Natura 2000 sites are located in the vicinity of the proposed development site:

- The Glen of the Downs Special Area of Conservation (Site Code: 000719), approximately 3.0km southwest of the application site.
- The Bray Head Special Area of Conservation (Site Code: 000714), approximately 1.9km northwest of the application site.
- The Murrough Wetlands Special Area of Conservation (Site Code: 002249), approximately 3.4km south-southeast of the application site.

- The Murrough Special Protection Area (Site Code: 004186), approximately 4.4km south-southeast of the application site.
- The Carriggower Bog Special Area of Conservation (Site Code: 000716), approximately 7.6km southwest of the application site.
- The Wicklow Mountains Special Protection Area (Site Code: 004040), approximately 9.6km west of the application site.
- The Wicklow Mountains Special Area of Conservation (Site Code: 002122), approximately 10.5km west of the application site.
- The Ballyman Glen Special Area of Conservation (Site Code: 000713), approximately 8.4km northwest of the application site.
- The Knocksink Wood Special Area of Conservation (Site Code: 000725), approximately 9.3km northwest of the application site.
- The Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately 11.6km north of the application site.
- The Dalkey Islands Special Protection Area (Site Code: 004172), approximately 14km north of the application site.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- The proposed development, both by itself and in the context of the planning precedent that it seeks to establish, is not in the interest of the proper planning and sustainable development of the area.
- Permission for the development of this site was previously refused on appeal (i.e. ABP Ref. No. PL27.216674) and it is contended that the grounds for refusal in that instance continue to apply in respect of the subject proposal. The proposed development contravenes the zoning objective for the site and thus materially contravenes the Greystones-Delgany and Kilcoole Local Area Plan, 2013-2019.



The application site is located within The Burnaby Architectural Conservation Area which comprises an historic residential suburb deemed to be of national architectural interest that was developed from the 1890s in the Domestic Revival style and which reflects a range of architectural styles from the Victorian and Edwardian eras. Moreover, the site forms part of the mature rear garden area of 'Innisfree', an original house within the Burnaby estate, which fronts onto Whitshed Road with access through a pedestrian gate onto Killincarrig Road, that presently makes a significant contribution to the character of the ACA.

Given that this house is one of the few remaining properties fronting onto Whitshed Road (and backing onto Killincarrig Road) with an intact rear garden area / plot, it is considered that the loss of this garden space in order to accommodate the infill development proposed would result in the permanent loss of the special character of a unique heritage property within the Architectural Conservation Area.

- The development of housing within the garden areas adjoining the application site is not considered relevant to the assessment of the subject proposal. Indeed, the presence of those properties and the absence of any intact garden plots adjoining the original house serves to heighten the importance of the subject site from a built heritage perspective.
- The subject application should have been accompanied by a detailed conservation report prepared by a suitably qualified conservation architect in order to determine the impact of the proposal *vis-à-vis* the original dwelling house, adjoining properties, and the general character of the Architectural Conservation Area. In the absence of any such assessment, it is submitted that the Planning Authority did not have the information required to support its determination that the development of the site would not have a negative impact on the character of the ACA (or its dismissal of the contribution of the undeveloped site to the character of the ACA).
- Section 3.8 of the Local Area Plan states that the following principle will be applied in the assessment of applications for new buildings within the Architectural Conservation Area:

*‘Proposals will only be considered where they positively enhance the character of the ACA’.*

There is no evidence to support any contention that the proposed development will make a positive contribution to the character of the ACA. Instead, it is suggested that the proposal will have a negative impact on the character of the ACA and that no evidence has been provided to demonstrate otherwise.

- Both the applicant and the Planning Authority have acknowledged that the proposed development is contrary to the zoning objective for the site. In this regard it is submitted that the relevant land use zoning objective permits a maximum density of 10 No. units per hectare, however, the subject proposal equates to a density of 23.8 No. units / hectare notwithstanding that the Board previously refused permission for a development on this site on the basis that it contravened the applicable zoning objective for the area.
- The relevant land use zoning objective has been applied to the Burnaby ACA in order to avoid any overdevelopment of the area having regard to the prevailing pattern of low density development of historical and architectural interest which is primarily characterised by large family homes on generous sites. The subject proposal will give rise to a level of development which the zoning objective seeks to prevent.
- The Planning Authority has disregarded the relevant land use zoning / density requirement by asserting that the application site is located in close proximity to Greystones town centre and the Dart station and that higher densities are to be encouraged in such areas. Such an assertion represents a clear abdication of responsibility with regard to a site situated within an ACA and which is subject to a specific zoning objective pertaining to density. The entirety of the Burnaby ACA is within walking distance of Greystones and the suggestion that the proximity of the town supersedes the specific zoning objective would serve to undermine a key aspect of development control within the Local Area Plan that is designed to support and protect the character of the ACA.

- The proposed development materially contravenes a zoning objective of the Local Area Plan and the *'à la carte'* approach adopted by the Planning Authority in this instance would serve to undermine the integrity of the Local Area Plan thereby setting a precedent that would also undermine the character of the ACA.

## 6.2. Applicants' Response

- The subject proposal seeks permission to develop a new home for a couple who wish to downsize due to their physical capabilities as set out in the application documentation.
- The applicants fully support the efforts of the Burnaby Residents Association in seeking to preserve, where possible, the unique character of the Burnaby Estate and it is also accepted that the architectural character of the ACA is principally defined by the four points set out in the grounds of appeal, namely:
  - Large plots with buildings set back from the edge of the plot and street.
  - Large gardens with mature trees and shrubs which cumulatively create a wooded green character.
  - A streetscape that is characterised by leafy green suburban style streets.
  - The green character being intrinsic to what is distinctive and valued in the character of the Burnaby.

However, it is considered that Killincarrig Road retains different characteristics because, with the exception of Quarry Lane (which contains a mixture of original and more contemporary dwellings), there is no other row of houses within Burnaby which backs onto a busy link road within the estate. Although a number of houses in the estate back onto laneways that contain (or previously included) coach-houses, some of which are habitable, they do not adjoin the principal roadways. The essence of 'this' Burnaby road is completely different to that of all the other roads in the estate in that it has its own unique character which serves to complement the ACA.

There are a variety of house types within most of the rear garden areas of those houses facing onto Whitshed Road and these units occupy plots of a size similar to that of the subject site (with one or two exceptions). The original row of terraced Burnaby houses to the north are not set within leafy gardens or large plots and are instead tightly packed on very small plots with no on-site parking and relate directly to the adjacent street / footpath. This character, density and pattern of development are part and parcel of the ACA and while the zoning objectives aim to protect the original concept of the estate, it must be acknowledged that there are contradictions and exceptions within this zoning by addressing the existing conflicting pattern of development inherent within the ACA from its original vision which evolved in the 19<sup>th</sup> Century.

- The lower portion of Killincarrig Road, where the subject site is located, is essentially urban (as opposed to suburban) in nature. The suggestion that a large rear garden area which backs onto a main road in the heart of Greystones, which in itself forms part of the Dublin Metropolitan Area, should be preserved for no reason other than it offers a visual relief to a roadway, or because it was part of an original concept, is unjustifiable in terms of sustainable land use.

### **6.3. Planning Authority Response**

None.

### **6.4. Observations**

None.

### **6.5. Further Responses**

None.

## 7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Overall design and layout / impact on built heritage
- Impact on residential amenity
- Appropriate assessment
- Other issues

These are assessed as follows:

### 7.2. **The Principle of the Proposed Development:**

7.2.1. With regard to the overall principle of the proposed development, it is of relevance in the first instance to note that the subject site is located in an area zoned as '*R10: Residential*' in the Greystones-Delgany & Kilcoole Local Area Plan, 2013-2019 with the stated land use zoning objective '*To provide for the development of sustainable residential communities up to a maximum density of 10 units per hectare and to preserve and protect residential amenity*'. In addition to the foregoing, it should also be noted that the surrounding area is primarily residential in character and that the prevailing pattern of development is generally composed of large detached / semi-detached residences set within substantial plots which serve to contribute towards a mature and established scheme of housing in an attractive sylvan setting. In this respect I would suggest that the proposed development can be considered to comprise a potential infill site situated within an established residential area where public services are available and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties. Indeed, the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' acknowledge the potential for infill development within established residential areas provided that a balance is struck between the reasonable protection

of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill. Furthermore, given the proximity of the application site to Greystones town centre and the DART station, I am inclined to concur with the assessment by the Planning Authority that higher densities of residential development would typically be encouraged within such areas pursuant to the requirements of the Guidelines in the interests of land use efficiency.

7.2.2. Therefore, in light of the foregoing, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area. However, it is apparent from the grounds of appeal that particular concerns arise with regard to the density of the development proposed given the limitations imposed within the relevant land use zoning objective which specifically refers to a maximum density of 10 No. units per hectare. In effect, the case has been put forward that the subject proposal represents an overdevelopment of the application site which materially contravenes the land use zoning objective and in this regard the appellant has also referenced the Board's determination of ABP Ref. No. PL27.216674 wherein outline permission was previously refused on site for the construction of a single dwelling house on the basis that it would materially contravene the applicable development zoning objective contained in the Greystones / Delgany Plan, 1999. In that instance it was held that the proposal did not comply with the housing density objectives for "The Burnaby" and contravened zoning objective 'R 6' which provided that new development should be in keeping with the character of "The Burnaby" i.e. a low density area of historical and architectural interest composed mainly of large style family homes on generous sites.

7.2.3. Whilst I would acknowledge that the density of the proposed development would equate to c.18 No. units / hectare on the basis of the stated site area (i.e. 1 No. unit / 0.055 ha) and thus would exceed the limit set by the land use zoning objective, I would suggest that such an overly simplistic approach to the calculation of the relevant density would be inappropriate in this instance in that it would fail to have any regard to the surrounding pattern of development and would instead result in the subject proposal being considered in isolation (*N.B.* The Board is advised that the Planning Authority has calculated the density of the proposed development as 23.8

No. units / hectare by reference to Footnote No. 3 of Section 3.4 of the Local Area Plan which states that densities should be based on a typical house with a gross floor area of 125m<sup>2</sup> i.e. the maximum total number of units permissible on a site is to be calculated on the basis of total gross floor area permitted over a site). In this respect I note the applicants' reference to the historic curtilage of the adjacent dwelling house known as 'Innisfree' (i.e. 0.14 hectares) and the implication that the subject proposal, when taken in conjunction with that property, would equate to a reduced density of c. 14 No. units / hectare. It has also been suggested that the density of the proposed development could be reduced further when consideration is given to the inclusion of public spaces (such as roadways and amenity areas) within the wider area in the relevant calculation.

- 7.2.4. In my opinion, there is merit to the applicant's' case that cognisance should be taken of the overall context within which the application site is located in the calculation of density. Indeed, I would suggest that the use of density as a measurement of development is more appropriate in the context of a larger housing scheme / site area whereas the use of plot ratio and site coverage would be more typically applied in the case of smaller sites / development proposals (*N.B.* The Local Area Plan does not provide any clear basis on which the density of a particular development is to be calculated). In this regard I would also refer the Board to its previous determination of ABP Ref. No. PL27.235199 wherein the reporting inspector noted that it was only with a very narrow definition of the site to be considered for the purposes of calculating density that a figure in excess of the development plan standard would result. In that instance the inspector's analysis accepted that there was merit in expanding the calculable site area in order to include for the entirety of the historic housing plot and part of the public realm on the basis that the determination of the density of a proposal is more typically used in the assessment of larger housing schemes where such areas would be included in the relevant calculation. At this point, it is of further relevance to note that the more recent determination on appeal of PA Ref. No. 15/872 / ABP Ref. No. PL27.245672 would also appear to have considered the density of the proposal in a wider context having regard to the prevailing pattern of development in the area as opposed to restricting the calculation of density to the application site in isolation.

- 7.2.5. On balance, in my opinion, it is apparent from a review of the available information, and an examination of the historical development of the wider area, particularly along the Killincarrick & Whitshed Roads, that there are multiple instances of the larger housing plots / original curtilages of properties situated along Whitshed Road having been subdivided in order to accommodate the provision of additional dwelling houses within their respective rear garden areas thereby establishing new frontage development onto Killincarrick Road. Accordingly, I would suggest that the subject proposal can be considered to represent a continuation of the historical pattern of development and that the density of the proposal, when taken in the context of the wider area, is entirely appropriate and does not materially contravene the applicable land use zoning objective.
- 7.2.6. In the event that the Board is of the opinion that the proposed development does in fact materially contravene the Local Area Plan, I would refer it to the provisions of Sections 37(2)(a) and (b) of the Planning and Development Act, 2000, as amended, wherein it is stated that in instances where the Planning Authority has refused permission on the grounds that a proposed development materially contravenes the Development Plan, the Board may only grant permission where it considers that -
- i. the proposed development is of strategic or national importance,
  - ii. there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
  - iii. permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
  - iv. permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.
- 7.2.7. Therefore, for the purposes of completeness, I propose to assess the proposed development against the aforementioned criteria in turn as follows:
- i. The proposed development consists of the construction of a single dwelling house on zoned and serviced lands in the town of Greystones. Considering



the scale and nature of the proposal I am not of the opinion that the proposed development is of strategic or national importance.

- ii. In my opinion, the zoning provisions are clear and undisputed. Moreover, the written statement provides clear details of the objective of the relevant land use zoning and, therefore, I am satisfied that the objectives of the Plan are unambiguous and without conflict insofar as the proposed development is concerned.
- iii. With regard to Section 37(2)(b)(iii) of the Act, I would advise the Board that the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' state that, in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within the inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. The Guidelines further state that potential infill sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships, and that within residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill. In my opinion, given the site location and context, the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' lend support to the subject proposal whilst it is of further relevance to note that said guidance post-dates the Board's earlier refusal of ABP Ref. No. PL27.216674.
- iv. With regard to the pattern of development and permissions granted in the area since the making of the Local Area Plan, I would refer the Board to its determination of ABP Ref. No. PL27.245672 on 4<sup>th</sup> February, 2016 wherein it approved the construction of a new two-storey dwelling house adjacent to Killincarrick House, Killincarrick Road, Greystones, Co. Wicklow. In this regard, I would suggest that the Board's determination of the aforementioned planning appeal (which was not considered to necessitate a material

contravention of the Development Plan / Local Area Plan) lends further support to the subject proposal.

7.2.8. Accordingly, on the basis of the foregoing, and having regard to the provisions of Section 37(2)(a) of the Act, I am of the opinion that it is open to the Board to grant permission in this instance.

7.3. **Overall Design and Layout / Impact on Built Heritage:**

7.3.1. The proposed development involves the construction of a contemporarily designed partial single / two-storey dwelling house and in this regard concerns have been raised in relation to the visual impact of the proposal on the character of the surrounding area, particularly in light of the site location within 'The Burnaby' Architectural Conservation Area and its proximity to nearby properties which are considered to be of built heritage interest, for example, the existing dwelling house known as 'Innisfree' the curtilage of which encompasses the application site.

7.3.2. With regard to the overall design of the proposed dwelling house, whilst I would acknowledge that the submitted proposal is somewhat more contemporary in appearance than the prevailing pattern of development along the northern side of Killincarrick Road and within the wider Burnaby Estate, having regard to the site context (including the screening offered by neighbouring properties), the more conventional style of housing development along the southern side of Killincarrick Road (with particular reference to the front-gabled dormer-style dwelling house to the immediate southwest known as 'Behagloss' and those properties located beyond same), and the planning history of the wider area, it is my opinion that the overall design of the proposed development is acceptable and does not unduly impinge on the prevailing character of the wider area.

7.3.3. In addition to the foregoing, I am satisfied that the design and layout of the proposed dwelling house has taken due cognisance of its relationship with neighbouring properties and represents an appropriate design response to the site context. In this respect I note that the proposal will follow a staggered building line with the adjacent properties to the northeast and southwest which will serve to strengthen the streetscape whilst the overall height of the proposal (as detailed in Drg. No. P-001 (Rev. C): '*Site Plan and contiguous elevation*' which was received by the Planning Authority on 17<sup>th</sup> January, 2018 in response to a request for further information) has

taken account of the change in site levels / building heights along Killincarrick Road and has been stepped accordingly.

- 7.3.4. In relation to the impact of the proposal on the built heritage qualities of the area, it is my opinion that although the site in question is located within The Burnaby Architectural Conservation Area, given the specifics of the site location and context (as outlined above), the proposed development can be satisfactorily assimilated into the area without adversely affecting the architectural conservation area. Similarly, whilst I would acknowledge that 'Innisfree' is an attractive property of some architectural interest which makes a positive contribution to the streetscape of Whitshed Road, it should be noted that this property is not a protected structure nor is it included in the National Inventory of Architectural Heritage and, therefore, in light of the site context and the surrounding pattern of development, I am satisfied that the impact on 'Innisfree' arising as a result of the proposed development is acceptable and does not warrant a refusal of permission.

7.4. **Impact on Residential Amenity:**

- 7.4.1. Having reviewed the available information, and in light of the site context, including its location within a built-up urban area, in my opinion, the overall scale, design, positioning and orientation of the proposed development, with particular reference to the separation of same from adjacent dwelling houses, will not give rise to any significant detrimental impact on the residential amenity of neighbouring property by way of overshadowing or loss of daylight / sunlight. Similarly, subject to the omission of the first floor balcony area as detailed in the revised drawings submitted to the Planning Authority on 17<sup>th</sup> January, 2018, I am satisfied that the proposal will not result in the undue overlooking of adjacent property.
- 7.4.2. With regard to the potential impact of the construction of the proposed development on the residential amenities of surrounding property, whilst I would acknowledge that the proposed development site is within an established residential area and that any construction traffic routed through same could give rise to the disturbance / inconvenience of local residents, given the limited scale of the development proposed, and as any constructional impacts arising will be of an interim nature, I am inclined to conclude that such matters can be satisfactorily mitigated by way of condition.

7.5. **Appropriate Assessment:**

7.5.1. Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

7.6. **Other Issues:**

7.6.1. **Traffic Implications:**

The proposed development will be accessed directly from Killincarrick Road via a new entrance arrangement, the overall construction of which will be comparable to that utilised by neighbouring properties.

With regard to the request by the Municipal District Engineer to provide a new footpath along the site frontage onto Killincarrick Road, whilst the associated loss of trees within the existing grass verge is regrettable, I am inclined to accept that the provision of such a footpath would be desirable in the interests of continuing the existing public footpath in order to accommodate the safe movement of pedestrians.

## 8.0 **Recommendation**

Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations set out below:

## 9.0 **Reasons and Considerations**

Having regard the location of the site on residentially zoned lands in the current Greystones/Delgany and Kilcoole Local Area Plan, 2013-2019, the pattern of development in the vicinity of the site, and the scale and design of the proposed dwelling, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of pedestrian and

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

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 17<sup>th</sup> day of January, 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

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

**Reason:** In the interest of public health.

3. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

5. Prior to commencement of development, the developer shall submit to the planning authority, for written agreement, complete details of the proposed entrance arrangement onto the public road and proposals for the provision of a footpath alongside Killincarrick Road.

**Reason:** In the interests of traffic and pedestrian safety.

6. Prior to commencement of development, the developer shall submit to the planning authority, for written agreement, complete details of all proposed boundary treatment within and bounding the proposed development site.

**Reason:** In the interests of visual and residential amenity.

7. The landscaping scheme shown on Drawing Number 16-004 P-004 Rev. A (as supplemented by the accompanying tree survey), as submitted to the planning authority on the 27<sup>th</sup> July, 2017, shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interests of residential and visual amenity.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

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

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

---

Robert Speer  
Planning Inspector

14<sup>th</sup> June, 2018