



## Development

(i) Demolition of existing single-storey, detached, fire damaged dwelling known as Meadow Garden (A63 VP71) and removal of existing vehicular entrance gate; (ii) construction of a replacement two-storey, four-bedroom, detached dwelling with hipped roof, chimney and private amenity spaces to include ground and first floor level external terraces and garden at ground level; (iii) provision of 2 no. on-curtilage vehicular parking spaces and internal driveway accessible via new vehicular entrance gate off Farm Lane; (iv) installation of a new EN 12566-3 Certified Advanced wastewater treatment system and associated polishing filter; (v) improvement works to Farm Lane comprising the surfacing of the road to a minimum width of 4.1m; and (vi) all ancillary works necessary to facilitate this development including SuDS

	drainage, landscaping and boundary treatments.
<b>Location</b>	Meadow Garden, Farm Lane, Greystones, Co. Wicklow (A63 VP71).
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	191239
<b>Applicant(s)</b>	Catriona and Seán Fitzpatrick
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party v. Decision
<b>Appellant(s)</b>	Catriona and Seán Fitzpatrick
<b>Observer(s)</b>	Fintan Graham
<b>Date of Site Inspection</b>	17 <sup>th</sup> November, 2020
<b>Inspector</b>	Robert Speer

## 1.0 Site Location and Description

- 1.1. The proposed development site is located in a well-established residential area known as 'The Burnaby Estate' in Greystones town, Co. Wicklow, where it occupies a position along an unsurfaced section of Farm Lane, which extends between Whitshed Road and Portland Road, overlooking Greystones Golf Club to the south, approximately 800m southwest of the town centre and the DART station. The surrounding area is predominantly characterised by mature housing comprising substantial single and two storey dwelling houses developed on large individual plots whilst the wider 'Burnaby Estate' includes a series of definable streets with properties that 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 some interest from a built heritage perspective.
- 1.2. The site itself has a stated site area of 0.2667 hectares, is irregular in shape, and presently comprises a densely overgrown plot of land (situated to the rear of the applicants' adjacent property onto Whitshed Road known as 'Camaderry') which is occupied by an existing single-storey, detached, fire damaged dwelling known as 'Meadow Garden' that is overrun with vegetation and no longer in a habitable condition. It is bounded by substantial, detached properties to the immediate east (a single storey residence known as 'The Spinney') and west (a large two-storey residence known as 'Rosella') with a combination of mature hedging and fencing / walling defining the perimeter boundaries. The prevailing site topography gradually rises north-westwards on travelling away from Farm Lane to the south. Vehicular access to the site is presently obtained via an existing entrance arrangement onto an unsurfaced section of Farm Lane.

## 2.0 Proposed Development

- 2.1. The proposed development, as initially submitted to the Planning Authority, consists of the demolition of an existing single-storey, detached, fire damaged dwelling (floor area: 207m<sup>2</sup>) and its replacement through the subsequent construction of a two-storey, contemporary dwelling house with a stated floor area of 263m<sup>2</sup> and an overall ridge height of c. 7.2m. The construction will be cut into the site to provide for a

single aspect ground floor level of bedroom accommodation whilst the first floor will primarily be used for kitchen / dining / living activities and associated uses. It is proposed to utilise extensive glazing at first floor level with access onto an expansive first floor terraced area to the north, south, east and west of the dwelling that will be sheltered in part by the overhang of the shallow hipped roof construction. External finishes will include dry-laid natural stone walling, stone cladding, a powder-coated alu-clad triple glazing window system, timber cladding, and standing seam metal roofing with solar tiles.

- 2.2. Access to the site will be obtained via an upgraded splayed entrance arrangement onto Farm Lane to the immediate south which will include for the partial recessing of the roadside boundary to provide for improved sightlines. It is also proposed to widen and surface that section of the carriageway between the site entrance and the existing tarmac surfaced section of Farm Lane further west.
- 2.3. It is proposed to install a packaged wastewater treatment system with a sand polishing filter to discharge treated effluent to ground. A water supply will be obtained from the public mains.
- 2.4. Associated site development works include the provision of new yew hedging alongside the western perimeter site boundary.
- 2.5. On 9<sup>th</sup> December, 2019 the Planning Authority issued a Certificate of Exemption (PA Ref. No. SH 63/19) pursuant to the provisions of Section 97 of the Planning and Development Act, 2000, as amended, with regard to the proposed development.
- 2.6. Amended proposals were subsequently submitted to the Planning Authority on 24<sup>th</sup> June, 2020 in response to a request for further information which; reduced the extent and depth of the first floor terraced areas and repositioned the external access stairway; revised the expanse of glazing to the eastern and western elevations through the introduction of solid walls / opaque panels; swapped the locations of the living room and the kitchen / dining area; and provided for additional landscaping / planting measures along the both eastern and western perimeter site boundaries. In addition, the proposal to avail of an on-site wastewater treatment system was omitted and provision made for a new pumped rising main through the applicants' adjacent property ('Camaderry') to connect into the public mains foul sewer on Whitshed Road. Further details were also supplied with respect to the surface water

drainage arrangements (i.e. road gullies connecting to a new central filter drain to be installed with the carriageway) along that section of Farm Lane which is to be upgraded.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. Following the receipt of further information, on 13<sup>th</sup> July, 2020 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following single reason:

- Having regard to the design and layout of the proposed development in particular the proposed first floor terraces and their proximity to site boundaries, it is considered that the proposed development has the potential to result in new significant and unnecessary overlooking of adjoining properties. The proposed development would therefore be contrary to the amenities of these properties and to the proper planning and sustainable development of the area.

#### **3.2. Planning Authority Reports**

##### *3.2.1. Planning Reports:*

An initial report states that the principle of the replacement dwelling house is acceptable, subject to the suitability of the design and adherence to the relevant development management standards. It subsequently analyses the proposal and concludes that the contemporary house design and layout proposed can be accommodated on site without detriment to the character of the prevailing pattern of development within 'The Burnaby' Architectural Conservation Area, although it is considered that the detailing / height of the splayed entrance walls and the boundary treatment onto Farm Lane require revision. Concerns are then raised as regards the potential for the proposed dwelling to have a detrimental impact on the residential amenity of the neighbouring properties to the immediate east and west by reason of overlooking due to the extensive glazing, the inclusion of the terraced areas at first floor level, and the proximity of the proposal to the site boundaries. It is further stated

that additional details are required as regards the road improvement works to Farm Lane, including the surface water drainage arrangements, the adequacy of the laneway to accommodate the construction and occupation of the new dwelling house, and the applicants' legal interest in the laneway to undertake the road improvement works. The report proceeds to recommend that further information should be sought in respect of a number of items, including the potential to overlook adjacent properties, the entrance & boundary treatment details, the road improvement works, and the feasibility of connecting to the mains sewer.

Following the receipt of a response to a request for further information, a final report was prepared which stated that notwithstanding the revised proposals provided by the applicant, the proposed dwelling would give rise to the unacceptable overlooking of adjacent properties, with particular reference to 'Rosella' to the west, due to the inclusion of the first floor terraces and their proximity to the site boundaries. It was therefore recommended that permission be refused for the reason stated.

### 3.2.2. *Other Technical Reports:*

*Environmental Health Officer:* An initial report recommended a grant of permission, subject to conditions, with respect to the proposed installation of a wastewater treatment system. Following the receipt of revised proposals in response to a request for additional information, a subsequent report stated that there was no objection to the proposed connection to the public sewer by way of a pumping chamber.

*Roads:* An initial report noted that the proposed dwelling would be accessed via a private lane before stating that the entrance arrangement should ensure the achievement of the minimum sightlines necessary. Following the receipt of revised proposals in response to a request for further information, a subsequent report was prepared which deemed the applicants' response to be acceptable.

### 3.3. **Prescribed Bodies**

- 3.3.1. *Irish Water:* Whilst an initial report indicated that there was no objection to the proposed development as originally submitted (which provided for the installation of an on-site wastewater treatment system), subject to conditions, following the receipt of revised proposals in response to a request for additional information which sought to connect the proposed dwelling to the public sewer, a subsequent report

recommended that further information be sought in order to allow for the assessment of the feasibility of connection to public water / wastewater infrastructure.

### 3.4. **Third Party Observations**

3.4.1. A total of 5 No. valid submissions were received from interested third parties and the principle grounds of objection / areas of concern raised therein can be summarised as follows:

- Concerns as regards the extent of resurfacing works proposed along Farm Lane and the associated surface water drainage arrangements.
- The proposal, with particular reference to the raised terraced areas / balconies, will have a detrimental impact on the privacy and residential amenity of neighbouring properties by reason of overlooking, noise, disturbance, and construction impacts (including construction traffic).
- The need for further clarity as regards the relationship between the proposed dwelling and the adjacent property known as 'The Spinney' to the immediate east.
- The failure to provide for pull-in bays along the upgraded laneway so as to facilitate passing traffic and pedestrians.
- Concerns as regards the potential health implications arising from the proximity of the proposed septic tank system to Farm Lane.

(Whilst a further submission is held on file and has been forwarded to the Board, it should be noted that this correspondence post-dates the decision of the Planning Authority by two days and thus should not be taken into consideration in the assessment of this appeal).

## 4.0 **Planning History**

4.1. *On Site:*

PA Ref. No. 952532. Was refused on 10<sup>th</sup> August, 1995 refusing W.N. Clyne permission for a two-storey dwelling and a bio-cycle wastewater treatment system.

4.2. *On Adjacent Sites (to the immediate east):*

PA Ref. No. 126650. Was refused on 23<sup>rd</sup> October, 2012 refusing Erika & Eamon Clune permission for the demolition of an existing granny flat and the construction of a dwelling with new pumped sewerage system to connect to mains supply and to cater for existing and proposed dwellings on site and ancillary works, all at Farm Lane, Greystones, Co. Wicklow.

PA Ref. No. 141317 / ABP Ref. No. PL27.243574. Was refused on appeal on 19<sup>th</sup> September, 2014 refusing Eamon and Erica Clune permission for the demolition of existing granny flat and construction of a new single family dwelling and ancillary site works including decommissioning of existing septic tank, provision of new pumped sewerage system connecting existing and proposed dwellings to the mains sewer at Portland Road North via Farm Lane and, widening of existing main entrance from Farm Lane, all at "The Spinney", Farm Lane, Greystones, Co. Wicklow.

- Notwithstanding the high level of screening to the site the Board considered that the form, design and proportions of the proposal did not have sufficient regard to the building already on site, that it would constitute an incongruous feature on site, would seriously injure the visual and residential amenities of the area and would set an undesirable precedent in the area.

PA Ref. No. 15855. Was granted on 6<sup>th</sup> November, 2015 permitting Erika Graham & Eamon Clune permission for demolition of an existing 2-bedroom granny flat attached to the existing house and the construction of a detached single storey, 4-bedroom, family dwelling, landscaping, provision of car parking area and associated site works, decommissioning of existing septic tank, provision of new pumped sewerage system to connect both the existing and proposed dwellings to the mains sewer at Portland Road North via Farm Lane, and the widening of the existing main entrance to the site from Farm Lane, all at The Spinney, Farm Lane, Greystones, Co. Wicklow.

PA Ref. No. 161076. Was granted on 12<sup>th</sup> January, 2017 permitting Erika Graham & Eamon Clune permission for the demolition of two-bedroom granny flat extension attached to existing house and the construction of a detached, single storey, 4-bedroom dwelling house with mono-pitched roof and 4 no. rooflights, together with landscaping, provision of parking area and associated site works, decommissioning



of existing septic tank, provision of new pumped sewerage system to connect both existing and proposed dwellings to the mains sewer at Portland Road North via Farm Lane, and the widening of the existing main entrance to the site from Farm Lane, all at The Spinney, Farm Lane, Greystones, Co. Wicklow.

#### 4.3. *On Adjacent Sites (to the immediate west):*

PA Ref. No. 054085. Was granted on 6<sup>th</sup> April, 2006 permitting Ross & Elaine McParland permission for a two-storey detached dwelling with separate garage with loft storage, associated site works and new recessed entrance at Farm Lane, Old Burnaby, Greystones, Co. Wicklow.

PA Ref. No. 102335. Was refused on 21<sup>st</sup> May, 2010 refusing Elaine McParland permission for the retention of the change of use of existing premises from domestic garage/games room to 'eyelash extension studio' (home-based economic activity) at Rosella, Farm Lane, The Burnaby , Greystones, Co. Wicklow.

PA Ref. No. 102627. Was refused on 17<sup>th</sup> August, 2010 refusing Elaine McParland permission for the retention of the change of use of existing premises from domestic garage/games room to eyelash extension studio (home-based economic activity) at Rosella, Farm Lane, The Burnaby , Greystones, Co. Wicklow.

## 5.0 **Policy and 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 4.3.6: Design of New Developments*

*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.

**HD9:** In areas zoned / designated 'existing residential', house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space, see Objective HD11 below). While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be

encouraged (including alternative materials, heights and building forms), to provide for visual diversity.

*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.

*Appendix 1: Development and Design Standards*

**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 natural heritage designations are located in the general vicinity of the proposed development site:

- The Bray Head Proposed Natural Heritage Area (Site Code: 000714), approximately 2.1km north of the site.
- The Bray Head Special Area of Conservation (Site Code: 000714), approximately 2.1km north of the site.
- The Glen of the Downs Proposed Natural Heritage Area (Site Code: 000719), approximately 2.2km southwest of the site.

- The Glen of the Downs Special Area of Conservation (Site Code: 000719), approximately 2.2km southwest of the site.
- The Murrough Proposed Natural Heritage Area (Site Code: 000730), approximately 2.4km southeast of the site.
- The Murrough Wetlands Special Area of Conservation (Site Code: 002249) approximately 3.2km southeast of the site.

#### **5.4. EIA Screening**

5.4.1. Having regard to the nature and scale of the development proposed, the site location in a built-up area outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **6.0 The Appeal**

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

- The proposed development is representative of an appropriately designed replacement dwelling which will provide a high standard of residential accommodation for its future occupants whilst having no undue impact on adjoining residential amenity.
- In an effort to address the concerns of the Planning Authority, and in support of the grounds of appeal, the Board is referred to the accompanying set of amended architectural drawings which provide for a revised layout of the proposed replacement dwelling.

The internal and external layout of the proposed dwelling has been subject to extensive revision since the lodgement of the original proposal.



- The external areas at first floor level have been significantly reduced so as to lessen both the threat of overlooking and the perception of being overlooked from the proposed dwelling.
  - The depth of the western and southern terraces has been reduced so as to provide a circulatory function only with the width of same insufficient to allow for the provision of seating / tables.
  - The extent of glazing at first floor level on the eastern and western gable elevations has been reduced so as to limit the potential for overlooking to occur from internal areas
  - The removal of the projecting element along the northern elevation at first floor level, which previously accommodated WC and storage functions, has reduced the scale of the built form and allows the northern terrace to provide a functional amenity space.
- The ability to overlook the neighbouring properties to the east and west is further reduced by the fact that the primary external first floor level terrace has been relocated to the northern side of the dwelling. The omission of the western terrace increases the separation distance between the external amenity spaces at first floor level and the western site boundary with 'Rosella' from 2.54m to 6.95m. The residential amenity of 'Rosella' is further protected through the provision of a rendered blockwork boundary wall, which is to rise to a minimum height of 1.8m above the upper ground floor of the proposed dwelling, which will be supplemented by a 1.8m high yew hedge in addition to 5 No. semi-mature yew trees.
  - Figure 4 of the grounds of appeal compares the western elevation of the proposed development as presented at further information stage with that as currently revised, as viewed from within the site of 'Rosella'. It is considered that the revised elevation, which details the omission of the western terrace and the revised boundary treatment, removes all semblance of overlooking whilst the reduction in the depth of the first floor levels also serves to lessen the visual impact of the development.
  - Figure 5 of the grounds of appeal provides a cross-sectional drawing detailing the general massing and form of the proposed dwelling relative to 'Rosella'. It

is considered that the scale of the proposal and the proposed boundary treatment are appropriate relative to that property.

- With regard to 'The Spinney' to the east, a separation distance of 12.8m will be maintained between the northern terrace of the proposed dwelling and the eastern site boundary. While this distance, in conjunction with the reduction in glazing on the eastern gable of the proposed house, is considered sufficient to dispel any concerns as regards overlooking of the adjoining dwelling to the east, it is also proposed to provide additional privacy screening along the eastern site boundary in the form of 1 No. semi-mature yew tree and a 1.8m high laurel hedge (as detailed at further information stage).
- The extract from the site layout plan shown in Figure 3 of the grounds of appeal details the relationship of the proposed dwelling with 'The Spinney' to the east. It is considered that the separation distance available, when taken in conjunction with the revisions to the design of the proposed dwelling and the new boundary treatment, is sufficient to ensure that the development will not unduly impact on that property.
- The sectional drawing shown in Figure 7 details the general massing and form of the proposed dwelling relative to 'The Spinney'. It is considered that the scale of the proposal and the proposed boundary treatment are appropriate relative to that property, which is noted to be in excess of 45m northeast of the northern elevation of the new dwelling.
- The revisions to the design of the replacement dwelling and the upgraded boundary treatment are sufficient to overcome the reason for refusal. The revised proposal has been specifically designed to prevent any undue overlooking of adjoining properties and poses no threat to the residential amenity of same. Therefore, the proposal is representative of proper planning and sustainable development having taken cognisance of the amenities of local residents.
- The proposed development complies with the various quantitative and qualitative standards of the Planning Authority which seek to encourage, support and facilitate the development of guest accommodation subject to the protection of residential amenity and other planning criteria. The proposed

development site is zoned Objective 'R10' with residential dwellings being permitted in principle. It is considered that the proposed infill development has been designed to the highest standard and has considered the residential amenity of adjoining properties both within the immediate vicinity and in the wider area in order to minimise any potential negative impacts.

## 6.2. Planning Authority Response

None.

## 6.3. Observations

### 6.3.1. *Fintan Graham:*

- The observer's primary concern is to ensure the privacy of his property and the establishment of an appropriate boundary treatment between the respective sites, however, it is considered that the revised plans provided with the grounds of appeal fail to address the significant impact of the proposed development on the privacy and residential amenity of his neighbouring property to the immediate east.
- The applicants have sought to rely on supplementing the existing extensive overgrowth through the planting of a 1.8m high laurel hedge, however, it is submitted that any such reliance is flawed as substantial parts of the overgrowth will need to be removed so as to allow the new hedge to be planted.
- At least 86% of the observer's garden area will be overlooked by the proposed first floor balcony and kitchen windows.
- The overhanging trees in the vicinity of the existing power line, which runs along the joint boundary, will require periodic cutting back which will allow for further overlooking of the observer's property.
- The precise grid locations and elevations of the vantage points of the photographs submitted by the applicants have not been provided and thus questions arise as regards the extent to which the observer's property ('The

Spinney') will be overlooked, particularly by people standing on the north-eastern first floor balcony.

- With respect to the proposed boundary treatment, no details have been provided of a final landscaping plan. In order to avoid future disputes, such a plan (including details of long-term hedging / fence heights etc.) should be submitted.
- There is ample opportunity to relocate the proposed dwelling on site so as to mitigate the potential for overlooking.
- No technical or other reason / constraint has been offered as to why the proposed dwelling has been sited within the narrowest part of the site (c. 30m wide) and there are concerns that the applicants intend to erect 4 No. houses on their two adjacent properties as was outlined during the course of previous pre-planning discussions (Ref. PP18.64). If this is the case, then the applicants should provide a cogent explanation for the location of the proposed dwelling house in light of any future plans for the development of the wider property.
- The revised proposals presented to the Board do not materially address the overlooking of 'The Spinney' and thus fail to comply with the Wicklow County Development Plan, 2016-2022 with respect to privacy and the protection of residential amenity.

#### **6.4. Further Responses**

None.

#### **7.0 Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- The principle of the proposed development
- Overall design / visual impact
- Impact on residential amenity

- Servicing / infrastructural considerations
- Appropriate assessment

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 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*' and that the surrounding area is primarily residential in character. It is of further importance to note that the subject proposal involves the replacement of an existing uninhabitable, fire damaged dwelling house with a newly constructed modern residence. Therefore, in light of the foregoing, with particular reference to the established use of the site for residential purposes, in my opinion, the proposed redevelopment of the subject site and the construction of a replacement dwelling house is acceptable in principle.

## **7.3. Overall Design / Visual Impact:**

- 7.3.1. The proposed development involves the demolition of an existing single-storey, detached, fire damaged dwelling known as 'Meadow Garden' and its replacement with the construction of a substantial, two-storey, contemporary dwelling house. Accordingly, cognisance should be had to the potential visual impact of the proposal on the prevailing 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.
- 7.3.2. By way of context, the proposed development site is located along the northern side of an unsurfaced section of Farm Lane, which extends between Whitshed Road and Portland Road, within the easternmost extent of 'The Burnaby' ACA where it occupies a relatively secluded position overlooking Greystones Golf Club to the south. In this regard, it is notable that whilst the wider 'Burnaby Estate' comprises an historic planned residential suburb, which is characterised by a range of architectural styles and includes a series of definable streets with properties that have been

constructed in the “domestic revival style” incorporating influences from the ‘Arts and Crafts’ movement, the subject site is situated on the fringe of this designation in an area with a greater prevalence of more contemporary and / or conventional housing construction as evidenced by the site location between a contemporary, two-storey property known as ‘Rosella’ to the west (which was granted permission in 2006) and a timber-clad single storey dwelling (‘The Spinney’) to the east seemingly dating from the 1970s. Further credence is lent to the capacity of the area to accommodate a more modern development by reference to the contemporary design of the recently constructed dwelling house known as ‘Luna’ located further east along Farm Lane alongside ‘The Spinney’ and the fact that the site is already occupied by the remnants of a relatively modern (though dated and fire-damaged) construction. In addition, I would suggest that consideration should also be given to the fact that the application site is situated along a narrow and lightly trafficked laneway and benefits from considerable mature screening.

- 7.3.3. With respect to the proposal to demolish the existing single-storey, fire-damaged dwelling house on site which has fallen into a state of disrepair / dilapidation, I would concur with the Planning Authority’s assessment that this structure is of no architectural or historic merit and that its replacement with a suitably designed dwelling would be permissible.
- 7.3.4. In relation to the 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 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 to the south of Whitshed Road and along Farm Lane, and the planning history of the surrounding area, it is my opinion that the development as proposed has taken due cognisance of its relationship with neighbouring properties and represents an appropriate design response which can be satisfactorily assimilated into the area without adversely impacting on the intrinsic character of the architectural conservation area.

#### **7.4. Impact on Residential Amenity:**

- 7.4.1. The principle issue necessitating consideration in the assessment of the subject appeal is whether or not the proposed development will have a detrimental impact on

the residential amenity of those neighbouring properties to the immediate east and west by reason of overlooking with an associated loss of privacy. In this respect, I would advise the Board that particular concerns have been expressed by both the Planning Authority and neighbouring property owners as regards the proposal to provide an extensive external terraced area at first floor level around the entire perimeter of the dwelling house given its proximity to the site boundaries. Notably, although the proposal was amended in response to a request for further information in an effort to ameliorate the overlooking concerns (with the revisions including a reduction in the extent and depth of the first floor terraced areas, the repositioning of the external access stairway, a reduction in the expanse of glazing to the eastern and western first floor gable elevations through the introduction of solid walls / opaque panels, the swapping of the locations of the living room and the kitchen / dining area, and the provision of additional landscaping / planting measures along the eastern and western perimeter site boundaries), these measures were not deemed sufficient by the Planning Authority to mitigate the potential for the proposed dwelling to have an unacceptable adverse impact on the residential amenity of the neighbouring properties to the east and west by reason of overlooking with an associated loss of privacy. Accordingly, the first party grounds of appeal have been accompanied by another set of revised architectural drawings which have sought to amend the design of the proposed development further with a view to addressing the Planning Authority's sole reason for refusal. In this regard, I would advise the Board that the grounds of appeal are predicated on consideration being given to these amended proposals and, having reviewed the revisions proposed, I am satisfied that they can reasonably be considered to represent a further refinement of the development as described in the public notices and thus can be taken into consideration in the assessment of the subject appeal.

- 7.4.2. Prior to any analysis of the merits of the revised design submitted with the appeal, it is appropriate to consider the site context. The subject lands are located along a minor roadway known locally as Farm Lane and comprise an infill site situated between a substantial, two-storey residence ('Rosella') to the west and a single-storey residence ('The Spinney') to the east. The site itself is extensively overgrown and occupied by an existing fire damaged dwelling overrun with vegetation. The property is well screened and includes several mature tree specimens whilst the

perimeter boundaries are defined by a combination of mature hedging and fencing / walling. The prevailing topography gradually rises north-westwards on travelling away from Farm Lane with the result that 'Rosella' to the west occupies a somewhat more elevated position relative to the subject site whereas the wider rear garden area of 'The Spinney' to the east is located on lower lying lands.

7.4.3. Having reviewed the available information, and following a site inspection, given the separation distances involved and the specifics of the site context, including the extent of screening provided by intervening measures such as mature planting / landscaping, I am satisfied that it is appropriate for this assessment to focus solely on the potential for the proposed development to impact on the amenity of those properties to the immediate east and west i.e. 'The Spinney' & 'Rosella'.

7.4.4. In order to further mitigate the potential for undue overlooking of the aforementioned properties, the amended drawings supplied with the grounds of appeal provide for the following additional revisions to the proposal as was submitted in response to the request for further information issued by the Planning Authority:

- A further reduction in the extent and depth of the western and southern first floor terraced areas so as to provide for a circulatory function only with the width of same insufficient to allow for the provision of seating / tables. In this respect, the separation between the westernmost terrace and the site boundary shared with 'Rosella' has been increased from 2.5m to 5.75m.
- The omission of the westernmost external stairway in its entirety.
- The provision of an additional solid wall component at first floor level to the eastern and western gable elevations with an associated reduction in the expanse of glazing.
- The erection of a rendered blockwork wall (atop a retaining wall) along the western site boundary extending to a minimum of 1.8m in height above the upper ground / first floor level of the proposed dwelling.
- The planting of a 1.8m high yew hedge (measured from the upper ground / first floor level of the proposed dwelling) in addition to a series of semi-mature yew trees along the western site boundary.



- The retention of existing mature trees on site, with particular reference to those along the eastern site boundary, and the supplementing of the site boundaries with a 1.8m high continuous laurel hedge and 1 No. additional yew tree along the eastern site boundary.

7.4.5. In addition, the amended proposal includes for the omission of the first floor return to the rear of the proposed dwelling thereby allowing for an extension of the northern terrace whilst the applicant has also sought to reiterate that the living room and the kitchen / dining area have swapped positions from what was originally proposed.

7.4.6. In my opinion, the aforementioned refinements to the design of the proposed dwelling from that which was refused permission all serve to further reduce the potential for the overlooking of adjacent properties, however, I would have some reservations as regards the appropriateness of two of the measures proposed. In the first instance, whilst the depth of the westernmost terrace has been reduced, the ground level of the intervening garden area between it and the site boundary shared with 'Rosella' has not been lowered and is shown to be at a height comparable to that of the terrace. By extension, the new hedging and tree planting alongside the site boundary is proposed to take place within this raised garden area. In light of the rationale for the setting back of the western terrace, it would seem reasonable to expect the new garden level on site to be lower otherwise the potential for overlooking remains. Whilst I would acknowledge that the retention of the existing ground levels in this area would result in the new planting being set at a correspondingly lower level, I am inclined to suggest that this would be preferable to the alternative. Cognisance should also be taken of the screening provided by the existing hedging within 'Rosella' along its side of the shared boundary. This leads to my second concern as the raised garden level would necessitate the construction of a substantial expanse of retaining wall along the shared site boundary, the visual impact of which will be compounded by the proposal to erect a 1.8m high blockwork wall atop same. Given the site location within 'The Burnaby' Architectural Conservation Area where it is the policy of the Planning Authority to preserve and / or enhance the character and appearance of the ACA as a whole, including trees, views and other aspects of the environment that form an essential part of the character of the ACA, it is my opinion that the erection of such an expanse of walling, whilst intended to preserve the residential amenity of the neighbouring, would be

visually overbearing and intrusive given the site context and would unacceptably detract from the distinctive sylvan character of this part of the ACA.

7.4.7. On balance, it is my opinion that the further revisions proposed to the house design as set out in the grounds of appeal, when taken in combination with the separation distances available between the proposed dwelling and the adjacent housing to the east ('The Spinney') and west ('Rosella') at approximately 27m and 25m respectively, in addition to the proposals to reinforce the mature boundary planting / landscaping between the individual properties thereby providing additional screening of adjacent garden areas, serve to reduce any overlooking of adjacent residential property to within acceptable limits. Therefore, whilst I would acknowledge that the infill nature of the proposed development has the potential to give rise to overlooking with a consequential loss of residential amenity, having regard to the site context within a built-up urban area, the established residential use of the site, and the relationship of the proposed development with neighbouring property, I am inclined to suggest that the overall design, positioning and orientation of the proposed dwelling house (as amended by the grounds of appeal), has taken sufficient cognisance of the need to preserve the residential amenity of neighbouring housing and will not give rise to any significant detrimental impact on same by reason of overlooking, subject to conditions.

7.4.8. With regard to the potential impact of the actual 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 construction works 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. **Servicing / Infrastructural Considerations:**

### 7.5.1. *Traffic Implications:*

The proposed development involves the construction of a replacement dwelling house which will be accessed via the upgrading of an existing access arrangement onto Farm Lane. It is also proposed to undertake various road improvement works along that section of the laneway between the site entrance and the existing

tarmacadam section of Farm Lane further west, including the widening and surfacing of the carriageway as well as the installation of a dedicated surface water drainage arrangement comprising a series of road gullies discharging to a new central filter drain. Therefore, in light of the established use of the site for residential purposes, and the proposed road upgrading works, I am satisfied that the proposal as submitted is acceptable and will not give rise to any additional impact that would serve to endanger public safety by reason of traffic hazard or the obstruction of road users.

Concerns with regard to the interim impact of any heavy machinery / construction traffic accessing the site via Farm Lane during the building works can, in my opinion, be satisfactorily mitigated by way of an agreed Construction Management Plan as a condition of any decision to grant permission.

#### *7.5.2. Wastewater / Foul Sewerage Infrastructure:*

The proposed development, as initially submitted, sought to install an on-site wastewater treatment system with a sand polishing filter in order to discharge treated effluent to ground, however, in response to a request for further information, an amended proposal was submitted whereby a new rising main is to be provided from the application site through the applicants' adjacent property ('Camaderry') to connect into the public mains foul sewer on Whitshed Road.

Whilst Irish Water has recommended that further information should be sought in order to allow for the assessment of the feasibility of such a connection to the public wastewater infrastructure, it would appear that the Planning Authority is satisfied in this regard.

#### **7.6. Appropriate Assessment:**

- 7.6.1. Having regard to the nature and scale of the proposed development, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, 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.

## 8.0 Recommendation

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

## 9.0 Reasons and Considerations

- 9.1. Having regard to the location of the site on residentially zoned lands as set out in the Greystones-Delgany and Kilcoole Local Area Plan, 2013-2019, the established use of the site for residential purposes, the extent of the site and its relationship with adjoining property, the existing pattern of development in the vicinity of the site, and the scale and design of the proposed replacement dwelling house, 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. 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 24<sup>th</sup> day of June, 2020 and by the further plans and particulars received by An Bord Pleanála on the 10<sup>th</sup> day of August, 2020, 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. The proposed development shall be amended as follows:

- a) The 1.8m high rendered blockwork wall along the western site boundary and the associated retaining wall construction shall be omitted.
- b) The existing ground levels shall be retained within the intervening garden area between the westernmost terrace and the western site boundary.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. 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.

4. Water supply and drainage arrangements, including the attenuation and 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.

5. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

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

6. All service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

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

7. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:-

- a) A plan to a scale of not less than 1:250 showing –

- i) All existing trees, hedgerows, and other planting, specifying which are proposed for retention as features of the site landscaping;
  - ii) The measures to be put in place for the protection of these landscape features during the construction period; and
  - iii) The species, variety, number, size and locations of all proposed trees, shrubs and other screen planting.
- b) Details of all proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

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

8. Site development and building works shall be carried out only between the hours of 0800 and 1800 from Mondays to Fridays inclusive, between 0800 and 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.

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

10. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department

of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

11. 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 the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to 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.

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Robert Speer  
Planning Inspector

1<sup>st</sup> December, 2020