



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314064-22

#### Development

26 apartment, 73 houses, access from Glen Road (R762), new entrance, demolitions, landscaping, internal roads including bridge over Three Trouts Stream, utilities, water infrastructure and construction phases works. The site includes a protected structure.

#### Location

Stylebawn House, a Protected Structure, Delgany, Co. Wicklow

#### Planning Authority

Wicklow County Council

#### Planning Authority Reg. Ref.

22429

#### Applicant(s)

RGRe J&R Stylebawn Ltd.

#### Type of Application

Permission

#### Planning Authority Decision

Refuse Permission

#### Type of Appeal

First Party

#### Appellant(s)

RGRe J&R Stylebawn Ltd.

#### Observer(s)

(1) Delgany Community Council  
(2) Colin Acton & Charlotte Byrne

(3) Madalina Morcov

**Date of Site Inspection**

6<sup>th</sup> December 2023 and 9<sup>th</sup> February  
2024

**Inspector**

Louise Treacy

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 5.8020 ha and is located on the south-western side of the settlement of Delgany, Co. Wicklow on the approach road from the N11 (R762 Glen Road). The northern site boundary adjacent to the R762 is characterised by a low stone wall with mature trees to the rear, which screens public views into the site, and forms part of the tree-lined character of the south-western approach into Delgany. The lands on the northern side of Glen Road opposite the subject site are primarily characterised by residential development (Valley View estate, Hillside House and Grange Cottage), a café / bakery premises and an old burial ground.
- 1.2. A number of built structures are located at the northern end of the site including Stylebawn House, a detached 1.5 storey Protected Structure which has been subject to extensive fire damage and has fallen into significant disrepair. Three ancillary detached buildings are located on the western side of the Protected Structure including an apple store, a 2-storey gardener's cottage, and a single-storey livestock shed. This part of the site, including the existing structures, is significantly overgrown and access around the site was not facilitated on 2 no. separate occasions.
- 1.3. Clara House is located towards the north-western corner of the site and comprises a detached, 2-storey dwelling on a generous plot, which is segregated from the remainder of the application lands. This property appeared to be occupied at the time of the inspection. A recessed vehicular entrance into Clara House is provided from the southern side of Glen Road, with 2 no. further historic entrances located to the front of Stylebawn House and towards the north-eastern site corner. An incomplete footpath extends along part of the northern site boundary.
- 1.4. The remainder of the site is heavily vegetated and has become significantly overgrown. Extensive mature trees are present throughout. Three Trouts Stream bisects the site from west to east. A 38 kV overhead powerline also extends in an east-west direction across the central portion of the site, to the south of the stream. The site topography decreases steeply from the northern boundary (approx. 54.05 mOD at entrance gate to front of Stylebawn House) towards the stream (approx. 39 mOD) and thereafter increases significantly towards the southern boundary (approx. 76 mOD).

- 1.5. Blackberry Lane, a narrow local road, extends along the eastern boundary. The site boundary to Blackberry Lane is characterised by a stone wall at its northern end and thereafter by mature trees and hedging, intermittent post and wire fencing and a small bridge structure over Three Trouts Stream. Surface water was noted flowing from the eastern boundary onto Blackberry Lane during the site inspection.
- 1.6. Detached residential dwellings on substantial plots generally adjoin the site to the north-west, south and south-west.

## 2.0 Proposed Development

- 2.1. The proposed development provides for 99 no. residential units comprising:
  - 8 no. 1-bedroom apartments
  - 3 no. 2-bedroom (3-person) apartments
  - 15 no. 2-bedroom (4-person) apartments
  - 14 no. 3-bedroom houses
  - 59 no. 4-bedroom houses
- 2.2. The proposed apartments are provided in a single 4-storey block comprising basement, lower and upper ground floors and a first floor. The apartments are provided with private and communal amenity spaces. Access is provided from the Glen Road (R762) generally in the location of the existing access, with a new entrance arrangement proposed with associated site boundary works. Demolitions and site clearance are proposed to facilitate the development. All associated site development works including landscaping, internal roads including bridge over Three Trouts Stream, utilities, water infrastructure and construction phases works and development.
- 2.3. The proposed internal access road extends in a generally looped configuration from the north-western corner of the site across the central and southern areas and includes a new bridge structure over Three Trouts Stream. All the proposed residential units are located on the southern side of the stream at an approx. set back ranging between 33 – 37 m. The proposed apartment block is located adjacent to the southern end of the bridge structure. The houses are arranged around the

internal access road in a series of terraces of 4 – 6 units and 1 no. pair of semi-detached units. The communal open space within the scheme comprises the buffer zones adjoining either side of the stream.

- 2.4. The proposed development forms part of a combined proposal within the same red line boundary which extends across the immediately adjoining lands on the northern side of Three Trouts Stream. This northern part of the site currently accommodates Stylebawn House (a Protected Structure), Clara House and associated structures and grounds. A separate, concurrent planning application has been lodged for the development of this adjoining site, under which 42 no. residential units are proposed (total of 141 no. residential units across both sites). The application on this adjoining site is subject to a concurrent appeal case before the Board (see Section 4.0 of this report for details).

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Wicklow County Council issued Notification of the Decision to Refuse Permission for the proposed development on 15<sup>th</sup> June 2022 for 8 no. reasons which can be summarised as follows:

(1) The proposed development would materially contravene the zoning objective of the site, with a proposed density of 29 dwellings per hectare on a site where the maximum permissible density is 2.5 units per hectare.

(2) Having regard to: (a) the construction of a bridge structure which requires 2 no. support structures within c. 10 m either side of Three Trouts Stream and 4 no. structures within its identified riparian corridor, and the lack of information to detail the impact of such structures on the riparian corridor, (b) the lack of geotechnical survey information of the site during and post construction having regard to its steep topography, the stream, the proposed removal of over 50% of the trees on site and the level of excavation, cut and fill required to facilitate the proposed development, it is considered that it has not been shown that the proposed development would not seriously impact the environmental quality and biodiversity of Three Trouts Stream.

(3) The proposed development falls short in terms of quality with regard to public and private open space provision, resulting in an unacceptable level of residential amenity and facilities for future residents which would be contrary to Objectives HD2, HD3 and Appendix 1 Development Design Standards of the Wicklow County Development Plan 2016-2022.

(4) The proposed apartment block would result in a substandard level of residential amenity for future residents having regard to: (a) the substandard quality of communal open space which would fall substantially below BRE recommendations for sunshine, the failure of the living/kitchen/dining area of the four south-facing apartments at lower and ground floor level to achieve the minimum recommended ADF levels by BRE standards, the level difference between the south facing lower ground and upper ground floor apartments and the road level, which is significantly higher, and would result in an unacceptable level of privacy and amenity for future residents, the failure of the apartment block to accord with SPPR5 and Section 3.31 of the Apartment Guidelines in relation to ceiling height at ground floor level and the storage areas.

(5) The proposed development would be contrary to Objectives T03 and T07 of the Greystones, Delgany and Kilcoole LAP 2013-2019 and NH1, NH12, NH14, NH16, NH17, NH18 and NH51 of the Wicklow County Development Plan 2016-2022 which seek to resist development that would significantly or unnecessarily alter the natural landscape and topography, or which would result in the felling of mature trees of environmental and/or amenity value.

(6) Having regard to: (a) the embankment along the eastern boundary south of the proposed bridge which would result in a road on this embankment c. 9 m above the existing ground level which relies on crash barriers; (b) the yielding arrangements on either side of the bridge which would lead to traffic conflicts; (c) the failure to show that sufficient sightlines are available for the underground car park exit onto the internal road, the proposed development would result in a substandard road layout which would endanger public safety by reason of a serious traffic hazard.

(7) The proposed stormwater / surface water drainage calculations and proposals to accommodate the proposed development and the SFRA submitted are considered to be insufficient and do not adequately demonstrate that the proposed development

would not result in an increased level of run off from the application site and therefore an increased risk of flooding upstream and downstream along Three Trouts Stream. The applicant's proposal to pump storm water drainage from the basement level of the proposed development to the foul water system would also be prejudicial to public health. The proposed development fails to demonstrate to the satisfaction of the Planning Authority that it would not result in an increased flood risk on site or on sites upstream or downstream of the proposed development, would be prejudicial to public health, and would therefore be contrary to the proper planning and sustainable development of the area.

(8) Having regard to the nature and scale of the proposed development and the failure of the applicant to adequately demonstrate that there are sufficient childcare places available within the area to cater for the likely demand generated by the proposed development, it is considered that the proposed development would be contrary to county development plan policy CD24.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

3.2.2. Basis of Planning Authority's decision.

### **3.2.3. Other Technical Reports**

3.2.4. **Housing Department (23<sup>rd</sup> May 2022):** Satisfied with the location and spread of the Part V units but notes that the 1 and 2-bedroom units are oversized.

3.2.5. **Transportation, Water and Emergency Services (23<sup>rd</sup> May 2022):** Report notes that: (i) it may be necessary to provide a pedestrian link to Delgany village along the regional road; (ii) details required in relation to the secondary pedestrian cycle only route through existing access to Stylebawn House; (iii) no sightline information provided for vehicles exiting Block 2; the reopening of the existing access points; (iv) opportunity to decrease width of through road to 5.5 m in accordance with DMURS; (v) regard should be had to measures implemented in upgrade of junction to Bellevue Hill; (vi) full engineering details of proposed bridge structure to be submitted for agreement prior to commencement of development; (vii) details of safety barriers should be provided; (viii) details of retaining wall/structure between Ch250 and 310 and between Ch470 and 510 should be provided; (ix) Stage 3 RSA should be carried

out at conclusion of construction works; (x) a detailed drawing and design of public lighting to be provided.

3.2.6. **Water and Environmental Services (19<sup>th</sup> May 2022):** Further Information required as follows: (1) applicant to submit design details for the proposed petrol interceptor prior to the commencement of development; (2) details of the proposed outfall at Three Trouts Stream to be submitted prior to the commencement of development; (3) confirmation required why 4 no. gullies connecting to SWMH09 are not connected into the attenuation system; (4) location of flow control / hydrobrake manhole chambers; (5) surface water drainage to rear of each property to be confirmed; (6) confirmation of any geotechnical or soil testing carried out on site; (7) prior to the commencement of development, site specific design calculations and construction details for green roof system to be submitted; (8) confirmation of any surface-water runoff from green roof system; (9) prior to WCC taking the development in charge, the green roof system must have completed the establishment stage; (10) access for maintenance of green roof system to be provided; (11) WCC to be informed of the appointed project ecologist prior to the commencement of development; (12) drawing to be submitted prior to construction outlining the location of the proposed mitigation measures to protect against surface run-off from the site; (13) applicant to ensure CEMP is in place during construction; (14) quarterly inspection report required from project ecologist to confirm mitigation measures are in place; (15) mitigation measures for construction of bridge over Three Trouts Steam to be approved in writing prior to commencement of development; (16) the encroachment of the undergrounding of overhead ESB cables on the riparian zone specific management measures to be approved by project ecologist; (17) confirmation that any proposed landscaping works within the riparian corridor of Three Trouts Stream will not alter the existing capacity/volume of this area; (18) construction / demolition waste works shall comply with relevant guidelines; (19) no piping or closed culverting of watercourses is acceptable.

3.2.7. Greystones Area Engineer (31<sup>st</sup> May 2022): Report notes the following:

**(1) Wastewater:** (i) the proposed waste-water pumping station should not be permitted; (ii) the gravity sewer pipe should be suitably sized to cater for the full development potential of the lands; (iii) unclear whether proposed pumping station has been sized and designed for the full development potential of the lands: (iv)



proposed on-site WWPS not referred to in Sustainability Plan / Energy Statement; (v) clarification required as to why the storm water drainage for the basement level is proposed to be pumped into the foul water system.

**(2) Storm Water:** Insufficient information provided in relation to storm water management including: (i) land drainage of proposed earth embankments; (ii) how the internal drainage system will cater for 3 existing road gullies along the R762; (iii) how SUDS regime can be improved; (iv) relocation of petrol interceptor; (v) location of flow control manhole chamber; (vi) road gulleys shall not be trapped; (vii) no details of attenuation systems provided.

**(3) Roads:** (i) Recommends that internal bridge proposal be abandoned, and a new entrance be provided onto Blackberry Lane; (ii) pedestrian access should be provided to Blackberry Lane; (iii) drawings of proposed bridge lacking in detail; (iv) no details of engineered embankments; (v) further details required of visibility splays for proposed entrance onto Glen Road, from the underground car park and the bridge; (vi) property boundary along Glen Road to be set back by 7 m from existing centre line of road to cater for future cycle track provision; (vii) poor design of underground car park exit; (viii) boundary at junction of Blackberry Lane, Priory Road and Church Road to be set back to facilitate Delgany Village Accessibility scheme; (ix) specification of road surface course; (x) specification for sub-base to footpaths; (xi) road markings and traffic signs specification; (xii) public lighting to be bat sensitive, low height and low intensity; (xiii) clarifications re: Road Infrastructure Design Report; (xiv) clarifications re: Traffic and Transport Assessment.

**(4) Landscaping:** (i) riparian habitat should not be included in public open space calculations; (ii) landscaping proposals along Three Trouts Stream do not appear to be in accordance with IFI design guidance; (iii) clarification of handrail details; (iv) arboricultural assessment and impact report is misleading as it refers to the development of the whole site.

### 3.3. Prescribed Bodies

- 3.3.1. **Inland Fisheries Ireland (11<sup>th</sup> May 2022):** Notes that it is vital that the construction works do not impact negatively on the water quality or aquatic habitat of the Three Trouts Stream which is noted to be an extremely important salmonid river, which contains trout. Concerns noted that the proposed development, in-combination with other developments in the catchment that are using the river system as the final discharge point for treated and attenuated surface water, may result in a high probability that Ireland will struggle to comply with legal obligations set out in the EU Water Framework Directive. Specific mitigation measures identified in the event planning permission is granted.
- 3.3.2. **Dept. of Housing, Local Government & Heritage (24<sup>th</sup> May 2022 and 26<sup>th</sup> May 2022):** Report of 24<sup>th</sup> May 2022 notes the presence of a Recorded Monument on the site (WI013-005 16<sup>th</sup>/17<sup>th</sup> century house) and the potential for archaeological features to be discovered during ground works. Recommends that a field-based Archaeological Impact Assessment be requested by way of Further Information.
- 3.3.3. Report of 26<sup>th</sup> May 2022 notes that the site is located within the confines of Recorded Monument WI013-065 bullaun stone; partially within the confines of Recorded Monument WI013-004 church, graveyard, font and high cross; and, partially within the confines of Recorded Monuments WI013-004001 church, WI013-004002 graveyard and WI013-004004 font and granite high cross. Notes that the AIA submitted with the application is inadequate and that an underwater archaeological survey and impact assessment will be required. Recommendation that these assessments be requested as Further Information.
- 3.3.4. **Irish Water (26<sup>th</sup> May 2022):** The applicant is requested to explore the possibility of gravitating the entire site wastewater infrastructure to the existing Irish Water Delgany WwPS to the east, subject to available levels / acceptable gradients.

### 3.4. Third Party Observations

- 3.4.1. A total of 19 no. third party observations are on file as received from: (1) Rori Coleman, Corrella, St. Vincent Road, The Burnaby, Greystones, Co. Wicklow, (2) Vincent Flynn, 5 Bellevue Court, Delgany, Greystones, Co. Wicklow, (3) Kathryn & Tony Harbison, 1 Bellevue Court, Delgany, Co. Wicklow, (4) Jeffrey Farrar, Havish

Japa, Glen Road, Delgany, Co. Wicklow, (5) Joan Campbell, Lisnashee, Blackberry Lane, Delgany, Co. Wicklow, (6) Sinead Moore, The Gate Lodge, Priory Road, Delgany, Co. Wicklow, (7) Gareth Madden, Lahina, Bellevue Lawn, Delgany, Co. Wicklow, (8) Madalina Morcov, Blackberry Lane, Delgany, Co. Wicklow, (9) Colin Acton & Charlotte Byrne, 15 Valley View, Delgany, Co. Wicklow, (10) Delgany Community Council c/o Paul Armstrong, Dunroamin, The Nurseries, Delgany, Co. Wicklow, (11) Carina Holmes, 10 Dromont, Chapel Road, Delgany, Co. Wicklow, (12) Alice O'Donnell, 8 Dromont, Delgany, Co. Wicklow, (13) Eibhlin de Buitlear, Hillside House, Delgany, Co. Wicklow, (14) Zoe Woodward on behalf of Delgany Tidy Towns, 3 Elsinore, Delgany, Co. Wicklow, (15) Keith Scanlon, 12 The Nurseries, Cherry Lane, Delgany, Co. Wicklow, (16) Valerie Madigan, 20 Priory Avenue, Eden Gate, Delgany, Co. Wicklow, (17) Tommy & Barbara McMackin, Courtlough, Delgany, (18) David & Eithne Sullivan, 2 Priory Gate, Delgany, Co. Wicklow, (19) Laurence Doyle, Blackberry Lane, Drummin East, Delgany, Co. Wicklow.

3.4.2. A representation was also made on the application by: (1) Cllr. Jodie Neary, Wicklow County Council, County Buildings, Station Road, Whitegates, Wicklow.

3.4.3. The issues which are raised can be summarised as follows: (1) environmental impact of the development on this extremely sensitive site not sufficiently addressed; (2) impact on Three Trouts Stream; (3) material contravention – proposed development density does not comply with LAP, regional or national policy and apartments are not permitted in the village centre; (4) increased surface water runoff not adequately addressed; (5) biodiversity impacts; (6) impact on bats and otters; (7) excessive tree loss; (8) inadequate road network; (9) site does not support active travel measures; (10) development will be entirely car-based; (11) overdevelopment; (12) Sustainable Residential Development Guidelines 2009 conflict with the LAP provisions; (13) local services and infrastructure have not kept pace with housing development; (14) site topography does not facilitate such intense development; (15) EIA required; (16) flood risk; (17) invasive species are present on site (Japanese Knotweed and Gunnera); (18) inadequate sightlines at existing entrance; (19) impact on historic fabric of village (ACA); (20) impact on views southwards from Delgany village; (21) background traffic and traffic growth figures are underestimated; (22) traffic hazard; (23) village has poor footpath infrastructure and no cycle paths; (24)

unclear if crèche assessment considers 2 SHD schemes in close proximity; (25) no community gain; (26) no social audit; (27) project splitting – cumulative impacts not considered; (28) removal of carbon sink; (29) some apartments will be lacking light due to being cut into the site; (30) overlooking of existing dwelling on Blackberry Lane, (31) 40 m flood zone unsuitable for use as public open space; (32) no landscape drawings submitted for site 1B; (33) internal road layout contrary to DMURS; (34) no visual impact assessment undertaken of proposed bridge and retaining walls; (35) no permeability through the site; (36) LAP requires a green route to be provided along the stream (policy TS12); (37) significant surplus of zoned land – site should be dezoned; (38) insufficient flood plain; (39) objective T03 regarding tree protection in Delgany village applies to the site; (40) impact on Natura 2000 sites; (41) impact on Protected Structure; (42) impact on character of Blackberry Lane; (43) little demand for apartments in Delgany village; (44) pedestrian permeability required to Blackberry Lane; (45) housing targets already exceeded: (46) no assessment of demand for school places; (47) inadequate public transport: (48) inadequate playground: (49) unsuitable open space due to flooding; (50) incorrect information on planning application form; (51) insufficient ecological assessment; (52) previous refusal of permission on the site not addressed; (53) quality of life impacts for existing residents; (54) yellow site notice required; (55) unsuitable scheme design – overlooking, overshadowing, inappropriate building heights; (56) extent of cut and fill cannot be justified; (57) insufficient detail in outline CEMP; (58) photomontages include existing trees on Glenn Road and do not reflect extent of proposed tree loss; (59) archaeological impact of proposed bridge; (60) disproportionate nature and scale of development.

## 4.0 Planning History

- 4.1. **ABP Ref. 313926-22; Planning Authority Reg. Ref. 22/380:** Planning permission sought for 40 no. apartment units in a single 5-storey block, works to Stylebawn House to provide a 4-bedroom house and works to the Gardener's Cottage to provide a 2-bedroom house (42 no. units in total) and all associated development.
- 4.2. Wicklow County Council issued **Notification of the Decision to Refuse Permission** for the proposed development on 1<sup>st</sup> June 2022 for 5 no. reasons relating to: (1) excessive density/overdevelopment of the site; (2) the existing sylvan

nature of the site, the level of excavation, the degree of cut and fill; and the extent of tree loss; (3) failure to demonstrate to the Planning Authority that the proposed development would not result in an increased flood risk on site or on sites upstream or downstream, and the proposal to pump storm water drainage from the basement level to the foul water system would be prejudicial to public health; (4) failure to comply with the Sustainable Urban Housing: Design Standards for New Apartments, December 2020 in relation to dual aspect ratios, floor to ceiling heights and internal storage areas; (5) insufficient details regarding proposed works to Protected Structure, its associated outbuildings and curtilage.

- 4.3. This decision is subject to a concurrent first party appeal before the Board.
- 4.4. **Planning Authority Reg. Ref. 13/8178:** Extension of duration of permission for Reg. Ref. 07/1150 granted to 9<sup>th</sup> September 2018.
- 4.5. **Planning Authority Reg. Ref. 07/1150:** Planning permission granted on 12<sup>th</sup> June 2008 for 11 no. dwellings, vehicular and pedestrian entrance to the site via a new entrance from the R762, widening of the R762 to provide a 6 m carriageway and 2 m footpath on the south side of the R762 along the frontage of the site, new internal road including the construction of a new timber vehicular bridge across Three Trouts Stream, all associated site works including landscaping and pumping station.
- 4.6. **Planning Authority Reg. Ref. 04/227; ABP Ref. PL27.214898:** Planning permission refused on 28<sup>th</sup> June 2006 for 11 no. houses and associated works for 1 no. reason as follows:
- 4.7. “The proposed development on these lands zoned for low density residential development in the current development plan for the area and where there is an objective in the plan for Blackberry Lane “to preserve and provide pedestrian circulation”, it is considered that the proposed development would be premature in the absence of an alternative access to the site which would provide for retention of Blackberry Lane in its current state. The proposed development would, therefore, endanger public safety by reason of a traffic hazard and would be contrary to the proper planning and sustainable development of the area”.

## 5.0 Policy Context

5.1. The Wicklow County Development Plan 2016-2022 was in force at the time this planning application was lodged. The Wicklow County Development Plan 2022-2028 has been adopted in the interim and is the relevant local planning policy document for the purposes of adjudicating this case.

### 5.2. Wicklow County Development Plan 2022-2028

### 5.3. Settlement Strategy

5.3.1. Greystones-Delgany is designated as a “Self-Sustaining Growth Town” in the settlement strategy for the county. The population of the settlement is targeted to increase from 18,021 persons in 2016 to 21,727 by Q2 2028. The town’s designation is intended to reflect the growth that has already occurred in the 2016-2022 period having regard to housing development completed, underway and due for completion within this timeframe. The focus during the period of the current development plan will be on infill development and consolidation of the built-up area.

5.3.2. **Objective CPO 4.2:** To secure compact growth through the delivery of at least 30% of all new homes within the built-up footprint of existing settlements by prioritising development on infill, brownfield and regeneration sites and redeveloping underutilised land in preference to greenfield sites.

5.3.3. **Objective CPO 4.3:** Increase the density in existing settlements through a range of measures including bringing vacant properties back into use, reusing existing buildings, infill development schemes, brownfield regeneration, increased building height where appropriate, encouraging living over the shop and securing higher densities for new development.

5.3.4. **Objective CPO 4.5:** To ensure that all settlements, as far as is practicable, develop in a self-sufficient manner with population growth occurring in tandem with physical and social infrastructure and economic development. Development should support a compact urban form and the integration of land use and transport.

5.3.5. **Objective CPO 4.13:** To require that the design, scale and layout of all new residential development is proportionate to the existing settlement, respects the character, strengthens identity and creates a strong sense of place.

## 5.4. Housing

- 5.4.1. **Density:** Higher densities are encouraged to achieve an efficient use of land and create compact, vibrant and attractive settlements. New development should incorporate a mix of dwelling types and heights to achieve minimum densities and create interesting and attractive settlements. Mono-type building typologies (e.g. two storey or own-door houses only) will not be considered favourably. For large towns such as Greystones-Delgany, a minimum net density of 35-50 dwellings per ha is identified. Development at net densities less than 30 dwellings per ha should generally be discouraged, particularly on sites in excess of 0.5 ha (table 6.1 of the plan refers).
- 5.4.2. **Objective CPO 6.13:** To require that new residential development represents an efficient use of land and achieves the minimum densities as set out in Table 6.1 subject to the reasonable protection of existing residential amenities and the established character of existing settlements.
- 5.4.3. **Objective CPO 6.16:** To encourage and facilitate high quality well-designed infill and brownfield development that is sensitive to context, enables consolidation of the built environment and enhances the streetscape. Where necessary, performance criteria should be prioritised provided that the layout achieves well-designed, high-quality outcomes and public safety is not compromised and the environment is suitably protected.
- 5.4.4. **Objective CPO 6.20:** Housing development shall be managed and phased to ensure that infrastructure is adequate or is being provided to match the needs of new residents. New significant residential or mixed-use development proposals (of which residential development forms a component), shall be required to be accompanied by a Social Infrastructure Audit, to determine if social and community facilities in the area are sufficient to provide for the needs of the future residents. Where deficiencies are identified, proposals will be required to either rectify the deficiency, or suitably restrict or phase the development in accordance with the capacity of existing or planned services.
- 5.4.5. New significant residential or mixed-use development proposals shall be required to be accompanied by a 'Accessibility Report' that demonstrates that new residents / occupants / employees (including children and those with special mobility needs) will

be able to safely access through means other than the private car: (a) local services including shops, schools, healthcare and recreational facilities, and (b) public transport services. Where deficiencies are identified, proposals will be required to either rectify the deficiency, or suitably restrict or phase the development in accordance with the capacity/quality of existing or planned linkages.

5.4.6. **Objective CPO 6.28:** Apartments generally will only be permitted in settlements Levels 1 to 6 and in accordance with the location requirements set out in Section 2.4 of the Design Standards for New Apartments, Guidelines for Planning Authorities (2020). All apartment development should be served by high quality usable open space.

## 5.5. Built Heritage

5.5.1. Stylebawn House is included on Wicklow County Council's Record of Protected Structures (RPS Ref. 08-73). The northern portion of the site (north of Three Trouts Stream and excluding Clara House) forms part of the Delgany Architectural Conservation Area (ACA). There is also one archaeological site located within the appeal site consisting of a ballaun stone (W1013-065).

5.5.2. **Objective CPO 8.2:** No development in the vicinity of a feature included in the Record of Monuments & Places (RMP) or any other site of archaeological interest will be permitted which seriously detracts from the setting of the feature or which is seriously injurious to its cultural or educational value.

5.5.3. **Objective CPO 8.14:** To positively consider proposals to alter or change the use of protected structures so as to render them viable for modern use, subject to architectural heritage assessment and to demonstration by a suitably qualified Conservation Architect / or other relevant expertise that the structure, character, appearance and setting will not be adversely affected and suitable design, materials and construction methods will be utilised.

5.5.4. **Objective CPO 8.18:** To seek (through the development management process) the retention, conservation, appropriate repair and reuse of vernacular buildings and features such as traditional dwellings and outbuildings, historic shopfronts, thatched roofs and historic features such as stonewalls and milestones. The demolition of vernacular buildings will be discouraged.



5.5.5. **Objective CPO 8.21:** Within Architectural Conservation Areas, all those buildings, spaces, archaeological sites, trees, street furniture, views and other aspects of the environment which form an essential part of their character, as set out in their character appraisals, shall be considered for protection. The repair and refurbishment of existing buildings within the ACA will be favoured over demolition/new build in so far as practicable.

5.5.6. The character appraisal of Delgany ACA is set out in Appendix B of the now expired Greystones, Delgany and Kilcoole LAP 2013-2019. It states, inter alia, that “the existing mature trees, in particular those on the northern slope of the Three Trout’s Stream Valley and at the western entrance to Delgany also contribute significantly to the village character and create a pleasant, wooded backdrop”.

## 5.6. **Natural Heritage and Biodiversity**

5.6.1. **Objective CPO 17.12:** To protect non-designated sites from inappropriate development, ensuring that ecological impact assessment is carried out for any proposed development likely to have a significant impact on locally important natural habitats, species or wildlife corridors. Ensure appropriate avoidance and mitigation measures are incorporated into development proposals as part of any ecological impact assessment.

5.6.2. **Objective CPO 17.14:** Ensure that development proposals support the protection and enhancement of biodiversity and ecological connectivity within the plan area in accordance with Article 10 of the Habitats Directive, including linear landscape features like watercourses (rivers, streams, canals, ponds, drainage channels, etc), woodlands, trees, hedgerows, road and railway margins, semi-natural grasslands, natural springs, wetlands, stonewalls, geological and geo-morphological systems, features which act as stepping stones, such as marshes and woodlands, other landscape features and associated wildlife where these form part of the ecological network and/or may be considered as ecological corridors or stepping stones that taken as a whole help to improve the coherence of the European network in Wicklow.

5.6.3. **Objective 17.20:** Development that requires the felling of mature trees of environmental and/or amenity value, even though they may not have a TPO in place, will be discouraged.

- 5.6.4. **Objective 17.21:** To strongly discourage the felling of mature trees to facilitate development and encourage tree surgery rather than felling if such is essential to enable development to proceed.
- 5.6.5. **Objective 17.26:** Protect rivers, streams and other water courses by avoiding interference with river / stream beds, banks and channels and maintaining a core riparian buffer zone of generally 25m along watercourses (or other width, as determined by the Planning Authority having particular regard to 'Planning for Watercourses in the Urban Environment' by Inland Fisheries Ireland for urban locations) free from inappropriate development, with undeveloped riparian vegetation strips, wetlands and floodplains generally being retained in as natural a state as possible. Structures such as bridges should be clear span and designed and built in accordance with Inland Fisheries Ireland guidance.
- 5.6.6. **Objective CPO 18.3:** New development and redevelopment proposals shall wherever possible, integrate nature-based solutions to the design, layout and landscaping of development proposals, and in particular to the delivery of linear parks and connected open spaces along watercourses in order to enhance the existing green infrastructure of the local area. All such proposals will be subject to ecological impact assessment.

## 5.7. **Greystones, Delgany & Kilcoole LAP 2013-2019**

- 5.7.1. This LAP has now expired, with the preparation of a new plan being at pre-draft stage at the time of writing this report. The key provisions of this plan with respect to the subject site are included here for context purposes only.

## 5.8. **Land Use Zoning**

- 5.8.1. The northern and southern portions of the site were subject to land use zoning "R2.5 – Residential (2.5 /ha)" which had the objective "to provide for the development of sustainable residential communities up to a maximum density of 2.5 units per hectare and to preserve and protect residential amenity". The central area of the site on either side of Three Trouts Stream was subject to an OS (Open Space) zoning which had the objective "to preserve, provide for and improve public and private open space for recreational amenity and passive open space".

## 5.9. Biodiversity

5.9.1. Tree Protection Objectives T03 (Delgany village, western end of village including Stylebawn House and Hillside House) and T07 (Delgany, Stilebawn) applied to the site as demarcated on Heritage Map B of the plan. An indicative greenway is also identified extending along Three Trouts Stream.

## 5.10. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, (2024)

5.10.1. These Guidelines set out national planning policy and guidance in relation to the creation of settlements that are compact, attractive, liveable and well designed. There is a focus on the renewal of settlements and on the interaction between residential density, housing standards and placemaking to support the sustainable and compact growth of settlements. Guidance in relation to Key Towns and Large Towns (5,000+ population), which includes Delgany, is set out in Section 3.3.3. The strategy is to support consolidation within and close to the existing built-up footprint.

5.10.2. The key priorities for such towns, in order of priority, are as follows:

- Plan for an integrated and connected settlement overall.
- Strengthen town centres.
- Protect, restore and enhance historic fabric, character, amenity, natural heritage, biodiversity and environmental quality.
- Realise opportunities for adaptation and reuse of existing buildings and for incremental backland, brownfield and infill development.
- Deliver sequential and sustainable urban extension at locations that are closest to the urban core and are integrated into, or can be integrated into, the existing built-up footprint of the settlement.

5.10.3. It is a policy and objective of the Guidelines that residential densities in the range 30 dph to 50 dph (net) shall generally be applied at suburban and urban extension locations of Key Towns and Large Towns. This density range should be refined based on: (1) the site's centrality and accessibility to services and public transport; and (2) considerations of character, amenity and the natural environment.

## 5.11. Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2022)

- 5.11.1. **SPPR1:** Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).
- 5.11.2. **SPPR 4:** In suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme.
- 5.11.3. **SPPR 5:** Ground level apartment floor to ceiling heights shall be a minimum of 2.7 m and shall be increased in certain circumstances.
- 5.11.4. The key development standards for apartment units in the context of this appeal case are summarised below.
- **Overall floor area:** 1-bedroom unit - 45 m<sup>2</sup>; 2-bedroom/3-person unit – 63 m<sup>2</sup> (not to comprise more than 10% of the total units); 2-bedroom/4-person unit – 73 m<sup>2</sup>. The majority of the units shall exceed the minimum floor area standards by 10%.
  - **Storage space:** 1-bedroom unit - 3 m<sup>2</sup>; 2-bedroom/3-person unit – 5 m<sup>2</sup>; 2-bedroom/4-person unit – 6 m<sup>2</sup>. Storage for bulky items should also be provided outside individual apartments.
  - **Dual Aspect Ratio:** On greenfield or standalone brownfield regeneration sites where requirements like street frontage are less onerous, it is an objective that there shall be a minimum of 50% dual aspect apartments (SPPR 4 refers).
  - **Floor to Ceiling Height:** Ground level shall be a min. of 2.7 m (SPPR 5 refers).
  - **Lift and Stair Cores;** Max. of 12 apartments per floor per core.
  - **Private amenity space:** 1-bedroom unit – 5 m<sup>2</sup>; 2-bedroom/3-person unit – 6 m<sup>2</sup>; 2-bedroom/4-person unit – 7 m<sup>2</sup>.

- **Communal amenity space:** 1-bedroom unit - 5 m<sup>2</sup>; 2-bedroom/3-person unit – 6 m<sup>2</sup>; 2-bedroom/4-person unit – 7 m<sup>2</sup>. The recreational needs of children must be considered as part of communal amenity space.
- **Bicycle parking:** 1 cycle storage space per bedroom, with visitor parking required at a rate of 1 space per residential unit.
- **Car parking:** As a benchmark guideline for apartments in relatively peripheral or less accessible urban locations, one car parking space per unit, together with an element of visitor parking, such as one space for every 3-4 apartments, should generally be required.
- Provision shall be made for the **storage and collection of waste** materials in apartment schemes. Refuse facilities shall be accessible to each apartment stair/lift core and designed for the projected level of waste generation and types and quantities of receptacles required.

5.11.5. The Guidelines state that the threshold for provision of childcare facilities in apartment schemes should be established having regard to the scale and unit mix of the development, the existing geographical distribution of such facilities and the emerging demographic profile of the area. One-bedroom or studio units should not be considered to contribute to the requirement for childcare provision and this may also apply in part to units with two or more bedrooms.

## 5.12. **Architectural Heritage Protection Guidelines for Planning Authorities (2011)**

5.12.1. These guidelines assist Local Authorities and prospective applicants in dealing with development proposals which relate to a Protected Structure, or the exterior of a building located in an ACA. Criteria for assessing proposals within an ACA are set out in Section 3.10 of the Guidelines. Where demolition is proposed, the onus is on the applicant to make the case for demolition and the Planning Authority should consider the effect on the ACA and any adjacent Protected Structures.

5.12.2. Guidance in relation to extensions is provided in Sections 6.8.2 – 6.8.5. New work should involve the smallest possible loss of historic fabric and ensure that important features are not obscured, damaged or destroyed. In general, principal elevations of a Protected Structure, should not be adversely affected by new extensions. Generally, attempts should not be made to disguise new additions or extensions and

make them appear to belong to the historic fabric. Extensions should complement the original structure in terms of scale, materials and detailed design while reflecting the values of the present time.

### 5.13. Natural Heritage Designations

5.13.1. The closest European sites to the appeal site include the following:

- Glen of the Downs SAC (site code: 000719) - approx. 0.3 km to the west.
- The Murrough SPA (site code: 004186) - approx. 3 km to the east.
- The Murrough Wetlands SAC (site code: 002249) - approx. 3.6 km to the south-east.
- Bray Head SAC (site code: 000714) - approx. 3 km to the north-east.

### 5.14. EIA Screening

5.14.1. The planning application documentation does not include an EIA Screening Assessment. Wicklow County Council's Planning Officer concluded that the undertaking of an EIA was not required in this instance.

5.14.2. Class (10)(b) of Schedule 5, Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

5.14.3. This planning application seeks permission to construct 99 no. residential units on a stated site area of 5.8020 ha. A concurrent planning application proposes to develop 42 no. residential units on the adjoining lands to the north, resulting in a total of 141 no. units within the same red line boundary. As such, the total number of units proposed in this instance, is significantly below the 500-unit threshold noted above. The combined application sites are located within an existing built-up area but not in a business district and therefore, are well below the applicable threshold of 10 ha.

5.14.4. The introduction of these residential schemes would have no adverse impact in environmental terms on surrounding land uses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Uisce Éireann and Wicklow County Council, upon which its effects would be marginal.

5.14.5. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment, and that on preliminary examination, an environmental impact assessment report for the proposed development was not necessary in this case.

## **6.0 The Appeal**

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

6.1.1. A first party appeal against the Planning Authority's decision has been lodged in this instance. The appeal proposes design amendments to the proposed development to address the Planning Authority's refusal reasons including, the extension of the communal open space to serve the apartment block and the replacement of 2 no. apartment units with a childcare facility.

6.1.2. The grounds of appeal can be summarised as follows:

- The proposed development is appropriate for the site given the need to increase densities in towns and villages and to achieve a more compact urban form in line with national and regional planning policy.
- Residential units are proposed on the R2.5 zoned lands, which is consistent with the zoning objective. The zoning of land provided for under a LAP, relates to land use, rather than the specification of density. The Board must have regard to the provisions of a LAP but is not strictly bound by them.
- Section 37(2)(b) does not apply in this instance as none of the refusal reasons state there is a material contravention of the development plan.

- Since the adoption of the LAP, national and regional policy documents and S. 28 guidelines have been published which place an emphasis on compact growth and increasing density in towns and villages. It is considered that a density of 2.5 units per hectare as indicated in the LAP would comprise the underutilisation of the site.
- The proposed development complies with SPPR4 of the Urban Development and Building Height Guidelines (2018) by providing a mix of house types and heights at an appropriate density in compliance with the Sustainable Residential Development in Urban Areas Guidelines (2009).
- Delgany forms part of the overall Greystones-Delgany CSO settlement. The 2009 Sustainable Residential Development Guidelines specify density ranges of 35-50 dwellings per hectare for 'outer suburban/greenfield sites' in larger towns.
- The proposed residential density of 29 units/ha is below that set out in Section 5.11 of the 2009 Guidelines. It takes account of the sensitivities of the site, particularly the topography and extensive tree lined areas and the presence of the Protected Structure.
- When combined with the concurrent application on the northern portion of the lands, an overall density of 35 units/ha arises. The density of the combined sites is higher to the north, closer to the village centre, decreasing towards the south of the lands, where lower density housing is proposed.
- The response to the topography of the site and objectives to retain as many existing trees as possible, has been subject of careful consideration, and compensatory tree planting is provided well in excess of the numbers to be removed.
- The bridge support structures are required to support the structural integrity of the bridge, with 2 no. structures proposed in the riparian corridor, rather than 4 no. as stated by the Planning Authority. The end embankments are outside the riparian corridor. Appropriate mitigation measures are proposed as part of the development to protect the ecological integrity of the stream, while providing a safe access to the southern part of the site.



- The proposed open space is considered sufficient for a development of this scale and will provide for a high standard of residential amenity along the corridor of Three Trouts Stream. Significant open space is provided, with the opportunity for active uses along the proposed paths and amenity walks, as part of a potential wider green corridor sought by the Planning Authority.
- The gardens of the proposed development have been designed to minimise overlooking and provide the maximum level of privacy, with 22 m separation distances generally provided across the scheme.
- The proposed apartment block has been appropriately designed to provide the maximum of privacy and residential amenity to all units. Updated drawings have been prepared to show that the proposed ceiling heights comply with SPPR5 and Section 3.31 of the Apartment Guidelines. Drawings of the apartment types and the HQA have also been updated to show that the proposed storage areas are compliant.
- A rationale for the non-provision of a childcare facility was set out in the Planning Report which accompanied the application. A revised proposal omitting 2 no. apartments to provide for a childcare facility is submitted with the appeal. This matter could be addressed by condition should the Board consider that a childcare facility is necessary.
- A revised Daylight and Sunlight Assessment has been provided with the appeal. Two of the living/kitchen/dining rooms do not achieve the recommended BRE levels and these units are subject to compensatory measures, including an overall area in excess of the minimum requirement. Communal open space of 277 m<sup>2</sup> is also provided, which is 73.1% in excess of the minimum requirement.
- An alternative proposal, which extends the communal open space area further to the west is proposed, which increases the levels of sunlight achieved. 42% of this area achieves 2 hours of sunlight on 21<sup>st</sup> March. If the western-most 151 m<sup>2</sup> of the communal space is considered (minimum amount in compliance with Apartment Guideline requirements), the portion of this space receiving more than 2 hours of sunlight on 21<sup>st</sup> March exceeds 50%.

- The subject site does not feature on Schedule 10.08 or the associated maps of the Wicklow County Development Plan 2016-2022 and as such, Objective NH14 is not relevant.
- The existing site is characterised as sylvan, but this is in part due to a lack of management over time. The proposed development provides for the management of site trees and replacement trees are planned which will result in a relatively quick return to the sylvan character of the site.
- The design proposals aim to mitigate tree loss, many of which are identified in poor condition and by consequence, the design will enhance the site's current biodiversity credentials. The open nature of the site and access to Three Trouts Stream is a public gain for the wider community and will encourage positive social interactions in a high-quality, landscaped setting.
- The proposed road layout has been designed to provide safe access to the development for all road users.
- The proposal for the basement level surface water drainage to discharge to the foul water network is in compliance with the Code of Practice.
- The Draft Wicklow County Development Plan 2022-2028 identifies growth of 1,078 residential units within the built-up area of Greystones-Delgany. The number of permitted units is 688, providing 390 units growth to 2031 in the unlikely event that all permissions are implemented.
- The subject lands are within the CSO boundary for Greystones-Delgany and would therefore be considered a development within the built-up area and are within the Core Strategy growth provisions. Table 6.1 of the draft plan sets out density standards for the town, with minimum net densities of 35-50 units per hectare identified for edge-of-centre site, with developments with net densities below 30 units per hectare generally discouraged.
- The overall density across both application sites is 35 units/ha. The draft development plan density standards are therefore more in line with the current national and regional objectives and the net density of the proposed development (excluding Stylebawn House).

- The issue of project splitting does not arise as there is no restriction on submitting two planning applications for two separate developments on two parts of a landholding. Both applications contain certain infrastructure which is common between both applications. The assessment of impacts arising from both schemes has had regard to the other application cumulatively, including the preliminary EIA screening completed by the Planning Authority.
- Issues raised by the internal departments of the Planning Authority, Inland Fisheries Ireland and the Department of Housing, Local Government and Heritage can be addressed by condition.

6.1.3. The appeal submission includes:

- An architectural response to the refusal reasons, a revised Housing Quality Assessment and revised architectural drawings prepared by the project architects Reddy Architecture + Urbanism.
- An engineering response to refusal reason nos. 2, 6 and 7 prepared by Cronin & Sutton Consulting Engineers.
- A landscaping response to refusal reason nos. 3 and 5 of the Planning Authority's decision prepared by Niall Montgomery + Partners, Architects and Landscape Architects.
- An ecological response to refusal reason nos. 2 and 5 of the Planning Authority's decision prepared by Altemar Marine & Environmental Consultancy.

6.1.4. The contents of the foregoing have been reviewed and considered in the adjudication of this appeal case.

## 6.2. **Planning Authority Response**

6.2.1. None received.

## 6.3. **Observations**

6.3.1. Three observations have been made on the application by: (1) Delgany Community Council, c/o Alice O'Donnell, 8 Dromont, Delgany, Co. Wicklow, (2) Colin Acton & Charlotte Byrne, 15 Valley View, Delgany, Co. Wicklow, (3) Madalina Morcov,

Deirgne, Blackberry Lane, Delgany, Co. Wicklow. The issues raised in the observations largely reflect those already raised in the third-party submissions (see section 3.4 of this report for summary). The observers also note their objection to the lodgement of revised plans as submitted with the applicant's appeal.

## 7.0 **Assessment**

7.1. The development which is the subject of this appeal case forms part of a larger proposal which extends across the adjoining lands to the north. The development of these adjoining lands is subject to a concurrent appeal case before the Board (ABP Ref. 313926-22). While 2 separate planning applications have been submitted in this instance, I note the development proposed under both comprises a single residential scheme with shared road infrastructure and open space. My assessment adjudicates the development on that basis as required.

7.2. In seeking to address the Planning Authority's refusal reasons, the applicant has proposed amendments to the development under the appeal submission. The primary amendments include:

- The omission of 2 no. apartments and their replacement with a childcare facility.
- The enlargement of the communal open space to the front of the apartment block to increase the amount of sunlight received therein.

7.3. Revised drawings and assessments accompany the revised scheme, including a revised Daylight & Sunlight Assessment. In my opinion, the amendments which are proposed are material and would be more appropriately considered by way of a revised planning application. I note the objectors have raised concerns in relation to the submission of revised plans at this stage. Notwithstanding the foregoing, I have considered the amended scheme in my assessment for the convenience of the Board.

7.4. In my opinion, the main issues arising for consideration in this case include:

- Compliance with Land Use Zoning / Principle of Proposed Development
- Impact on Three Trouts Stream
- Quality of Public and Private Open Space
- Compliance with Apartment Design Guidelines
- Impact on Landscape / Tree Loss
- Proposed Road Layout
- Surface Water Drainage Arrangements
- Childcare Facility
- Appropriate Assessment

7.5. Each of these issues is addressed in turn below.

7.6. **Compliance with Land Use Zoning / Principle of Proposed Development**

7.6.1. Refusal reason no. 1 of the Planning Authority's decision states that the proposed development would materially contravene the zoning objective of the site, with a proposed residential density of 29 dwellings per ha, where a maximum density of 2.5 units per ha is allowed. As such, it was considered that the proposal would result in the overdevelopment of the site and be contrary to Objectives RES5 and RES7 of the Greystones, Delgany & Kilcoole LAP 2013-2019. I note the objectors have raised significant concerns in relation to the number of units which are proposed on the site.

7.6.2. In responding to this refusal reason, the applicant states that since the adoption of the LAP, national and regional policy documents and S. 28 guidance has been published which places an emphasis on compact growth and increased densities in towns and cities. It is submitted that a density of 2.5 units per ha would represent an underutilisation of the site. It is noted that an overall density of 35 units per ha arises with the concurrent application on the adjoining site, with the density being higher on the northern portion closer to Delgany village centre and decreasing towards the southern portion of the lands. It is also submitted that the residential density takes account of the sensitivities of the site, particularly the topography, extensive tree-lined areas and the Protected Structure. The applicant also considers that Section

37(2)(b) of the Planning and Development Act, 2000 (as amended) does not apply in this instance as none of the Planning Authority's refusal reasons state that there is a material contravention of the development plan.

- 7.6.3. In considering the foregoing, I note the site was largely zoned for residential purposes (R2.5 – Residential 2.5/ha) under the expired LAP, with the land on either side of Three Trouts Stream being zoned for open space (OS) purposes. This LAP has now expired, and these land use zonings no longer apply. The preparation of a new LAP was at pre-draft stage at the time of writing this report.
- 7.6.4. Notwithstanding the foregoing, the overall application site was previously developed for residential purposes, albeit it at a very low-density, and forms part of the built footprint of Delgany. As such, I am satisfied that the principle of residential development remains acceptable at this location and would not constitute a material contravention of the development plan.
- 7.6.5. Table 6.1 of the Wicklow County Development Plan 2022-2028 identifies a density standard of 35-50 dwellings per hectare for outer suburban/greenfield sites in large towns, including Greystones-Delgany. It is also a policy and objective of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities, 2024 that residential densities in the range 30 – 50 units per ha (net) be applied at suburban and urban extension locations of Key Towns and Large Towns, subject to the site's centrality and accessibility by public transport and considerations of character, amenity and the natural environment. Given the revised policy context which pertains to the site, I consider it would be unreasonable to refuse permission for the proposed development based on considerations of zoning and density.
- 7.6.6. Notwithstanding the foregoing, I note that this location is not well served by public transport and having regard to the presence of a Protected Structure on the northern portion of the site, the extent of existing site trees and the presence of Three Trouts Stream, I consider the proposed development density requires careful consideration to ensure no undue negative impacts arise to the character of the site.

## **7.7. Impact on Three Trouts Stream**

- 7.7.1. Refusal reason no. 2 of the Planning Authority's decision was based on the impact of the proposed development on Three Trouts Stream. The Planning Authority was not satisfied that the proposed development would not seriously impact on the quality and biodiversity of the stream having regard to the construction of support structures in proximity to the stream, the lack of geotechnical information submitted with the application, and the level of tree removal, excavation and cut and fill.
- 7.7.2. Wicklow County Council's municipal district engineer recommended the proposed bridge structure be abandoned, and a new entrance be provided onto an improved Blackberry Lane. It was considered that the negative environmental impact of this bridge, including the 9 m high retaining structure to the south, would undoubtedly be far greater than any negative impact that would arise to the character of Blackberry Lane on foot of any required improvement works. It was also noted that the drawings for the proposed bridge were lacking in detail and that no details had been provided for the engineered embankments.
- 7.7.3. A brief response to this refusal reason has been prepared by the project engineers, which notes that a small piling rig will be used for the bridge construction, with vertical pile foundations. This is identified as the optimum design solution for minimal impact on the riparian corridor.
- 7.7.4. A response to this refusal reason has also been prepared by the project ecologist, which notes that only 2 no. support structures are proposed within the riparian corridor, with the end embankments being outside this zone. In the absence of mitigation, there is the potential for the bridge construction works to significantly impact on the water quality of the watercourse due to the sloped nature of the site and the potential for surface water runoff and pollution to enter the water and cause downstream impacts on biodiversity.
- 7.7.5. A range of mitigation measures are identified for the construction and operational phases of the development. It is stated that these measures satisfactorily address the mitigation of potential impacts on terrestrial and aquatic biodiversity, including downstream biodiversity. It is noted as being essential that the identified measures are complied with to ensure the proposed development does not have downstream environmental impacts and significant impacts on the biodiversity of the site.

- 7.7.6. In considering the foregoing, I note that the topography of the site slopes significantly downwards towards the river and thereafter increases significantly again towards the southern site boundary. The extent of proposed cut and fill works is illustrated on the engineering cross-section drawings (nos. 106 Rev. P1, 113 Rev. P1, 114 Rev. P1 and 115 Rev. P1 refer). Significant engineered embankments are proposed adjacent to the internal access road at the northern end of the site (sections A-A, B-B and C-C refer), including a 6 m embankment located within 1 m of the northern edge of the riparian zone. A 9 m high retaining wall is proposed to the embankment on the outside curve of the internal access road, immediately to the south-east of the proposed bridge structure. At its closest point, this retaining wall is located approx. 3 m from the southern edge of the riparian zone.
- 7.7.7. Given the significant level differences across the site and the extent of cut and fill which is proposed, including the development of significant embankment structures, and their proximity to an important watercourse within the site, I am not satisfied that sufficient information has been provided with the application to facilitate an accurate understanding of the extent and impact of the proposed works. In particular, I consider that additional cross section drawings of the existing and the proposed site levels / proposed development, would have been appropriate.
- 7.7.8. The submission from Inland Fisheries Ireland (IFI) states that Three Trouts Stream is an extremely important salmonid river, which also contains trout, and is an important biodiversity corridor in the Delgany/Greystones area. The bed of the stream consists primarily of gravels, which are an essential spawning habitat for fish. IFI has concerns that the proposed development, in combination with other developments in the catchment that are using the stream as the final discharge point for treated and attenuated surface water, will result in a high probability that Ireland will struggle to comply with its legal obligations under the EU Water Framework Directive.
- 7.7.9. Thus, while I acknowledge that mitigation measures are identified to avoid impacts arising to Three Trouts Stream, I consider there is an information gap in the application material concerning the extent of cut and fill on the site and the proposed bridge construction works. In my opinion, a detailed construction method statement, supported by geotechnical assessments, should have been provided in relation to the proposed works to eliminate any uncertainty regarding potential impacts on the



watercourse. As such, I agree that planning permission should be refused on this basis.

## **7.8. Quality of Public and Private Open Space**

- 7.8.1. Refusal reason no. 3 of the Planning Authority's decision states that the proposed development falls short in terms of the quality of public and private open space provision, resulting in an unacceptable level of residential amenity and facilities for future residents which would be contrary to Objectives HD2, HD3 and Appendix 1: Development Design Standards of the Wicklow County Development Plan 2016-2022.
- 7.8.2. Wicklow County Council's Planning Officer noted that the incorrect landscaping drawings had been submitted with the application. Based on the information provided in the site layout drawing, it was considered that the quality of the open space to serve a development of the scale and density proposed, would be substandard having regard to the site gradients, the location of much of the open space in flood zones A and B and the lack of play spaces for children.
- 7.8.3. It was also considered that the private gardens associated with the dwellings on the southern side of the access road (after the bridge), were of substandard quality noting the level changes therein and their lack of privacy and amenity due to the levels of the dwellings to the south, which will appear overbearing and result in the overlooking of these private amenity spaces.
- 7.8.4. In response, the project landscape architect submits that there is little in the way of active amenity that can be specified given the protected nature of the riparian zone adjoining the river. This zone will be monitored and managed in a way not currently undertaken and public access will be a significant gain for the local community. The public open space preserves existing topographic features, and play will be further integrated into slopes including slides, climbing walls and rope ladders. Fitness and other dynamic features can be incorporated into this zone along with seating and stepped access.
- 7.8.5. The project architect submits that the private gardens are generously proportioned and exceed the minimum area requirements of the development plan. A minimum separation distance of 22 m is provided between dwellings and the landscaping is

designed to provide a green barrier at the end of each garden, which will mitigate overlooking.

- **Communal Open Space**

- 7.8.6. The correct landscaping drawings have been included with the appeal submission. The quantum of the proposed public and communal amenity space is identified on Drawing No. B-L1-100 (Open Space Calculations) and includes 6,932 m<sup>2</sup> of linear public open space on either side of the river and a further parcel of 1,155 m<sup>2</sup> located towards the south-eastern site corner. The area of the communal open space to serve the apartment blocks is 190 m<sup>2</sup>. The configuration of this open space is considered further under item no. 7.9 of this assessment below.
- 7.8.7. Appendix 1 (Section 8.5) of the Wicklow County Development Plan 2022-2028 requires that public open space in residential developments shall normally be required at a rate of 15% of the site area. Unsuitable areas of the site must be excluded before the calculation is made. In greenfield developments, a hierarchy of open spaces shall be provided for the different play needs of different age groups. All developments shall aim to include at least one flat space with dimensions of not less than 20 x 40 m suitable for ball games and a number of smaller spaces immediately adjacent to dwellings.
- 7.8.8. The recently published Compact Settlement Guidelines (Policy and Objective 5.1 Public Open Space) state that development plans shall require public open space provision of min. 10% of the net site area and a max. provision of 15%. This range shall not apply to new development on sites which contain significant heritage, landscape or recreational features or have specific nature conservation requirements, where a greater proportion of public open space may need to be retained.
- 7.8.9. While the quantum of public open space (total 8,087 m<sup>2</sup>) proposed on the site is generally acceptable, I consider the layout and resulting quality of the open space is substandard. While it may not have been possible to facilitate active recreational opportunities within the riparian zone as asserted by the applicant, I note that an alternative site layout could have been provided, with more usable, centrally located open space included to serve the 73 no. dwelling houses on the southern part of the site.

7.8.10. In reviewing the spaces which are proposed, I note that the gradient of the public open space at the south-eastern corner of the site, including the planting and footpath proposed therein, would limit its usability for active recreation / play. While section drawings have been included with the landscaping plans, I note that none are provided through the open space on either side of the river corridor. Based on the contour information provided on the landscape masterplan, it appears that the open space on the northern side of the river would be most usable from an amenity perspective. However, it is unclear how this space would be accessed on foot from the southern end of the site, given that the footpath over the river extends along the proposed bridge and internal access road. I also note that there would be limited overlooking of this space by some of the apartment units only, which have separate communal open space, with no overlooking possible from the dwellings.

7.8.11. Given the greenfield nature of the site, I consider that the quality of the proposed public open space is substandard and would provide limited recreation value for future occupants of the development, which includes a significant number of family homes. As such, I consider that planning permission should be refused on this basis.

- **Private Gardens**

7.8.12. In considering the layout of the private gardens to serve the proposed dwellings, I acknowledge that the split-level arrangement would reduce the usability of these spaces. However, I note that this arrangement has arisen in response to the site topography. I also consider that the 22m separation distances proposed between opposing dwellings is sufficient to ensure no overdue overbearing or overlooking impacts would occur, notwithstanding the level differences arising. As such, I consider that it would be unreasonable to refuse permission on this basis.

## 7.9. **Compliance with Apartment Design Guidelines**

7.9.1. Refusal reason no. 4 of the Planning Authority's decision states that the proposed apartment block would result in a substandard level of residential amenity for future residents having regard to: (a) the substandard quality of communal open space which would fall substantially below BRE recommendations for sunshine, the failure of the living/kitchen/dining area of the four south-facing apartments at lower and ground floor level to achieve the minimum recommended ADF levels by BRE standards, the level difference between the south facing lower ground and upper

ground floor apartments and the road level, which is significantly higher, and would result in an unacceptable level of privacy and amenity for future residents, the failure of the apartment block to accord with SPPR5 and Section 3.31 of the Apartment Guidelines in relation to ceiling height at ground floor level and the storage areas.

- **Communal Open Space**

7.9.2. The incorrect landscaping drawings are included with the application and refer to the concurrent application on the adjoining site. Section 4.53 of the applicant's Planning Report states that a communal open space requirement of 160 m<sup>2</sup> arises for the proposed apartment block. This is provided in the form of a lower ground floor level courtyard to the front (north) of the block. The applicant's Daylight & Sunlight Assessment states that only 24% of the communal courtyard will achieve the recommended 2 hours of sunlight on 21<sup>st</sup> March, increasing to 50% after the 28<sup>th</sup> March.

7.9.3. While the quantity of the proposed communal open space may meet the required standard, I consider the quality of the open space is poor. It is north-facing, is located below the level of the adjoining roadway and does not meet the required sunlight standards on 21<sup>st</sup> March. While I acknowledge that some flexibility in achieving such standards should be applied in seeking to achieve compact urban forms, I consider that the site context in this case, comprising a largely undeveloped greenfield site, would have allowed an improved standard and layout of communal open space to be achieved. As such, I agree that planning permission should be refused on this basis.

- **Communal Open Space – Amended Scheme**

7.9.4. Revised proposals are included with the appeal which extend the communal open space in a north-westerly direction, increasing its area by 117 m<sup>2</sup> (see Drawing No. 1201 Rev. P02 - Block 02, Lower Ground Floor, GA Plan provided with the appeal). A revised Daylight & Sunlight Assessment is provided, which states that 42% of the extended space will receive 2 hours or more of sunlight on 21<sup>st</sup> March, increasing to 50% on 24<sup>th</sup> March.

7.9.5. In my opinion, the reconfigured communal open space may result in negative residential amenity impacts to the adjoining dwelling house to the west, the rear garden/side boundary of which abuts the enlarged space. In reaching this conclusion, I also note that the revised space appears to extend across the front

elevation of the proposed childcare facility (as proposed at appeal stage). In my opinion, the layout of the communal open space requires more comprehensive reconsideration than the piecemeal alterations which are proposed under the appeal submission.

- **ADF Levels**

7.9.6. The Daylight & Sunlight Assessment confirms that 4 no. combined living/kitchen/dining rooms (15% of the total number of units) fall short of the recommended ADF standard of 2%. The lower ground floor units (nos. 9 and 11) achieve standards of 1.5% and 1.7% respectively, while the upper ground floor units (nos. 31 and 33) achieve 1.5% and 1.9% respectively. All the affected units are single-aspect and south facing. The assessment states that the shortfall has arisen on foot of the generous unit sizes. I note that an overall dual aspect ratio of 69% has been achieved.

7.9.7. Section 5.3.7 of the recently published Compact Settlement Guidelines states that, in drawing conclusions in relation to daylight performance, planning authorities must weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increased scales of urban residential development. Poor performance may arise due to design constraints associated with the site or location and there is a need to balance that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.

7.9.8. In my opinion, the flexibility referred to above does not apply in this case and I consider it reasonable that south-facing units on a greenfield site should be capable of achieving the minimum ADF standards, without having to rely on artificial light.

- **ADF Levels – Amended Scheme**

7.9.9. Page two of the appeal submission from Reddy Architecture states that the daylight analysis has been updated to reflect amendments proposed to the elevations, with positive results achieved at the upper levels. A comparison of the original southern elevation drawing of the apartment block (Drawing No. 2201 Rev. P01) and that submitted at appeal stage (Rev. P02) indicates that the centrally located balconies at

1<sup>st</sup> floor level are proposed to be repositioned in a westerly direction. These alterations are not clearly articulated on the corresponding revised 1<sup>st</sup> floor plan drawing. The revised Daylight & Sunlight Assessment demonstrates that the combined living/kitchen/dining rooms of unit nos. 7 and 9 at lower ground floor level continue to fall short of the required ADF standard of 2% (1.7 % and 1.1 % respectively).

- **Residential Amenity of Apartment Block**

7.9.10. The internal access road loops around the northern, eastern and western elevations of the proposed apartment block, which is set below the level of the road, at minimum set-backs of between 8.5 m – 10 m from the front elevation and 5 m to the footpath edge from the rear elevation. All the proposed houses are located on the southern side of the proposed bridge, beyond the footprint of the apartment block. Each house is provided with 2 no. car parking spaces (total of 144 no. spaces), with all vehicles required to travel around the apartment block to enter/exit the site. I note that the proposed yield arrangement on the southern side of the bridge, may result in cars queuing around the apartment block when giving way to vehicles travelling across the bridge from the northern end of the site.

7.9.11. In my opinion, this arrangement is a poor design response on this part of the site and would serve to reduce the residential amenity of future occupants of the apartments, particularly those on the lower and upper ground floor levels.

- **Other Matters**

7.9.12. Wicklow County Council's Planning Officer noted that the internal floor to ceiling heights of the ground floor apartment units appeared to be 2.4 m, compared to the required standard of 2.7 m. It was also noted that apartment types 1.2, 2.2, 2.3 and 2.4 do not achieve the minimum storage requirements of foot of the inclusion of a hot press within the space.

7.9.13. Based on my review of Drawing No. 3201 Rev. P01 (Block 02, GA Sections 01 & 02), I consider that the internal floor to ceiling height of the lower and upper ground floor apartment units achieves the required standard of 2.7 m. The applicant has also provided a section drawing with the appeal to confirm the ceiling height (Drawing No. 3102 Rev. P02 - Typical Lower Ground Floor Unit Section). The storage areas have also been amended to remove plant items and a revised HQA has been submitted.

As such, I consider it would be unreasonable to refuse permission for the development based on internal floor to ceiling heights and the size/configuration of the storage areas within the apartment units.

#### **7.10. Impact on Landscape / Tree Loss**

- 7.10.1. Refusal reason no. 5 of the Planning Authority's decision states, inter alia, that the proposed development would be contrary to identified objectives of the Greystones, Delgany & Kilcoole LAP 2013-2019 and the Wicklow County Development Plan 2016-2022 which seek to resist development that would significantly or unnecessarily alter the natural landscape and topography, or which would result in the felling of mature trees of environmental and/or amenity value.
- 7.10.2. The impact of the development on the landscape of the site has already been considered under Section 7.7 of this report in the context of Three Trouts Stream. The local policy context governing the development of the subject site is now set out under the Wicklow County Development Plan 2022-2028. Objective 17.20 of the plan states that development that requires the felling of mature trees of environmental and/or amenity value, even though they may not have a TPO in place, will be discouraged. Objective 17.21 of the plan seeks to strongly discourage the felling of mature trees to facilitate development and encourages tree surgery rather than felling if such is essential to enable development to proceed. I also note that 2 no. tree protection objectives (T03 and T07) applied to the site under the now expired LAP.
- 7.10.3. The applicant's Arboricultural Assessment & Impact Report states that 103 no. trees will be removed to facilitate the proposed development and a further 54 no. category U trees will be removed due to their poor condition. Many of the trees to be removed fall within the footprint of the proposed development, while others require removal to facilitate site infrastructure, including the proposed bridge.
- 7.10.4. A large percentage of the existing screen planting along the boundary with the R762 is noted to be of reduced quality, with a large percentage to be felled to remove hazardous specimens. This could expose the remaining trees to windthrow. The visual impact of the removal of these trees is described as strong. There will also be a strong visual impact on foot of the removal of hybrid black poplar along the western boundary to facilitate the internal access road. The loss of internal ornamental trees

and eastern coniferous screen planting is not considered significant as these trees are not visible to the public. It is noted that there will be challenges in keeping retained trees free from construction related activities, with the appointment of a Project Ecologist recommended.

- 7.10.5. The appeal response from the project landscape architect states that 431 no. trees are proposed to be planted to mitigate the loss of existing trees. They will primarily comprise native species and will be deciduous and evergreen in nature. The planting along the northern boundary is proposed to be replaced with a diverse mix of large specimen, native Irish trees which will be thinned out over time to promote growth and habitat. This is considered a more suitable habitat than what is currently in place. The western boundary will be planted with a native hedgerow, while the remainder of the site will be planted with infill planting of native species, with parkland trees used to re-establish the landscape character.
- 7.10.6. While the loss of site trees is regrettable, I note that any redevelopment proposals on the site would likely require the removal of a significant portion of the existing trees. I note that 24% of the trees to be removed are category A and B, being those of high and moderate value. The remaining trees to be removed are of low value and quality (category C) or in poor condition (category U).
- 7.10.7. I acknowledge that the loss of the screen planting along the boundary with the R762 will have a negative visual impact on the character of the village. However, the arboricultural assessment has identified that a large percentage of these are in hazardous condition. In the event the Board considered granting permission for the proposed development, I note that the provision of appropriate compensatory planting along this boundary could be agreed with the Planning Authority prior to the commencement of development. The appointment of a project arborist could also be agreed by condition to ensure appropriate tree protection measures are undertaken and adhered to during construction works.
- 7.10.8. On balance, having regard to the results of the arboricultural assessment and the extent of replacement planting, I do not consider that planning permission should be refused for the proposed development based on tree loss from the site.



## 7.11. Proposed Road Layout

- 7.11.1. Refusal reason no. 6 of the Planning Authority's decision states that the proposed development would result in a substandard road layout which would endanger public safety by reason of a traffic hazard based on the internal road layout south of the proposed bridge, resulting in a road on the embankment c. 9 m above existing ground level which relies on crash barriers, with the potential for the yielding arrangements on either side of the bridge to result in traffic collisions, and the failure to show that sufficient sightlines are available for the underground car park exit onto the internal road.
- 7.11.2. A response to this refusal reason has been prepared by the project engineers. It states that engineered structures/supports/embankments are required as part of the construction of any road design. Due to the topography of the site, engineered solutions to road embankments such as retaining structures, cut side slopes and optimisation of cut and fill material have been incorporated into the design. As a result of the design, safety measures including safety barriers, pedestrian guardrails, public lighting, signage and anti-skid surfacing are proposed at certain locations.
- 7.11.3. The response also states that the proposed yield arrangement on the bridge, rather than the inclusion of a signalised junction at either end, was identified as a preferred solution in pre-planning discussions with Wicklow County Council. Figure 1 of the submission indicates that sightlines of 23m can be achieved at the underground car park exit, although I note that the sightline drawing does not account for the proposed planting on the eastern side of the block. In the event the Board considered granting permission for the proposed development, I consider that this matter could be clarified by condition.
- 7.11.4. In considering the foregoing, I refer to the recommendation of Wicklow County Council's district engineer that the proposed bridge structure be abandoned and a new entrance onto an improved Blackberry Lane be considered. There may be merit in this suggestion given the extent of intervention required to deliver the proposed bridge structure, with the proposed 9m embankment / retaining wall on its southern side being comparable in height to a standard 3-storey building. A significant embankment of 6 m is also proposed adjacent to the internal road on the northwestern portion of the site. I agree that the proposed internal road network may

endanger public safety by reason of a traffic hazard, and I consider that planning permission should be refused on this basis.

7.11.5. For the avoidance of doubt, I consider that the proposed yield arrangements over the bridge could likely be agreed by condition in the event the Board considered granting permission for the proposed development.

## **7.12. Surface Water Drainage Arrangements**

7.12.1. Refusal reason no. 6 of the Planning Authority's decision relates to the proposed stormwater/surface water drainage calculations and the SSFRA, which are considered insufficient and do not adequately demonstrate that the proposed development would not result in an increased risk of flooding upstream or downstream along Three Trouts Stream. The proposal to pump storm water drainage from the basement level of the proposed development was also considered to be prejudicial to public health.

7.12.2. The planning application documentation includes an Engineering Services Report (ESR) and a Site-Specific Flood Risk Assessment (SSFRA). In describing the proposed SuDS arrangements, the ESR states that the scope of SuDS measures which can be incorporated is limited due to the nature of the scheme and the limited availability of greenspace. I would note however that the site is currently largely greenfield in nature and that the limited greenspace has arisen on foot of the scale of the proposed development. As an aside, in reviewing the description of the proposed foul water infrastructure and potable water supply arrangements, I note that the calculations of the volumes arising are based on 42 no. residential units and not 99 no. units as proposed under this application.

7.12.3. The SSFRA states that the site is primarily located in Flood Zone C, with marginal green space along the watercourse located within Flood Zones A and B. As such, it is considered that a justification test is not required. All the proposed dwellings are in Flood Zone C and will have minimum finished floor levels of 46 m, which exceeds the 1 in 1,000-year flood level of 39.34m at the nearest node (CFRAMS mapping refers). There is no record of historical flooding at the site. The risk of fluvial flooding and tidal flooding is deemed to be negligible, and the proposed development will not increase the potential for groundwater flooding.

- 7.12.4. The SSFRA states that the proposed development will be required to drain all surface water into the existing surface water sewers around the site. It is noted that Delgany has been susceptible to pluvial flooding on a recurring basis but that the site itself does not appear to have been subject to any flooding based on available information. In considering the potential for the development to contribute to off-site flooding, the SSFRA notes that the proposed development will include an attenuation system, with an attenuation tank sized for a 1-in-100-year extreme event plus 20% to allow for climate change (910 m<sup>3</sup>). Stormwater will be released in a controlled manner to reduce hydraulic pressure on the public network during extreme rainfall events.
- 7.12.5. Wicklow County Council's Municipal District Engineer considered that insufficient information had been provided in relation to storm water management including, inter alia, the omission from the overall site plan drawings of the land drains to the earthen embankments, a lack of consideration of how 3 no. existing road gullies which currently discharge into the site along the R762 will be catered for by the internal drainage arrangements, how the SuDS regime could be improved using nature-based solutions and details of the attenuation systems.
- 7.12.6. The Water and Environmental Services Section of the Planning Authority also considered that additional information was required including, inter alia, confirmation that the outfall will not interfere with the existing flow in Three Trouts Stream, clarification of the surface water drainage arrangements to the rear of each property, confirmation that the proposed landscaping works in the riparian zone of the stream will not alter the volume/capacity of this area, why 4 no. gullies connecting to SWMH09 are not connected into the attenuation system and whether there is any surface water run-off from the green roof system, whether it connects to the drainage layout and whether any additional such water is factored into the drainage calculations.
- 7.12.7. A response to this refusal reason has been prepared by the project engineer. I note that the response does not consider the identified additional information of Wicklow County Council, and largely reiterates the contents of the SSFRA. Having regard to the foregoing, I agree that the surface water drainage arrangements have not been adequately clarified by the applicant and having regard to the environmental

sensitivities of the site, and the scale of development proposed, including the extent of cut-and-fill, I consider that planning permission should be refused on this basis.

7.12.8. In considering the foul water drainage arrangements at basement level, the appeal response confirms that no storm water runoff will be collected at this level. A small foul network is proposed to deal with accidental oil spillages from vehicles and to carry out periodic maintenance operations. Due to the nature of the effluent, it is considered reasonable to discharge it to the wastewater network prior to passing through a petrol interceptor to provide the appropriate level of treatment and minimise the risk of polluting existing watercourses. In my opinion, this approach is reasonable and would not be prejudicial to public health. As such, I do not consider that it would be reasonable to refuse planning permission for the proposed development on this basis.

### **7.13. Childcare Facility**

7.13.1. Refusal reason no. 8 of the Planning Authority's decision related to the applicant's failure to adequately demonstrate there are sufficient childcare places available in the area to cater for likely demand generated by the proposed development. As such, it was considered that the proposed development would be contrary to policy CD24 of the county development plan.

7.13.2. The applicant's Childcare Needs Assessment includes an audit of existing childcare facilities within 2 km of the application site. It identifies 24 no. facilities with the capacity for 932 no. childcare spaces (drop-in, part-time, sessional and full-time). Based on 2016 census results, there were 1,531 pre-school children in the study area, of which 25% required pre-school care, resulting in a demand for 383 no. spaces. Allowing for further population growth in the interim, the applicant concludes that the existing childcare facilities could accommodate the additional demand arising on foot of the proposed development (30 no. childcare places across both planning applications).

7.13.3. Wicklow County Council's Planning Officer noted that the 2016 Census figures were out-of-date and that parents travelling from outside the identified 2km catchment would also utilise the identified childcare facilities. Based on the foregoing and having regard to the number of family-sized units and the number of new homes built

in Delgany and Greystones since the last census, the omission of a childcare facility from the proposed development was not accepted.

7.13.4. I agree that a childcare facility should have been provided as part of the proposed development. In reaching this conclusion, I have had regard to the geographical distribution of the existing facilities in the identified study area, the majority of which are located some distance from the appeal site extending from Greystones to the northeast to Eden Gate to the southeast, within only 1 no. facility located within reasonable walking distance (1km). I have also had regard to the proposed unit mix over the combined application sites, which includes 113 no. units out of a total of 142 no. units which may have a childcare requirement. As such, I agree that planning permission should be refused based on the absence of a childcare facility to serve the development.

- **Amended Scheme**

7.13.5. The applicant has included revised drawings with the appeal showing the replacement of 2 no. apartments at lower ground floor level of the apartment block with a childcare facility (Drawing No. 1201 Rev. P02 – Block 02, Lower Ground Floor, GA Plan refers). The unit is located on the western side of the block and has a stated area of 212.8 m<sup>2</sup>. While its capacity has not been confirmed, I note it includes 5 no. separate playrooms, 2 no. staff rooms, toilet facilities, a reception and an adjoining private amenity space of 154.8 m<sup>2</sup>.

7.13.6. In the event the Board considered granting permission for the amended development, I recommend that appropriate planning conditions should be attached to control the opening hours, drop-off and staff parking arrangements for the childcare facility in the interests of safeguarding the residential amenity of the remaining apartment units within the block.

#### 7.14. Appropriate Assessment (AA) - Screening

- 7.14.1. The planning application documentation includes an AA screening report which concludes that a Stage 2 AA is not required. Wicklow County Council's Planning Officer also concluded that an AA is not required in this instance.
- 7.14.2. The subject site is not located within or directly adjacent to any Natura 2000 site, and as such, there is no potential for **direct impacts** to occur. Four European sites are proximate to the appeal site at minimum separation distances ranging from approx. 0.3 km – 3.6 km (see table below). The qualifying interests and conservation objectives for these sites are listed in Appendix 3.

Site Name	Site Code	Min. separation distance
Glen of the Downs SAC	000719	0.3 km west
Bray Head SAC	000714	3 km north-east
The Murrough SPA	004186	3 km east
The Murrough Wetlands SAC	002249	3.6 km south-east

- 7.14.3. In considering the potential for **indirect impacts** to occur, I note that **Glen of the Downs SAC** is located upstream of the proposed development and there is no direct or indirect pathway for pollutants from the proposed development to enter this SAC. As such, no significant effects are likely to arise to this SAC on foot of the proposed development and it can be screened out from further assessment.
- 7.14.4. **Bray Head SAC** is located approx. 3 km to the north-east of the appeal site. There is no direct hydrological pathway from the subject site to this SAC. Surface water drainage from the proposed development will discharge to Three Trouts Stream, which in turn outfalls to the Irish Sea at Greystones Beach. Given the minimum separation distances arising between the sites, across a substantial marine environment, no potential impacts will arise to this SAC via surface water runoff in the absence of mitigation measures. Foul wastewater will discharge to the Greystones WwTP for treatment and subsequent discharge to the Irish Sea. In the absence of mitigation, no significant effects on this SAC are likely. There is potential for silt, pollutants, dust and contaminants to enter Three Trouts Stream on foot of the

proposed bridge construction and operation via construction works and surface water runoff. In the absence of mitigation, given the separation distance arising across a substantial marine environment, no potential significant effects on the conservation objectives or qualifying interests of this SAC are likely on foot of the bridge construction works.

- 7.14.5. The **Murrough SPA** is located approx. 3 km to the east of the appeal site. Surface water drainage from the proposed development will discharge to Three Trouts Stream, which in turn outfalls to the Irish Sea at Greystones Beach. Given the minimum separation distances arising between the sites, any silt or pollutants will settle, be dispersed, or diluted within the marine environment and will not impact on the qualifying interests of this SPA. No significant effects on the conservation objectives of this SPA are likely during the construction and operational phases of the development via surface water runoff. Foul wastewater will discharge to the Greystones WwTP for treatment and subsequent discharge to the Irish Sea. In the absence of mitigation, no significant effects on this SPA are likely.
- 7.14.6. There is potential for contaminants, including silt, dust and pollutants, to enter Three Trouts Stream during the bridge construction and operation works. Given the minimum separation distances arising and having regard to the qualifying interests of this site, no significant effects on the conservation objectives of this SPA are likely on foot of the construction of the bridge across Three Trouts Stream.
- 7.14.7. **The Murrough Wetlands SAC** is located approx. 3.6 km to the south-east of the appeal site. There is no direct or indirect hydrological pathway from the subject site to this SAC. Surface water drainage from the proposed development will discharge to Three Trouts Stream, which in turn outfalls to the Irish Sea at Greystones Beach. Given the minimum separation distances arising between the sites, across a substantial marine environment, no potential impacts will arise to this SAC via surface water runoff in the absence of mitigation measures. Foul wastewater will discharge to the Greystones WwTP for treatment and subsequent discharge to the Irish Sea. In the absence of mitigation, no significant effects on this SAC are likely.
- 7.14.8. There is potential for contaminants, including silt, dust and pollutants, to enter Three Trouts Stream during the bridge construction works. Given the minimum separation

distances arising across a substantial marine environment, no potential impacts to this SAC will arise on foot of the bridge construction works in the absence of mitigation measures.

7.14.9. I note that the applicant has also screened out Carrigower Bog SAC, Wicklow Mountains SAC, Ballyman Glen SAC, Knocksink Wood SAC, Rockabill to Dalkey Island SAC and Wicklow Mountains SPA which are located at further separation distances from the appeal site of between 4.8 km and 12.7 km. I agree that no significant effects would arise to these sites, having regard to the nature of their qualifying interests, the absence of any direct and indirect hydrological connections or other pathways, and the separation distances arising, including in some case, a substantial marine environment, and as such, they can be screened out from further assessment. Given that there is no potential for significant indirect impacts, I am satisfied that any potential **in-combination** impacts can also be excluded.

7.14.10. In conclusion, in applying the source-pathway-receptor concept, and having regard to the nature and scale of the development, the availability of public water and wastewater services to facilitate the development, and the separation distances arising to the nearest Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

7.14.11. It is reasonable to conclude that, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on Glen of the Downs SAC (site code: 000719), Bray Head SAC (site code: 000714), The Murrough SPA (site code: 004186) and The Murrough Wetlands SAC (site code: 002249), or any other European site, in views of the site's conservation objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.



## 8.0 Recommendation

- 8.1. I recommend that planning permission be refused for the proposed development based on the reasons and considerations set out hereunder.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the undulating nature of the site topography and the extent of cut and fill activities which are proposed to facilitate the development, including the construction of a bridge structure with a 9 m high embankment and retaining wall within 3 m of the riparian zone of Three Trouts Stream, the Board is not satisfied that sufficient technical information has been submitted to demonstrate that no significant negative impacts would arise to the water quality and biodiversity of this watercourse. As such, the proposed development would be contrary to the proper planning and sustainable development of the area.
- 9.2. The proposed development, by reason of its inadequate qualitative provision of public and communal open space, would conflict with the provisions of the Wicklow County Development Plan 2022-2028 and the "Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities" published by the Department of Housing, Local Government and Heritage in December 2022. The proposed development would, therefore, result in a poor standard of residential amenity for future occupants and would be contrary to the proper planning and sustainable development of the area.
- 9.3. It is considered that the proposed internal road layout, which incorporates significant embankment features elevated between 6 m and 9 m above the surrounding ground levels, would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 9.4. It is considered that the information provided with the application and appeal in relation to the surface water drainage arrangements has not adequately demonstrated that the proposed development would not result in an increased level of run-off from the site and therefore, an increased level of flooding upstream and downstream along Three Trouts Stream. The proposed development would,

therefore, pose an unacceptable risk of flooding and would be contrary to the proper planning and sustainable development of the area.

- 9.5. The proposed development does not comply with national policy on Childcare Facilities, as set out in the Guidelines for Planning Authorities issued by the Department of the Environment and Local Government in June, 2001 and the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities published by the Department of Housing, Local Government and Heritage in December 2022 and would be detrimental to the amenities of future residents and, thereby, would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Louise Treacy  
Senior Planning Inspector

14<sup>th</sup> March 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	314064-22		
<b>Proposed Development Summary</b>	99 no. residential units comprising 26 no. 1 and 2-bedroom apartments in a 4-storey block and 73 no. 3 and 4-bedroom houses, a bridge over Three Trouts Stream and all associated site development works.		
<b>Development Address</b>	Stylebawn House, Delgany, Co. Wicklow.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>		X	Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>		N/A	
			No EIAR or Preliminary Examination required
<b>Yes</b>	X	Class (10)(b), Schedule 5, Part 2	
			Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>(No)</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	314064-22	
<b>Proposed Development Summary</b>	99 no. residential units comprising 26 no. 1 and 2-bedroom apartments in a 4-storey block and 73 no. 3 and 4-bedroom houses, a bridge over Three Trouts Stream and all associated site development works.	
<b>Development Address</b>	Stylebawn House, Delgany, Co. Wicklow.	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b> Is the nature of the proposed development exceptional in the context of the existing environment?</p>	The subject site located within the existing built envelope of the settlement of Delgany and accommodates low density residential development. The site is adjoined by existing residential developments.	No
<p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	The removal of topsoil and C&D waste can be managed through an agreed Construction and Environmental Management Plan. Localised construction impacts will be temporary.	No
<p><b>Size of the Development</b> Is the size of the proposed development exceptional in the context of the existing environment?</p>	The proposed development would increase the development density of the site and would reflect more recent housing developments within the settlement. The size of the development would not be exceptional in the context of the existing environment.	No
<p>Are there significant cumulative considerations having</p>	There are no significant permitted developments in the immediate vicinity of the site.	No

regard to other existing and/or permitted projects?		
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>No - An AA screening exercise has been undertaken which has concluded that the proposed development does not have the potential to have significant impacts on any European sites. A CEMP has been prepared and identifies mitigations measures to protect on-site biodiversity features.</p> <p>No</p>	<p>No</p> <p>No</p>
<b>Conclusion</b>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>	<p><b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b></p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p><b>There is a real likelihood of significant effects on the environment.</b></p> <p>EIAR required.</p>

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)

### Appendix 3: Natura 2000 Sites Qualifying Interests & Conservation Objectives

<b>Glen of the Downs SAC (site code: 000719)</b>	
<b>Qualifying Interests</b>	Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]
<b>Conservation Objective(s)</b>	To restore the favourable conservation condition of Old sessile oak woods with Ilex and Blechnum in the British Isles in Glen of the Downs SAC [91A0]

<b>The Murrrough SPA (site code: 004186)</b>	
<b>Qualifying Interests</b>	<p>Red-throated Diver (<i>Gavia stellata</i>) [A001]</p> <p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Little Tern (<i>Sterna albifrons</i>) [A195]</p> <p>Wetland and Waterbirds [A999]</p>
<b>Conservation Objective(s)</b>	<p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p> <p>To maintain or restore the favourable conservation condition of the wetland habitat at The Murrrough SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.</p>

**The Murrough Wetlands SAC (site code: 002249)**

<p><b>Qualifying Interests</b></p>	<p>Annual vegetation of drift lines [1210]            Perennial vegetation of stony banks [1220]            Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]            Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]            Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]            Alkaline fens [7230]</p>
<p><b>Conservation Objective(s)</b></p>	<p>To restore the favourable conservation condition of Annual vegetation of drift lines in The Murrough Wetlands SAC [1210]            To restore the favourable conservation condition of Perennial vegetation of stony banks in The Murrough Wetlands SAC [1220]            To restore the favourable conservation condition of Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) in The Murrough Wetlands SAC [1330]            To restore the favourable conservation condition of Mediterranean salt meadows (<i>Juncetalia maritimi</i>) in The Murrough Wetlands SAC [1410]            To restore the favourable conservation condition of Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i>* in The Murrough Wetlands SAC [7210]            To restore the favourable conservation condition of Alkaline fens in The Murrough Wetlands SAC [7230]</p>



<b>Bray Head SAC (site code:000714)</b>	
<b>Qualifying Interests</b>	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030]
<b>Conservation Objective(s)</b>	To maintain the favourable conservation condition of vegetated sea cliffs of the Atlantic and Baltic coasts in Bray Head SAC [1230]  To restore the favourable conservation condition of European dry heaths in Bray Head SAC [4030]