

File With \_\_\_\_\_

**LARGE RESIDENTIAL  
DEVELOPMENT  
CORRESPONDENCE FORM**

Appeal No: ABP 319137Ms FlynnPlease treat correspondence received on 26/3/24 as follows:

1. Update database with new agent for Applicant/Appellant \_\_\_\_\_

2. Acknowledge with LRD 203. Keep copy of Board's Letter ☐

1. RETURN TO SENDER with LRD \_\_\_\_\_

2. Keep Envelope: ☐3. Keep Copy of Board's letter ☐

## Amendments/Comments

Applicant response to ~~the~~  
appeals

## 4. Attach to file

(a) SHD/LRD Unit ☐ (b) Inspector ☐RETURN TO EO ☐Plans Date Stamped ☐Date Stamped Filled in ☐EO: Mr TreherAA: Catherine FlynnDate: 27/3/24Date: 28/3/24

Mary T

## Fergal Ryan

**From:** Evan Walsh <evan@brockmcclure.ie>  
**Sent:** 26 March 2024 15:10  
**J:** Appeals2  
**Cc:** Laura Brock  
**Subject:** Appeal Response - (ABP. 319137-24) - First Party Response to all Third Party Appeals Lodge  
**Attachments:** Tinakilly Demesne LRD - Appeal Response Final.pdf

**Caution:** This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

Dear Sir/ Madam,

We Brock McClure Planning & Development Consultants are instructed by our client Keldrum Limited, 18 Church Road, Ballybrack, Glenageary, Dublin, A96 TP66, to lodge this first party response to third party appeals made by the following parties regarding a Large-Scale Residential Development granted permission by Wicklow County Council on lands at Tinakilly, Rathnew, Co. Wicklow (WMCC Ref. 2360219/ ABP. 319137-24):

Appellant	Appeal Notification Date
Henry Clarke & Aoife Ryan Evelyn & Shay Ryan	28 <sup>th</sup> February 2024
Eileen M Howell	4 <sup>th</sup> March 2024
Les & Lynda Martin	4 <sup>th</sup> March 2024
Leslie Armstrong	4 <sup>th</sup> March 2024
Vincent Collard	4 <sup>th</sup> March 2024

The development is described as follows:

*'Large scale residential development: construction of 220 houses and 132 apartments; provision of new section of Rathnew Inner Relief Road; associated vehicular and pedestrian access, carriageways, paths and junctions; provision of new vehicular entrance and gates along eastern portion of Tinakilly Avenue and all associated site development works. The planning application is accompanied by an Environmental Impact Assessment Report and Natura Impact Statement'.*

This Response to the 3<sup>rd</sup> Party Appeals lodged against the development has been prepared by the applicant and design team, with input from Eversheds Sutherland.

As per the appeal notification letter issued by ABP this response is now emailed to [appeals@pleanala.ie](mailto:appeals@pleanala.ie). This appeal response is submitted to An Bord Pleanala within 4 weeks from the date of notification of appeals received from An Bord Pleanala on the 28<sup>th</sup> of February and 4<sup>th</sup> March 2024.

We ask that all correspondence regarding this appeal case is forwarded to our offices at 63 York Road, Dun Laoghaire, Dublin.

Evan Walsh

Senior Executive Planner



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In conclusion we submit to An Bord Pleanála that all reasons for appeal listed by third parties were addressed throughout the application process, in the originally lodged Application Pack and Further Information Response Pack lodged to Wicklow County Council.

We hereby request that An Bord Pleanála upholds the decision of Wicklow County Council to grant permission for application reference 2360219 (. 319137-24).

**First Party Response to Third Party  
Appeals**

**Residential Development on lands at  
Tinakilly,  
Rathnew,  
Co. Wicklow**

**WCC Ref. 2360219  
ABP Ref. 319137-24**

**On behalf of**

**Keldrum Limited**

**26<sup>th</sup> March 2024**



Planning and Development Consultants  
63 York Road,  
Dun Laoghaire,  
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## Table of Contents

<b>1</b>	<b>Introduction.....</b>	<b>3</b>
<b>2</b>	<b>Site Context .....</b>	<b>4</b>
<b>3</b>	<b>Application Lodged .....</b>	<b>6</b>
<b>4</b>	<b>Planning Authority Decision.....</b>	<b>7</b>
<b>5</b>	<b>First Party Response to Third Party Appeal .....</b>	<b>8</b>
<b>6</b>	<b>Conclusion .....</b>	<b>32</b>

## 1 Introduction

We, Brock McClure Planning & Development Consultants, 63 York Road, Dún Laoghaire, Co. Dublin, are instructed by our client **Keldrum Limited, 18 Church Road, Ballybrack, Glenageary, Dublin, A96 TP66** to lodge this first party response to third party appeals made by the following parties regarding a Large-Scale Residential Development granted permission by Wicklow County Council on lands at Tinakilly, Rathnew, Co. Wicklow (WMCC Ref. 2360219):

Appellant	Appeal Notification Date
Henry Clarke & Aoife Ryan Evelyn & Shay Ryan	28 <sup>th</sup> February 2024
Eileen M Howell	4 <sup>th</sup> March 2024
Les & Lynda Martin	4 <sup>th</sup> March 2024
Leslie Armstrong	4 <sup>th</sup> March 2024
Vincent Collard	4 <sup>th</sup> March 2024

The development as lodged to Wicklow County Council comprised of the construction of 220 houses and 132 apartments; provision of a new section of the Rathnew Inner Relief Road; associated vehicular and pedestrian access, carriageways, paths and junctions; provision of new vehicular entrance and gates along eastern portion of Tinakilly Avenue and all associated site development works.

This Response to the 3<sup>rd</sup> Party Appeals lodged against the development has been prepared by the applicant and design team, with input from Eversheds Sutherland. A response to items raised in appeals is provided in Section 5 of this report.

This appeal response is made in writing and is submitted to An Bord Pleanála within 4 weeks from the date of notification of appeals received from An Bord Pleanála, dated 28<sup>th</sup> February 2024 and 4<sup>th</sup> March 2024.

The structure of this response is as follows:

**Site Context** – A brief overview of the site location and characteristics.

**Application Lodged** – A summary of the application originally lodged to Wicklow County Council.

**Planning Authority Decision** – Details of the timeline associated with the decision to grant permission for the development by Wicklow County Council.

**First Party Response to Third Party Appeals** – An itemised response from the applicant and design team to relevant appeal items raised in the lodged 3<sup>rd</sup> party appeal documents.

**Conclusion** – Concluding comments from Applicant and Design Team regarding the lodged 3<sup>rd</sup> party appeals, and a request for An Bord Pleanála to uphold the decision of Wicklow County Council to grant permission for the development.

We ask that all correspondence regarding this appeal case is forwarded to our offices at 63 York Road, Dun Laoghaire, Dublin.

The application site is bounded to the north by an existing stream and agricultural lands, to the east by Tinakilly County House Hotel (which is a protected structure RPS No. 25-15) to the immediate west by agricultural lands and residential development and to the south by Tinakilly Avenue and a site currently under development as granted by Wicklow County Council Reg Ref. 17/219 (ABP Ref.310261-18) and amended by WCC Reg Refs. 20/1000, 21/411 and 22/837. The site total area extends approximately 16.8ha.

The subject site is located between the urban areas of Wicklow Town and Rathnew, with Wicklow town main street approximately 2 km to the south. This location is suited for a large residential development, outside of the town centre but proximate to services and facilities. Wicklow Town offers nearby amenities such as local schools, large supermarkets, schools a library and restaurants. Aside from availing of the many amenities that Wicklow Town has to offer, the development site is located adjacent to Rathnew, approximately 350 metres to the west of the subject site and features a main street, providing local shops that are located a short walk from the development site.

While the site is within comfortable walking distance of Wicklow town centre it also benefits from a variety of nearby transport links. The site is well served by a variety of frequent bus services offering connections to the IFSC and Gardiner Street in Dublin and Glendalough and Bray in Wicklow. The closest bus stop to the development is located adjacent to the sites southwest corner, approximately 175 metres from the proposed site entrance. The site is located approximately a 20-minute walk to Wicklow Rail Station to the south which offers a frequent commuter train service to Dublin and Waterford.

No previous applications have been proposed for residential development on this greenfield site. The subject proposal will represent a continuation of the development to the immediate south of the site as permitted under WCC Reg Ref. Reg Ref. 17/219 (ABP Ref.310261-18) as amended by WCC Reg Refs. 20/1000, 21/411 and 22/837. The permitted development includes for the continuation of the distributor road through the central portion of the lands, connecting to the section of the road granted to the south of the site.

The site is located approximately 46km south of Dublin City Centre and 71 km from Dublin International Airport. The lands are proximate to the M11, which link Dublin with Wexford and Rosslare Harbour.





**Figure 1 – Subject Site outlined in red**

The subject site expands across multiple zoned areas. The site is located across lands with the following zoning objectives:

- **R1 “New Residential:** To provide for new residential development at densities up to 40 units per hectare.”
- **R2 “New Residential:** To provide for new residential development at densities up to 28 units per hectare.”
- **Active Open Space** “To preserve, improve and provide for recreational public and private open space.”
- **Passive Open Space** “To preserve, improve and provide for parks, recreational public and private open space, green corridors and ecological buffer zones.”

The original submission to WCC at pre planning stage included a proposal for 292 units based on the zoning requirements of the R2 zoned lands on site (as set out in the Wicklow Town – Rathnew Development Plan 2013-2019). The applicant at this point notes that Wicklow County Council included the following within their LRD Opinion issued in relation to the subject development regarding density levels:

*‘The proposed development should demonstrate how it is in accordance with table 6.1 Density Standards and CPO 6.13 of the County Development Plan 2022-2028 noting that the site is considered to be an Outer Suburban/ Greenfield Site in the settlement of Wicklow- Rathnew where a density of 35-50 dph is sought.*

*Density calculations shall be clearly set out in the planning application. The site area used for the purposes of calculating the residential density of the development should be clearly indicated’.*

On this basis it was considered that the Wicklow County Development Plan 2022-2028 supersedes the specific site objectives regarding density as included within the Wicklow- Rathnew Development Plan 2013-2019. The applicant progressed with the design of the scheme on this basis and aimed to achieve a site wide density of 35-50 units per hectare (352 units in total) for this Outer Suburban/ Greenfield site as required by the Wicklow County Development Plan 2022-2028.

### 3 Application Lodged

On the 14<sup>th</sup> of August 2023 Keldrum Limited applied to Wicklow County Council for a Large-Scale Residential Development at the subject site of 16.8ha.

The application site is bounded to the north by an existing stream and agricultural lands, to the east by Tinakilly County House Hotel (which is a protected structure RPS No. 25-15) to the immediate west by agricultural lands and residential development and to the south by Tinakilly Avenue and a site currently under development as granted by Wicklow County Council Reg Ref. 17/219 (ABP Ref.310261-18) as amended by WCC Reg Refs. 20/1000, 21/411 and 22/837.

The site masterplan layout inclusive of surrounding granted permissions as lodged to Wicklow County Council as part of the originally submitted application pack is shown on figure 2 below:



Figure 2: Site Masterplan Layout

The development as lodged to Wicklow County Council comprised of the construction of 220 houses and 132 apartments; provision of a new section of Rathnew Inner Relief Road; associated vehicular and pedestrian access, carriageways, paths and junctions; provision of new vehicular entrance and gates along eastern portion of Tinakilly Avenue and all associated site development works.

## 4 Planning Authority Decision

Wicklow County Council made the decision to request Further Information in respect of the development on the 6<sup>th</sup> of October 2023 regarding 5 no. items.

The applicant and design team proceeded to address each of these 5 no. items as listed, and a comprehensive Further Information Response Pack addressing all queries and concerns of Wicklow County Council was lodged on the 30<sup>th</sup> of November 2023.

Subsequently, it was considered by Wicklow County Council that any concerns and queries as listed in the Further Information Request Items had been adequately addressed by the applicant and design teams Further Information Response, and Planning Permission was granted for the development on the 2<sup>nd</sup> of February 2024.

It is noted at this stage that the Planning Authority was satisfied with the general site layout submitted at planning application stage, and no changes were made to the layout of units, roads or open space areas as part of the Further Information Response.

The extent of changes made to the development at Further Information Stage were exclusively to Tinakilly Avenue running along the southern boundary of the site to satisfy concerns of the Planning Authority and Third Parties.

The site layout plan as per the granted permission is shown below on Figure 3 for the benefit of An Bord Pleanála:



Figure 3: Granted Site Layout

## 5 First Party Response to Third Party Appeal

The decision of Wicklow County Council to grant permission for the development under Reg Ref. 2360219 was subsequently appealed to An Bord Pleanála by 5 no. third parties as follows:

- Henry Clarke & Aoife Ryan/ Evelyn & Shay Ryan
- Eileen M Howell
- Les & Lynda Martin
- Leslie Armstrong
- Vincent Collard

This First Party Response to Third Party Appeals has been prepared to directly respond to all grounds of appeal as included in the appeals lodged against the grant of permission from Wicklow County Council by third parties.

We note at this stage that through the extensive LRD pre planning process, lodgement of the initial planning application and lodgement of the Further Information Response Pack to Wicklow County Council, it is considered that the applicant and design team appropriately responded to any concerns or queries raised by Wicklow County Council and third parties.

A response to all relevant appeal content is now provided in section 5.1 below.

### 5.1 Applicant Response to Appeal Content

The Applicant now wishes to take this opportunity to directly address the relevant specific concerns of each third-party appeal. The below table includes a list of all relevant common themes and individual concerns raised by third parties in their lodged appeals:

	Relevant Grounds of Appeal	Appellant
1.	Objection to Curtailing Right of Way	Henry & Aoife Clarke Evelyn & Shay Ryan Eileen M Howell Les & Lynda Martin Vincent Collard
2.	Objection to Construction of Rathnew Inner Relief Road	Henry & Aoife Clarke Evelyn & Shay Ryan
3.	Lack of Community Gain	Henry & Aoife Clarke Evelyn & Shay Ryan
4.	Impact to the Murrough (Special Area of Conservation)	Henry & Aoife Clarke Evelyn & Shay Ryan
5.	Removal of 'Fairy Tree	Henry & Aoife Clarke Evelyn & Shay Ryan
6.	Pre- Mature Development	Eileen M Howell Vincent Collard
7.	Architectural Heritage	Eileen M Howell

8.	Boundary Treatment should be revised along site western boundary.	Leslie Armstrong
9.	Area Action Plan	Vincent Collard
10.	Site Notice	Vincent Collard
11.	EIAR	Vincent Collard
12.	Badger Sett	Vincent Collard
13.	Unsuitability of Rathnew for LRD/ Lack of Infrastructure	Vincent Collard
14.	Community Infrastructure Statement	Vincent Collard
15.	Deficient Parking Spaces/ Reliance on Cars	Vincent Collard Henry & Aoife Clarke and Evelyn & Shay Ryan
16.	Natura Impact Statement (NIS)	Vincent Collard
17.	Utilities & Energy Sustainability Report	Vincent Collard
18.	Out of Date Reports	Vincent Collard
19.	Misleading Reports	Vincent Collard
20.	Drainage/ Flooding	Leslie Armstrong Vincent Collard
21.	Creche	Vincent Collard
22.	Orientation of Dwellings	Vincent Collard
23.	Density not in keeping with Existing Development	Vincent Collard
24.	Arboricultural Report/ Hedgerow Removal	Vincent Collard
25.	Overlooking	Vincent Collard
26.	Archaeological Report	Vincent Collard
27.	Detention Basins/ Swales	Vincent Collard
28.	Engineering Services Report	Vincent Collard
29.	Confirmation of Feasibility	Vincent Collard
30.	Possibility of Unexploded Explosive Devices on Site	Vincent Collard
31.	Possible Waste on Site	Vincent Collard
32.	Inappropriate Mix of Units	Vincent Collard
33.	No Suitable Vision for the Area	Vincent Collard



34.	Insufficient Green/ Amenity Area	Vincent Collard
35.	Landscape Design Report	Vincent Collard
36.	Proximity to Protected Structure	Vincent Collard
37.	Inaccessibility of Planning Drawings	Vincent Collard

A response to all concerns raised by third parties in their appeals is now presented below. We submit that all concerns raised have been adequately addressed in the below responses, the originally submitted planning application material, and the suite of Further Information Response material that was submitted to Wicklow County Council prior to the receipt of a grant of permission for the development.

#### **Item 1 - Objection to Curtailing Right of Way**

In response to the concerns of Henry & Aoife Clarke, Evelyn & Shay Ryan, Eileen M Howell, Les & Lynda Martin and Vincent Collard regarding the development curtailing a right of way down Tinakilly Avenue, it is noted that whilst private rights of way or non-planning issues are not matters that can be properly considered by the Board in assessing an appeal or proper planning and sustainable development, the Applicant would address the points raised as follows.

The Applicant is aware of certain express rights of way along Tinakilly Avenue for the benefit of a limited number of properties neighbouring or in the vicinity of the proposed development. The proposed development does not impede on any such rights of way, as access along Tinakilly Avenue is to be retained for such properties as part of the proposed development. The proposed development does not sever any existing right of way over Tinakilly Avenue, as access along Tinakilly Avenue is to be retained for those properties as part of the proposed development.

The proposed development does not restrict the use of Tinakilly Avenue to pedestrians and cyclists only, as access over Tinakilly Avenue, with or without vehicles, is to be retained for those properties as part of the proposed development. The Applicant has the full legal right title and interest to carry out the proposed development, which provides for the retention of vehicular access along Tinakilly Avenue for those specific properties neighbouring or in the vicinity of the proposed development that may have a right of way over Tinakilly Avenue, but not the general public or otherwise.

#### **Item 2 – Objection to Construction of Rathnew Inner Relief Road**

In response to the concerns of Henry & Aoife Clarke and Evelyn & Shay regarding traffic generated at the northern end of the Rathnew Inner Relief Road at Aldi and Clermont Grove, it is submitted that the potential for traffic impacts at this junction were assessed as part of the Traffic and Transport Assessment completed for the scheme by CS Consulting. It was noted that currently at this junction:

*‘No measurable average queues or delays are experienced on any approach to the Junction 4 roundabout (R761/ALDI)’.*

When the development is constructed, the assessment concluded that the additional trips generated would mean that:

*‘Both Junction 1 (Merrymeeting Interchange) and Junction 4 (R761/ALDI roundabout) operate within effective capacity on all approaches, in both peak hour periods. Negligible vehicle queues and delays are experienced at the 3no. proposed new junctions on the R1RR (the two proposed development access junctions and the proposed new Tinakilly Avenue junction).*

It is therefore considered that the concerns of the third party regarding traffic at the junction located beside Clermont and Aldi were adequately assessed in the submitted application documentation.

### **Item 3 – Lack of Community Gain**

In response to the concerns of Henry & Aoife Clarke and Evelyn & Shay noting that the permitted development presents a lack of community gain due to a creche facility not being located on site, potential for traffic congestion arising from the proposal and inadequate provision of green spaces, the applicant and design team wholly refute all of the listed claims.

In response to the concerns noting that there is no creche facility on the site, it is submitted that Wicklow County Council granted permission for a creche facility at Broomhall Business and Enterprise Park, Merrymeeing, Co. Wicklow under WCC Reg Ref. 19/853.

This application was subsequently amended under WCC Reg Ref. 22/590, which increased the size of the permitted creche to cater for c. 190 no. children, to deal with any childcare demand arising from development on the Clermont – Tinakilly Action Area Lands. This creche facility is located approximately 300 metres to the west of the Tinakilly Lands at Rathnew.

The location of the creche and creche capacity were discussed with the Wicklow County Childcare Committee prior to the lodgement of a full planning application, who confirmed that:

*‘WCC are of the opinion that the Broomhill Creche would be sufficient to meet the childcare requirements arising from the LRD proposal’.*

It is submitted that the overall regeneration of the lands at Tinakilly has been a multi-phase process across a number of applications to ensure that the development of the lands presents the most appropriate phased development of the area. This has included granted applications for creche development, applications for residential development and a retail/ convenience food store, all of which are under construction or operational.

In response to the third parties concerns regarding traffic arising from the permitted development, it is noted that a Traffic and Transport Assessment for the development was completed by CS Consulting as part of the submitted scheme which concluded that:

*‘In summary, the assessment indicates that the proposed development (including completion of the Rathnew Inner Relief Road) shall not impact significantly upon the operation of the existing surrounding road network, that appropriate quanta of car and bicycle parking are to be provided, and that the internal road layout of the proposed development is fit for purpose and in compliance with the Design Manual for Urban Roads and Streets’.*

An independent Road Safety Audit was also completed for the scheme design by RoadPlan consulting and all suggested amendments were incorporated by the road designer in the final submitted roads layout.

In response to the concerns of the third party regarding the quantum of open space provided, there are multiple areas of residential open space identified for passive recreation throughout the development site, totalling 1766 sq.m. These areas of open space are provided within the residential R1 and R2 zoned sections of the development site.

The applicant agreed the strategy for the delivery of open space on the overall Tinakilly lands with the Planning Authority across the permitted development and Tinakilly Park (granted under WCC Reg. 22/837) to the south, prior to lodgement.

In addition to the residential open space, there is approximately 2.40 hectares of land zoned as active open space across the development site. 1.94 ha of the overall development site is zoned for passive open space and will be provided as such.

A significant proportion of land controlled by the applicant, zoned Active Open Space (c.8ha), and permitted under WCC Ref. 22/837 south of the avenue will comprise an adventure play zone, fitness zone, meadow zoning and potential future GAA playing fields.

Having regard to the generous space dedicated to active open space, consolidated into one zone and access from the permitted section of the distributor road, it is not considered appropriate or necessary to provide additional active open space on lands at the subject site. A comprehensive approach to the landscaping on the subject site was outlined in the landscape architects pack submitted at application stage. As part of the permitted landscape design for the site the following features were incorporated into the open space areas to ensure that the public open spaces provided were of exceptional quality:

- Looped walkways through the northern area of the site traversing the perimeter of the detention basins provided. The detention basins provided promote biodiversity on the site and contribute towards the visual amenity of the landscape for walkers utilising this provided pathway.
- Clear pathways between the permitted subject application and the development at Tinakilly Park granted and under construction to the south of the site. These pathways provide a long looped walkway around the overall development site, through the open space areas provided across both developments.
- A linear park is provided in the residential open space area through the central portion of the development away from the other large open space areas provided. This area features a landscaped pathway. A plaza area is also provided within the residential element of the development, which extends from the linear park area north towards the looped walkways around the detention basins, connecting the various open spaces provided.

#### **Item 4 – Impact to the Murrough – Special Area of Conservation**

In response to the concerns of Henry & Aoife Clarke and Evelyn & Shay Ryan regarding the development impact on the Murrough Special Area of Conservation, it is submitted that all necessary environmental assessments were completed as part of the permitted development, inclusive of an Appropriate Assessment Screening Report, Natura Impact Assessment and full Environmental Impact Assessment Report. A Construction Surface Water Management Plan was also prepared.

A full suite of measures to protect surface water quality during construction and operation were proposed in section 7.1.4.1 of the Natura Impact Statement prepared by Scott Cawley.

The appellant references a submission made by Inland Fisheries Ireland, which recommended that:

*‘Should Planning Permission be considered it is recommended that the proposed mitigation measures in the NIS for construction and post construction phases of the development are adopted in full’.*

Wicklow County Council have ensured that all mitigation measures included in the Natura Impact Statement will be included in the final Construction Management plan via the inclusion of condition no. 8 of the grant of permission issued, which reads as follows:

*‘Prior to the commencement of development, a suitably qualified ecologist shall be appointed by the developer to oversee the site set-up and construction of the proposed development’*



and the ecologist shall be present on site during construction works. The ecologist shall ensure the implementation of all proposals contained in the Natura Impact Assessment are incorporated into the final CEMP and fully adhered to on site. Prior to commencement of development, the name and contact details of said person shall be submitted to the planning authority. Upon completion of works, an audit report of the site works shall be prepared by the appointed ecologist and submitted to the Planning Authority to be kept on record'

#### **Item 5 – Removal of 'Fairy Tree'**

In response to the concerns of Henry & Aoife Clarke and Evelyn & Shay Ryan regarding the removal of the 'fairy tree' on site, the applicant and design team re – iterate the response as submitted to, and deemed acceptable by, Wicklow County Council at Further Information Stage as follows which was provided by the project Archaeologist and Built Heritage Consultant, IAC.

IAC investigated the history of the tree and surrounding field and could find no historic references to the noted hawthorn tree on site being referred to as a fairy tree throughout their examination.

One of the key resources for understanding local folklore, is the Schools Collection, published on [duchas.ie](http://duchas.ie). The 1930s record for Rathnew School has been reviewed and the 'Fairy Tree' at Tinakilly is not included in any of the accounts.

IAC noted the following in respect of the tree:

*As author of the Cultural Heritage Chapter of the EIAR submitted as part of the planning application, I can confirm, that whilst the tree may have local cultural heritage significance to the current population of Rathnew, I can find no record of historic references to this tree during the course of research. One of the key resources for understanding local folklore, is the Schools Collection, published on [duchas.ie](http://duchas.ie). The 1930s record for Rathnew School has been reviewed and the 'Fairy Tree' at Tinakilly is not included in any of the accounts.*

*The tree itself is not marked as a Fairy Tree within any of the historic mapping of the proposed development area. The lands in question formed part of the demesne associated with Tinakilly House, which would not have historically been accessible to members of the public. In addition, no footpaths are marked within the historic mapping that would have provided access to the location of the tree. The tree, which is Hawthorn, would not be a tree commonly planted as part of a demesne landscape. Specimen species such as Oak, Beech and Chestnut were commonly used, such as those mature examples along the avenue at Tinakilly, with examples also located along the field boundaries. It is highly likely that the Hawthorn tree post-dates the establishment of the demesne landscape as a whole, with any cultural heritage associations with fairies being established more recently, due to the specimen type. Hawthorn trees are mentioned multiple times within the above Schools Collection of Irish Folklore, as being associated with buried pots of gold, or associated with the death of someone who cut a Hawthorn down. Bringing the flowers of the tree into the home was considered to be very bad luck. The tree is also associated with spring and are often called 'May Trees' and these trees or bushes were often decorated by children on 1st May (a practice mentioned in the Schools Collection from Rathnew School, although the 'May Bush' is noted as being cut and put into the ground). In summary, it appears that the notion of the 'Fairy Tree' at Tinakilly, seems to be relatively recent in terms of origin, with no record of antiquity associated with the site.*

At Further Information Stage the site was revisited by The Tree File, the project arborist, to specifically assess the hawthorn.

The Tree File note that this planted area within the southern field on the application site is likely to be naturally arising and is associated with poor, rocky ground conditions. There is no historic or archaeological evidence to suggest that this area of planting on the proposed development site existed prior to the 20th century.

It is appreciated that the context of the hawthorn lends itself to being named as a 'fairy tree', through it is considered that this comparison is more associated with parallels of expected appearance rather than any historic connections.

The Tree File conducted an assessment of the hawthorn to respond to the Planning Authority's Further Information queries, which concluded the following:

- The tree comprises a small community of specimens, dominated by hawthorn. The cumulative plant stands nearly 8 metres tall, and it is unclear whether it comprises a single plant or combines either 2 or 3 directly adjoining plants whose stems, through continued growth, have combined into a single stem.
- The hawthorn is directly adjoined by additional bramble material including to the south east by an Elderberry and also elements of Dog Rose and Bramble. Notwithstanding the congested form and combination of plants at the hawthorn location, its general health status remains reasonably good.

In conclusion, there appeared to be no evidence, historic or archaeological, to corroborate or confirm anything other than the very recent references to the hawthorn on the site being a 'fairy tree'.

The applicant and design team have prioritised the retention of trees older than the hawthorn, that were part of the original demesne in the application design. It is considered that retention of the hawthorn in its current location is not achievable. The applicant, Keldrum Limited, therefore confirms that should planning permission be granted for the subject development, a relocation of the hawthorn will be attempted to move the tree from its current location to the linear park area which runs along the central portion of the eastern section of the site.

We refer An Bord Pleanála to the Arboricultural Drawings and Reports prepared by The Tree File and the FI Response Memo prepared by IAC Archaeology submitted as part of the Further Information Response Pack for a detailed overview of the history, context, and quality of the hawthorn on site.

#### **Item 6 – Premature Development**

In response to the concerns of Vincent Collard and Eileen M Howell noting that the permitted development is premature, the applicant and design team wholly refute this claim.

Should development be governed by the principle as noted in the Collard and Howell appeals, stating that any lands without a current Local Area Plan in place should not be developable until a current Local Area Plan is in place, it would render the entirety of the Wicklow and Rathnew area undevelopable, as per the area boundary included in the Wicklow – Rathnew Development Plan 2013-2019, until a new Wicklow – Rathnew Development Plan is adopted.

Wicklow County Council have confirmed that the Wicklow – Rathnew Development Plan 2013 – 2019 is the current land use plan for this settlement, and consideration should be given to this plan until the adoption of a new Wicklow – Rathnew Development Plan. Where the Wicklow – Rathnew Development Plan 2013 – 2019 conflicts with the Wicklow County Development Plan 2022 – 2028, Wicklow County Council confirmed that precedence should be given to the current County Development Plan.

A new Wicklow – Rathnew Development Plan is currently at pre-draft issues stage. Submissions on the Pre-Draft Issues Booklet were invited via the Wicklow County Council online submission portal until 28<sup>th</sup> September 2023. It is envisaged that a draft of the new Wicklow – Rathnew Development Plan is due to go on display end of Q2/Q3 2024.

The permitted development aligns with a number of high-level objectives for Wicklow Rathnew included in the Pre-Draft Issues Paper, which stated that:

- *Wicklow Town – Rathnew will need c. 1500 new homes built between now and 2031.*
- *To facilitate compact growth, 30% of new homes need to be in the existing built up area and town/ village centres.*
- *Wicklow County Council are required to identify and reserve an appropriate amount of land in the best locations to meet this housing target*
- *These homes must be provided in a sustainable manner, aligning with the provisions of the Core Strategy of the County Development Plan and having regard to the established and sustainable settlement patterns and the natural environment.*

In addition to the permitted development aligning with the high-level objectives outlined in the Pre-Draft Issues Paper for the new Wicklow – Rathnew Development Plan, it also aligns with the zoning map that was published by Wicklow County Council as part of this consultation pack, noted as the ‘current settlement boundary and zonings for Wicklow Town – Rathnew’.

On this published ArcGIS map all zonings on the subject lands remain consistent with their zonings as per the Wicklow – Rathnew Development Plan 2013 – 2019, and subsequent Agreed Clermont Tinakilly Action Area Plan, which was submitted to Wicklow County Council to agree minor amendments to zoning on the lands due to the topography and other constraints on site. The minor amendments to zoning on site were agreed between the applicant and Wicklow County Council to ensure that development was deliverable on the subject lands.

The development as granted by Wicklow County Council on the Tinakilly lands was subject to extensive pre planning consultations with the WCC Planning Department, and the council was consulted and informed of the applicant’s development plans for the site from concept stage through to full application stage. The expiry of the Wicklow Rathnew Development Plan 2013 – 2019 was not raised as a concern by Wicklow County Council throughout the development process, or in the conditions attached to the grant of planning permission.

It is noted to An Bord Pleanála that the applicant and design team gave careful consideration to objectives, policies and standards outlined in the Wicklow County Development Plan 2022-2028 in the scheme design. Where there was conflict between the policies and objectives included in the Wicklow Rathnew Development Plan 2013 – 2019 and the Wicklow County Development Plan 2022 – 2028, the applicant and design team adopted the standards for development as outlined in the current Wicklow County Development Plan 2022 – 2028.

#### **Item 7 – Architectural Heritage**

In response to the concerns of Eileen M Howell noting that the permitted development will have a negative impact on the architectural heritage of the area, in particular Tinakilly House, which is a protected structure, the applicant and design team refute this claim. The development redline boundary is located c. 68 metres from the protected structure at its closest point.

The Tinakilly House protected structure is only partially visible, and not visible through a portion of the year due to foliage, from the Avenue, which approaches the building from the R750 on its right-hand side. The Avenue does not feature any original features associated with Tinakilly House, save for a derelict gate lodge building. The gates currently located along Tinakilly Avenue are not part of the original Tinakilly House. It is therefore considered by the applicant and design team that the Avenue is not included as part of the Protected Structure, and whilst originally it was an access road for this building, it is now an access point for a number of residential dwellings located towards Broadlough.

It is noted that the description of Tinakilly House provided by the National Built Heritage Service is as follows:

*'Detached four-bay two-storey with attic country house, built between 1876 and 1883 to designs by James Franklin Fuller, now in use as a hotel with large single and three-storey extensions to the east and north of 1991 and 1997. The façade is finished in unpainted lined render with moulded quoins, window surrounds and a dentilled eaves course. The decorative pedimented entrance surround is in rusticated granite. The overhanging hipped roof is slated and has large rendered chimneystacks with pronounced base courses and corbelling. There are several dormers, some with flat roofs, others with gable-ended pitched roofs; the latter are original, the former date largely from the 1990s. The south-facing front elevation consists of two full-height canted hipped roof bays flanking a shallower central square entrance bay. There is another canted bay to the west elevation with a square bay to the east elevation. The entrance lies within a recessed porch with decorative surround and consists of a tall panelled timber double door and rectangular fanlight, flanked with painted stone rusticated pilasters and sidelights. The porch floor has encaustic tiles. The windows are generally uniform, with flat heads and plain timber sash frames. Cast-iron rainwater goods. The extension to the east is single-storey with canted bays, with its roof hidden behind a tall parapet. To the north of this is a much larger mainly three-storey extension with canted bays and hipped roof. The country house is set within extensive grounds.'*

The Avenue leading towards Tinakilly House and grounds is not mentioned as being part of the protected structure.

It is also noted that as part of the permitted development, a Landscape Visual Impact Assessment was conducted to gauge the impact of the development on surrounding area and key sensitive receptors. As part of this assessment a view towards the development site from the front facing façade of Tinakilly House was assessed. The magnitude of the visual impact from this location was described as follows:

*'Whilst there would be locations in the curtilage of the property that would obtain views, no views of the proposed development are anticipated from this key location owing to the density of ground level vegetation present along the western edge of the property and within the integrated parking areas, which is noted to contain a high proportion of ornamental, evergreen species.'*

On the basis of the above conclusions that Tinakilly Avenue does not form part of the protected structure, the distance of any development proposed from the protected structure, and the conclusions of the completed Landscape Visual Impact Assessment, it was considered that the permitted development will have a negligible impact on the protected structure and architectural heritage at Tinakilly.

#### **Item 8 – Boundary Treatment Should be Revised along the Western Boundary**

In response to the concerns of Leslie Armstrong noting that the retention of the existing boundary along the west of the site does not offer an impermeable boundary to their lands, it is submitted by the applicant and design team that the existing boundary in place along the length of the western side of the site provides an adequate natural boundary of thick shrubs, trees and thickets separating the permitted development from the Armstrong lands.

The existing natural boundary along the western site boundary acts in the same way as fencing would at this location, providing a clear visual and physical barrier between landholdings. In addition to the existing planted boundary, the Rossana stream runs the length of the western boundary of the site.

It is therefore submitted that for the reasons outlined above it was, in the applicant's view, most appropriate to retain the existing western boundary for the permitted development.

Wicklow County Council did not request Further Information or impose any conditions on the applicant in respect of this boundary, as it was deemed appropriate to provide an appropriate level of privacy and separation between the permitted development and the adjoining lands to the west.

#### **Item 9 – Area Action Plan**

In response to the concerns of Vincent Collard regarding the acceptance of the Area Action Plan for Tinakilly – Clermont, it is submitted that this document was agreed by Wicklow County Council to make minor adjustments to zoning on the Tinakilly Clermont lands to reflect actual site levels and ensure that development potential of the site could be maximised.

The concerns of the third-party regarding Plan documents is not directed at the applicant and design team, but rather Wicklow County Council and therefore it is considered inappropriate for the applicant to comment in relation to this concern.

#### **Item 10 – Site Notice**

In response to the concerns of Vincent Collard regarding the development description provided on the site notice, it is submitted that the description provided was deemed by Wicklow County Council to provide a valid description of the proposed works. It is noted that no concerns were raised by the Local Authority or other Third Parties regarding the accuracy of the site notice provided.

#### **Item 11 – EIAR**

Vincent Collard raises a number of concerns regarding the submitted Environmental Impact Assessment Report. The below table outlines the concerns raised in the Collard appeal and a direct response to each from the applicant and design team:

<b>Appellant Concerns re. EIAR</b>	<b>Applicant/ Design Team Response</b>
Development Providing 27.7% of total required housing for Wicklow Rathnew is considered excessive.	<p>In response to the appellants concerns noting that the permitted development providing 27.7% of the required housing for Wicklow – Rathnew area represents an excessive provision of housing in Rathnew, the applicant and design team wholly refute this claim.</p> <p>The permitted development is located on residential zoned lands, and has been earmarked for development since its inclusion in the Wicklow Rathnew Development Plan 2013-2019.</p> <p>The permitted scheme provides a density consistent with the requirements of Wicklow County Council listed in the Wicklow County Development Plan 2022-2028, and as discussed with Wicklow County Council at the various LRD pre planning stages.</p>

	<p>It is considered that the permitted development represents an opportunity to provide much needed houses at an appropriately zoned location during a housing crisis.</p>
<p>Traffic and Transport Mitigation Measures relating to parking do not represent mitigation measures.</p>	<p>The mitigation measure listed in the Traffic and Transportation Chapter relating to car parking provision referred to by the appellant reads as follows:</p> <p><i>A conservative car parking provision, which shall discourage higher vehicle ownership rates and excessive trips to the development by residents and visitors.</i></p> <p>It is submitted that this statement is an appropriate mitigation measure to reduce excessive traffic flow from the development. By providing car parking in line with the standards as included within the Wicklow County Development Plan 2022-2028 and the Apartment Guidelines, it will prevent homeowners from having an excessive number of cars per household, which will in turn reduce the number of trips generated to and from the development when operational.</p>
<p>Census Data used is out of date.</p>	<p>In response to the appellant noting that Census data used in the application pack was out of date at time of lodgement, the applicant and design team refute this statement.</p> <p>It is noted that at the time of preparing the Environmental Impact Assessment Report, the Central Statistics Office had begun releasing data from Census 2022, which will supersede Census 2016. The Census 2022 data was released throughout 2023, with the full census being available after the final profile publication on the 19th of December 2023.</p> <p>At the time of the issue of the Environmental Impact Assessment Report, the following Census profiles were published and publicly available:</p> <ul style="list-style-type: none"> <li>• Census 2022 Summary Results – Published Tuesday May 30<sup>th</sup> 2023</li> <li>• Census 2022 Profile 1 – Population Distribution and Movement – Published 29<sup>th</sup> June 2023</li> </ul>

	<p>It was made clear in the Population and Human Health Chapter of the EIAR that population results from 2022 in the context of wider county Wicklow were considered, as no small area maps for the electoral divisions surrounding the site were published at the time of lodgement, these were published on the 21st of September 2023.</p>
<p>Evening Bird Surveys should have been conducted.</p>	<p>It is submitted that all breeding bird surveys conducted on site were carried out by Scott Cawley Ecologists, using a methodology adopted from Gilbert, G., Gibbons, D.W. &amp; Evans, J. (1998) Bird Monitoring Methods - A Manual of Techniques for Key UK Species.</p>
<p>Otter Survey should have been conducted.</p>	<p>It is submitted that signs of Otter were seen on lands surrounding the subject site during a survey of surrounding watercourses conducted by Triturus Environmental when establishing the Aquatic Baseline for the site.</p> <p>Triturus and Scott Cawley concluded that:</p> <p><i>'A single otter resting site (couch site) was recorded along the Rathnew Stream and is located in the north-eastern corner of the proposed development site, away from the proposed bridge crossing of the Rathnew Stream. As this couch site will be unaffected by construction works, therefore, the proposed development will not have a likely significant effect on the conservation status of otter, as there will be no loss of breeding / resting sites, and will not have a likely significant negative effect, at any geographic scale'.</i></p> <p>It was also noted that:</p> <p><i>'The loss of suitable otter foraging and commuting habitat as part of the construction of the Rathnew Inner Relief Road across the Rathnew Stream, will be limited to the extent of the proposed bridge crossing, with the retention of suitable bankside and riparian habitat upstream and downstream of the proposed bridge construction area. Given this, the overall area of suitable foraging and commuting habitat will be reduced temporarily for the construction stage of the proposed bridge crossing. As otter are known to routinely use highly modified habitat within culverts and beneath bridges, any habitat loss arising from the proposed development would not constitute a significant decline in the extent of available otter habitat and will not affect the</i></p>

	<p>local otter population's ability to maintain itself, even in the short-term'.</p> <p>Given the conclusions above, it was considered that a full standalone otter survey was not required, as any impact on otters has been examined in the Aquatic Baseline Report and Biodiversity chapter of the submitted EIAR. We refer An Bord Pleanála to these documents for more information.</p>
Applicant has no control of mitigation measures once the development is handed over to future private residents.	In response to the appellant noting that the operational mitigation measures proposed are irrelevant due to the applicant not having control of events after the occupation of the development by residents, the operational mitigation measures will ensure the best preservation of the environment in public areas.

#### **Item 12 – Badger Setts**

In response to the concerns of Vincent Collard regarding badger setts on site, the applicant and design team refer to the biodiversity chapter of the submitted Environmental Impact Assessment Report, prepared by Scott Cawley. Mitigation measures for badger during the construction phase of the development were noted as follows:

*'A single Annex badger sett was recorded within the proposed development site, with limited badger activity also noted within the site and its vicinity. Considering this and adjacent ongoing construction, badger could potentially establish new setts within the zone of influence of the proposed development.*

*A confirmatory pre-construction check of all suitable badger habitat will be completed within 12 months prior to any construction works commencing by a suitably experienced and qualified ecologist. The presence of any new setts or significant badger activity will be treated and/or protected in accordance with the Guidelines for the Treatment of Badgers prior to the Construction of National Road Schemes (NRA, 2005).'*

It was concluded that the permitted development will not result in a significant impact on badgers at any geographical scale.

#### **Item 13 – Unsuitability of Rathnew for LRD/ Lack of Infrastructure**

In response to the concerns of Vincent Collard regarding the unsuitability of Rathnew for LRD and lack of Infrastructure in place, the applicant and design team wholly refute this claim.

The site is appropriately zoned for residential development, and is within the 'Tinakilly Action Area', which has an approved Area Action Plan in place to govern the future residential development on the lands. It is considered that if the development site remained as greenfield lands, it would be contrary to Wicklow County Councils development objectives for the site, and directly preclude the delivery of housing required in the Wicklow – Rathnew area. (1,276 no. houses needed by 2028).



Both the subject application and application granted to the immediate south of the development site (WCC Ref. 22837) were subject to extensive pre planning consultations with Wicklow County Council as part of the Large-Scale Residential Development process.

Any concerns raised by Wicklow County Council in respect of the subject scheme were addressed at pre planning stage, in the full planning application pack submitted, and in the pack submitted in response to the councils request for Further Information.

#### **Item 14 – Community Infrastructure Statement**

In response to the concerns of Vincent Collard regarding school and creche capacity in the area surrounding the permitted development, it is submitted by the applicant and design team that extensive consultation as part of the Large-Scale Residential Development process took place with Wicklow County Council prior to lodgement of a full planning application pack. It was deemed by Wicklow County Council that the existing primary and secondary school network has sufficient capacity to accommodate any demand for primary and secondary school places that arises from the permitted development.

It was agreed between the applicant and the Wicklow County Childcare Committee that any demand for childcare places associated with the permitted development will be catered for by the creche facility granted under WCC Reg Ref. 19/853, as amended by WCC Reg Ref. 22/590 to increase capacity of the originally permitted facility.

To ensure that there are adequate childcare places available when the permitted development becomes operational, Wicklow County Council attached the following condition 11 (c) to the grant of permission for the subject scheme as follows:

*‘The crèche permitted under PRR19/853 shall be completed and operational prior to the occupation of any dwelling units’.*

#### **Item 15 – Deficient Parking Spaces/ Reliance on Cars**

In response to the concerns of Vincent Collard and Henry & Aoife Clarke and Evelyn & Shay Ryan noting that there is insufficient car parking provided for the permitted development, this claim is refuted by the applicant and design team. Car parking has been provided on the site in accordance with the required standards as outlined in the Apartment Guidelines for the apartment element of the site, and the Wicklow County Development Plan 2022-2028 for the entirety of the site.

Section 3.1.5 of Volume 3 Appendix 1 included in the Wicklow County Development Plan 2022- 2028 states that 2 off street, car parking spaces shall normally be required for all dwelling units over 2 bedrooms. For every 5 residential units provided with only 1 space, 1 visitor space shall be provided. An adequate level of parking is delivered across the site with 592 no. car parking spaces provided for the 352 no. proposed units. A breakdown of the proposed car parking spaces per type of unit is provided below:

- In Curtilage House Parking – 411 spaces
- On Street House Parking – 7 spaces
- On Street Maisonette/ Duplex Parking – 55 spaces
- On Street Apartment Parking – 114 spaces
- Visitor Parking – 5 spaces

Of the provided 592 no. spaces 9 no. of these are provided as dedicated accessible parking spaces. 20 no. of these are provided as on street EV charging spaces. All car parking spaces provided will be ducted for the future installation of an EV charging point. Section 1.2 ‘Climate Action’ of Volume 3 Appendix 1 of the Wicklow County Development Plan 2022-2028 notes that EV charging points should be provided as follows: Installation of 1 recharging point for every 10 dwellings (with a

minimum 1 for development under 10 dwellings) which is available to all residents. Installation of ducting infrastructure for every parking space within development.

It is submitted that the permitted development complies with these standards as outlined in the Wicklow County Development Plan 2022-2028. All provided parking spaces will be ducted for the provision of EV charging points. A total of 20 no. on street EV charging spaces are provided for the development of the total 181 no. on street parking spaces provided, totalling 11% of all on street parking spaces.

#### **Item 16 – Natura Impact Statement**

In response to the concerns of Vincent Collard regarding the Natura Impact Assessment submitted with the permitted application pack, it is noted by the applicant and design team that the Natura Impact Assessment completed as part of the application pack was conducted by Scott Cawley, who concluded that:

*‘With respect to those European sites within the zone of influence of the proposed development, the potential impact sources and pathways, the manner in which these could potentially impact on the European sites’ Qualifying Interest habitats and species and Special Conservation Interest species and whether the predicted impacts would adversely affect the integrity of The Murrrough Wetlands SAC, Wicklow Mountains SAC and The Murrrough SPA. There are no other European sites at risk of effects from the proposed development.*

*Avoidance, design requirements and mitigation measures are set out within this NIS and the effective implementation of these mitigation measures will ensure that any impacts on the conservation objectives of European sites will be avoided during the construction and operational Phases of the proposed development such that there will be no adverse effects on any European sites.*

*It has been objectively concluded by Scott Cawley Ltd., following an examination, analysis and evaluation of the relevant information, including in particular the nature of the predicted impacts from the proposed development, and the effective implementation of the mitigation measures prescribed that the proposed development will not adversely affect (either directly or indirectly) the integrity of any European site, either alone or in combination with other plans or projects.’*

The submitted Natura Impact Statement was prepared having regard to the following documents, all of which were current at the time of application lodgement:

#### **European Commission Guidance**

- Assessment of Plans and Projects in Relation to Natura 2000 sites: Methodological Guidance on Article 6(3) and (4) of the Habitats Directive 92/43/EEC (European Commission, 2021);
- Managing Natura 2000 Sites: The Provisions of Article 6 of the Habitat’s Directive 92/43/EEC (European Commission, 2019);
- Communication from the Commission on the Precautionary Principle (European Commission 2000);
- Nature and Biodiversity Cases – Ruling of the European Court of Justice (European Commission 2006);
- Article 6 of the Habitats Directive – Rulings of the European Court of Justice (European Commission Final Draft September 2014); and,

- Interpretation Manual of European Union Habitats. Version EUR 28. (European Commission, 2013).

#### Irish Guidance

- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (Department of Environment, Heritage and Local Government 2010 revision)
- Appropriate Assessment under Article 6 of the Habitats Directive: Guidance for Planning Authorities. Circular NPW 1/10 & PSSP 2/10 (NPWS, 2010); and,
- OPR Practice Note PNo1. Appropriate Assessment Screening for Development Management (Office of the Planning Regulator, 2021).

In addition, regard has been had to the following guidance in characterising impacts, including determining magnitude and significance of impacts, as relevant in the application to Appropriate Assessment and European sites:

- Guidelines for Ecological Impact Assessment in the UK and Ireland (Chartered Institute of Ecology and Environmental Assessment, 2018).

Therefore, it is noted that all guidance and best practice measures were followed, taken to ensure that the conclusions of the Natura Impact Statement were accurate.

#### **Item 17 – Utilities & Energy Sustainability Report**

In response to the concerns of Vincent Collard relating to uncertainty in relation to energy sources for the site, it is submitted that it is clearly outlined in the submitted Utilities & Energy Sustainability Report that Electricity Services will be brought from the existing MV network via underground ducting to the unit substation to be located on site. 4 no. modular substations will connect the residential houses and link road to the electricity network. Allowances of 2 no. modular substations would be allocated for the residential development on the east side of the link road, and 2 no. modular substations will be dedicated to the residential area to the west of the link road.

All dwellings will comply with Technical Guidance Document L – Conservation of Fuel and Energy – Dwellings. If PV panels are required to ensure unit compliance with Part L on any part of the development site, then these will be provided.

#### **Item 18 – Out of Date Reports**

In response to the concerns of Vincent Collard noting that reports submitted with the application pack were out of date, it is submitted by the applicant and design team that all reports lodged with the Planning Application Pack to Wicklow County Council accurately reflected the current baseline site condition, and condition of surrounding sensitive receptors at the time of lodgement.

#### **Item 19 – Misleading Reports**

In response to the concerns of Vincent Collard noting that the reports submitted with the permitted application pack are misleading in regard to site location, this is refuted by the applicant and design team. The site location was clearly outlined in the submitted public notices, and clearly marked on various maps and reports submitted with the application pack.

#### **Item 20- Drainage/ Flooding**

In response to the concerns of Vincent Collard and Leslie Armstrong relating to drainage/ flooding on the subject site, it is submitted by the applicant and design team that extensive flood risk assessment was completed as part of the permitted development, inclusive of a Flood Risk Assessment Report and a Construction Surface Water Management Plan. Any potential impacts on biodiversity arising from the permitted developments construction and operation were assessed as part of the suite of Environmental documents lodged with the application pack, specifically as part of the Biodiversity chapter included in the Environmental Impact Assessment lodged.

The Flood Risk Assessment concluded that:

*'Regarding pluvial flood risk, review of the available information and site topography does not indicate that the site is at risk of pluvial flooding. Surface water within the site will be managed through the provision of a stormwater system. The system will restrict discharge from the site to its greenfield equivalent and attenuation will be provided as per the development plan guidelines, which requires that stormwater discharge to be limited to the site's greenfield equivalent and that attenuation storage be provided. The stormwater system has been designed in accordance with the Wicklow County Development Plan and GDSDS guidance documents.'*

*This Flood Risk Assessment was undertaken in accordance with 'The Planning System and Flood Risk Management Guidelines' and is in agreement with the core principles contained within.'*

All permitted residential elements of the scheme are located out of and away from any potential flood zones.

Further to this, regarding the concerns of Vincent Collard relating to site runoff into surrounding salmonid bearing watercourses, it is submitted that this was considered as part of the submitted planning application pack. An Appendix to the Environmental Impact Assessment Report Biodiversity chapter was prepared by Tritius, which assessed the Aquatic Baseline for the scheme. This report concluded that:

*'Considering the importance of the Rathnew Stream as a salmonid bearing watercourse with connectivity to Broad Lough an important sea trout estuarine habitat, it is vitally important to preserve the fisheries value of the watercourse. Several high-level recommendations are presented below but do not represent the full suite of measures that would need to be applied to protect watercourses. During the construction phase a CEMP should be formulated to ensure the protection of watercourses in consultation with IFI and the NPWS. This would include control of pollutants at source and monitoring discharges to the adjoining Rossanna and connecting Rathnew Streams. The riparian zone of both watercourses should be strictly protected with a minimum buffer of 15m from the development. This would also help protect identified otter foraging and or resting and breeding habitat. No storm water discharges should be made directly to the Rathnew Stream and rather only to the adjoining Rossanna Lower Stream given its lower ecological value. A drainage plan for the operational phase of the development should be developed with regular maintenance of the drainage system to prevent impacts from storm water pollution to the river system. Consideration of open swale systems and or natural wetland attenuation for storm drainage prior to discharge to the Rossanna Stream are extremely important to curb the threat of stormwater pollution which is one of the primary threats to catchments subject to suburbanisation pressures.'*

It is submitted that all concerns raised by Vincent Collard relating to drainage and flooding were adequately addressed in the submitted planning documentation.

#### **Item 21 – Creche**

In response to the concerns of Vincent Collard noting that the permitted LRD applications at Tinakilly proposed no creche on site, it is submitted that Wicklow County Council granted permission for a creche facility at Broomhall Business and Enterprise Park, Merrymeeting, Co. Wicklow under WCC Reg Ref. 19/853. This application was lodged by the applicant, and it was agreed between the applicant and Wicklow County Council that this facility would cater for any childcare requirement arising from the applicants residential developments on the Tinakilly lands.

This application was subsequently amended under WCC Reg Ref. 22/590, which increased the size of the permitted creche to cater for c. 190 no. children, to deal with any childcare demand arising from development on the Clermont – Tinakilly Action Area Lands. This creche facility is located approximately 300 metres to the west of the Tinakilly Lands at Rathnew.

A part of the granted planning permission, the applicant contacted the creche operator of the Broomhall Creche, who confirmed that they had examined the permitted creche plans and estimated that maximum childcare capacity at the facility was c.219 children at any one time, and over 250 children throughout various sessions in a single day.

Details of this correspondence were submitted to the Wicklow County Childcare Committee prior to the lodgement of the permitted application, who confirmed that:

*‘WCC are of the opinion that the Broomhill Creche would be sufficient to meet the childcare requirements arising from the LRD proposal’.*

Correspondence with Wicklow County Childcare Committee was included as part of the submitted planning application pack to Wicklow County Council, as well as details of all schemes that the permitted creche would cater for and the predicted childcare requirement arising from each.

In response to the appellants comments noting that the permitted creche facility being separate to the LRD application represents project splitting, it is noted that the order in which applications were submitted were on a planned, phased basis to ensure that the necessary infrastructure was in place to support the development of the Clermont – Tinakilly Action Area lands. The Broomhall creche is currently nearing completion of construction and will be ready for operation prior to the occupation of units permitted as part of the subject LRD application in line with condition 11 (c) included in the grant of permission for the subject scheme as follows:

*‘The crèche permitted under PRR19/853 shall be completed and operational prior to the occupation of any dwelling units’.*

In response to the applicants’ comments regarding the location of the creche facility in relation to the subject development, it is considered by the applicant and design team, and was considered by Wicklow County Council, that the creche location c. 300 metres to the east of the entrance to the Tinakilly lands from the Merrymeeting Junction was an appropriate location for a childcare facility to cater for the overall development on the Clermont – Tinakilly Action Area lands.

#### **Item 22- Orientation of Dwellings**

In response to the concerns of Vincent Collard noting that the orientation of permitted units facing east west or west east is not suitable for solar panel use or the enjoyment of gardens, this claim is wholly refuted by the applicant and design team.

The provision of east west and west east facing units is wholly appropriate. The scheme design was carefully considered by the project architect and design team to limit the number of units with north facing private open space areas. Residents of East and West facing units who choose to utilise solar power will enjoy the benefit of sunlight to gardens in the morning or afternoon.

Any units provided with north facing gardens also have a roof area facing south, on which solar panels can be fitted to maximise solar gain throughout the daytime.

#### **Item 23 – Density Not in keeping with existing development**

In response to the concerns of Vincent Collard noting that the proposed density is not in keeping with existing development, the applicant and design team note that the permitted development density level is in accordance with requirements as listed in the Wicklow County Development Plan 2022-2028 and was decided in collaboration with Wicklow County Council through the LRD pre planning meeting stages.

The appellant incorrectly states that the density of the permitted scheme is 21.42 units per hectare. The actual density of the scheme is 35 units per hectare on residential zoned lands.

We note to An Bord Pleanála that the following guidance regarding density was provided by Wicklow County Council as part of the issued LRD Opinion document prior to the final design and lodgement of a full planning application pack:

*‘The proposed development should demonstrate how it is in accordance with table 6.1 Density Standards and CPO 6.13 of the County Development Plan 2022-2028 noting that the site is considered to be an Outer Suburban/ Greenfield Site in the settlement of Wicklow- Rathnew where a density of 35-50 dph is sought.*

*Density calculations shall be clearly set out in the planning application. The site area used for the purposes of calculating the residential density of the development should be clearly indicated’.*

On this basis it was considered that the Wicklow County Development Plan 2022-2028 supersedes the specific site objectives regarding density as included within the Wicklow- Rathnew Development Plan 2013-2019. The applicant progressed with the design of the scheme on this basis and aimed to achieve a site wide density of 35-50 units per hectare for this Outer Suburban/ Greenfield site as required by the Wicklow County Development Plan 2022-2028.

The subject lands total 16.8 hectares, with a nett developable area of 10.03 hectares (R1 and R2 zoned lands). The permitted development provides 352 no. units across the site on residential zoned lands within the site application boundary. This totals an average residential density of 35 units per hectare on R1 and R2 zoned lands (352 units on 10.03 ha of residential zoned lands).

It is submitted by the applicant and design team that this level of density is wholly appropriate for the subject lands and accords with the required density of 35-50 units per hectare for Outer Suburban/ Greenfield sites as listed in the Wicklow County Development Plan 2022-2028.

#### **Item 24 – Arboricultural Report/ Hedgerow Removal**

In response to the concerns of Vincent Collard regarding the clarity of trees to be removed as part of the permitted scheme, it is submitted by the applicant and design team that all trees for removal are clearly labelled on the ‘Tree Impacts Plan Northwest’ and ‘Tree Impacts Plan Southeast’ drawings prepared by The Tree File submitted as part of the application pack, and updated as part of the Further Information Response Pack submitted. All trees marked on these drawings for removal directly correspond with ‘Table 1 – Tree Data Table’ as included in the Arboricultural Report submitted.

By matching the numbers on the drawings to the numbers listed in the tree data table, the age, species, condition, dimensions, height, retention period, management recommendations and categorisation of each tree surveyed can be examined.

In response to the concerns of Vincent Collard noting that the 'Fairy Tree' on site was not surveyed, it is submitted that the project arborist provided an updated suite of Arboricultural material as part of the pack submitted to Wicklow County Council at Further Information stage, which assessed this tree.

#### **Item 25- Overlooking**

In response to the concerns of Vincent Collard regarding overlooking, noting that some dwellings provide a back-to-back distance of c.19 metres, it is submitted that all separation distances are in compliance with Specific Planning Policy Requirement 1 – Separation Distances as included in the Sustainable and Compact Settlements: Guidelines for Planning Authorities, which came into effect on the 15<sup>th</sup> January 2024. SPPR states that:

*'It is a specific planning policy requirement of these Guidelines that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level. When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.'*

*There shall be no specified minimum separation distance at ground level or to the front of houses, duplex units and apartment units in statutory development plans and planning applications shall be determined on a case-by-case basis to prevent undue loss of privacy.*

*In all cases, the obligation will be on the project proposer to demonstrate to the satisfaction of the planning authority or An Bord Pleanála that residents will enjoy a high standard of amenity and that the proposed development will not have a significant negative impact on the amenity of occupiers of existing residential properties'.*

#### **Item 26- Archaeological Report**

In response to the concerns of Vincent Collard noting that there was no standalone Archaeological Report completed for the application, the applicant and design team refute this claim. The Archaeological Report for the scheme was included as part of the Environmental Impact Assessment Report as chapter 12 Archaeological, Architectural and Cultural Heritage.

As part of the conditions of the grant of permission issued by Wicklow County Council, condition no. 22 was included as follows:

*'The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. Prior to commencement of development the developer shall engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930 – 1994) to monitor all topsoil stripping associated with the development. Where archaeological material is found during the course of monitoring, the archaeologist may have work on the site stopped, pending a decision on the best approach to deal with the archaeology. The developer shall be prepared to be advised by the Department of Environment, Heritage and Local Government with regard to the necessary mitigation action. The operator shall facilitate the archaeologist in recording any material found.'*

The applicant will adhere to all conditions of the development through compliance submissions to Wicklow County Council.

#### **Item 27 – Detention Basins/ Swales**

In response to the concerns of Vincent Collard noting that insufficient details regarding the maintenance of the proposed detention basins/ swales, it is noted that when the development is constructed and operational, all areas of public open space where the swales and detention basins are located will be taken in charge by Wicklow County Council. The council will be responsible for the management and maintenance of these areas.

Regarding the concerns noted by Vincent Collard surrounding the safety of the detention basin areas, it is submitted that these areas have been designed to retain water at a maximum of 30 cm depth. Planting has been provided by the Landscape Architects, Murphy Sheanon, within the detention basin areas to limit accessibility into the detention basins.

The stormwater management system on the site has been designed in accordance with the Wicklow County Development Plan 2022-2028 and the GDSDS guidance documents.

#### **Item 28- Engineering Services Report**

In response to the concerns of Vincent Collard stating that the submitted Engineering Services Report was prepared in August 2022, we hereby submit to An Bord Pleanála that this is a typo included on the cover of the report. The report check sheet included with the table of contents clearly details when the report was prepared, with a first version issued in October 2022, and 3 no. drafts issued before a final version as submitted was issued on the 9<sup>th</sup> of August 2023.

#### **Item 29- Confirmation of Feasibility**

In response to the concerns of Vincent Collard relating to the date on the submitted Irish Water Confirmation of Feasibility of 18<sup>th</sup> October 2022, we refer the appellant and An Bord Pleanála to the Statement of Design Acceptance issued by Irish Water on 28<sup>th</sup> June 2023 appended to the Engineering Services Report submitted as part of the application pack. This Statement of Design Acceptance was issued less than 8 weeks before the development application was lodged.

#### **Item 30- Possibility of Unexploded Devices on site**

In response to Vincent Collard stating that ‘unexploded hand grenades have apparently been found on the site in the past’, the applicant submits that there is no evidence supporting this statement. As part of this appeal response the applicant has unsuccessfully attempted to find any records to support this claim.

#### **Item 31 – Possible Waste on Site**

In response to Vincent Collard stating that the site has previously been used for illegal dumping, the applicant and design team submit that appropriate Waste Management measures will be undertaken during the construction and operational periods of the development to ensure that any waste on site is properly disposed of. As part of the planning application lodged to Wicklow County Council the following documents relating to this were prepared and submitted to the council:

- **AWN** - Operational Waste Management Plan
- **OCSC** – Resource and Waste Management Plan
- **OCSC** – Outline Construction and Environmental Management Plan

The appointed construction waste contractor(s) shall determine the most suitable licenced facilities to which construction waste materials shall be transferred for recycling, recovery, or disposal.



#### **Item 32 – Inappropriate Mix of Units**

In response to Vincent Collard stating that the permitted unit mix is inappropriate, the applicant and design team refute this statement.

The unit mix for the site has been chosen by the applicant and design team following extensive market analysis of the Wicklow- Rathnew area and extensive pre-planning consultations with Wicklow County Council. It is submitted that the unit mix meets the requirements for housing in the Wicklow- Rathnew area and provides appropriately sized Part V units which will contribute towards the requirement for social housing in Wicklow County.

The permitted development introduces a new development type into the Tinakilly area, providing 3 no. 4 storey apartment/duplex blocks featuring 1- and 2-bedroom apartment units. These apartments cater for smaller families, couples and those looking to downsize, and ensure compliance with the density targets of 35- 50 units per hectare, as outlined in the Wicklow County Council Development Plan 2022-2028 (superseding the densities outlined in the Wicklow Town-Rathnew Development Plan 2013- 2019 as noted by WCC).

It is noted to An Bord Pleanála that the inclusion of apartment units was requested by Wicklow County Council to comply with their site density requirements.

#### **Item 33 – No Suitable Vision for the Area**

In response to the concerns of Vincent Collard noting that there is no suitable vision for the area, the applicant and design team directly refute this claim.

A clear vision for the area was established and agreed with the Planning Authority for the area within the agreed Clermont Tinakilly Action Area Plan, which clearly outlined the development objectives for the applicant's overall landholding at Tinakilly. In addition to this the site has been appropriately zoned for residential development since the adoption of the Wicklow Rathnew Development Plan 2013 – 2019.

At all pre planning stages, Wicklow County Council was extensively consulted, and various changes to the scheme were implemented at the request of the Planning Authority. An evolution of the scheme design from section 247 pre planning stage through to full application lodgement was included within Alternatives chapter of the submitted Environmental Impact Assessment Report.

#### **Item 34- Insufficient Green/ Amenity Spaces**

In response to Vincent Collard stating that the permitted development features insufficient green/ amenity space, we re-iterate our response to Item 3 as follows:

The applicant agreed the strategy for the delivery of open space on the overall Tinakilly lands with the Planning Authority across the permitted development and Tinakilly Park (granted under WCC Reg. 22/837) to the south, prior to lodgement.

There are multiple areas of residential open space identified for passive recreation throughout the development site, totalling 1766 sq.m. These areas of open space are provided within the residential R1 and R2 zoned sections of the development site.

In addition to the residential open space, there is approximately 2.40 hectares of land zoned as active open space across the development site. 1.94 ha of the overall development site is zoned for passive open space and will be provided as such.

A significant proportion of land controlled by the applicant, zoned Active Open Space (c.8ha), and permitted under WCC Ref. 22/837 south of the avenue will comprise an adventure play zone, fitness zone, meadow zoning and potential future GAA playing fields.

Having regard to the generous space dedicated to active open space, consolidated into one zone and access from the permitted section of the distributor road, it is not considered appropriate or necessary to provide additional active open space on lands at the subject site. A comprehensive approach to the landscaping on the subject site was outlined in the landscape architects pack submitted at application stage. As part of the permitted landscape design for the site the following features were incorporated into the open space areas to ensure that the public open spaces provided were of exceptional quality:

- Looped walkways through the northern area of the site traversing the perimeter of the detention basins provided. The detention basins provided promote biodiversity on the site and contribute towards the visual amenity of the landscape for walkers utilising this provided pathway.
- Clear pathways between the permitted subject application and the development at Tinakilly Park granted and under construction to the south of the site. These pathways provide a long looped walkway around the overall development site, through the open space areas provided across both developments.
- A linear park is provided in the residential open space area through the central portion of the development away from the other large open space areas provided. This area features a landscaped pathway. A plaza area is also provided within the residential element of the development, which extends from the linear park area north towards the looped walkways around the detention basins, connecting the various open spaces provided.

#### **Item 35 – Landscape Design Report**

In response to the concerns of Vincent Collard noting that the planting of non-native tree species on the site is inappropriate, the applicant accepts the importance of planting native tree species. 21 tree species have been proposed across the permitted development. 17 (81%) of these trees are native and 4 (19%) are non-native. The non-native species are *Tilia cordata* (Lime), *Betula utilis* 'jaquemontii' (White Birch), *Carpinus betulus* (Hornbeam) and *Amelanchier canadensis* (Juneberry).

It should be noted that the existing tree population within the Tinakilly development site and the adjacent Tinakilly avenue is predominantly non-native tree species such as Horse Chestnut, Beech and Sycamore.

The more species present in any tree population, the greater the resilience of that population to external threats such as those posed by climate change, pests and diseases. The inclusion of non-native species with native species increases the diversity and resilience of this future tree population. When proposed in the appropriate locations, these non-native species offer diverse aesthetic appeal, enriching the landscape with unique colours, textures, and foliage. Additionally, these trees provide additional habitats and food sources for local wildlife, contributing to ecological balance and fostering an increase in biodiversity.

*Betula utilis* 'jaquemontii' (White Himalayan Birch) and *Amelanchier canadensis* (Juneberry) are included within the ornamental tree mix. The former has a distinctive and striking white bark especially prominent during winter months. *Amelanchier canadensis* (Juneberry) is a berry-producing tree that serves as an important food source for birds and small mammals. These trees are proposed primarily within front gardens and communal open spaces. These trees were



proposed to give an enriched aesthetic to the landscape and are well suited to the amenity spaces that they are proposed within.

*Tilia cordata* (Lime) is proposed in the park tree mix. This mix of trees is proposed within public open spaces. This tree is especially loved by bees as it produces a lot of nectar. The *Carpinus betulus* (Hornbeam) is chosen for its fastigate/columnar habit which makes it especially suited to roadside margins and communal spaces.

It is worth noting that the All-Ireland Pollinator Plan as issued by the National Biodiversity Data Centre recommends both native and non-native tree species within its pollinator-friendly planting list. This recommended list includes the aforementioned *Tilia cordata* and *Amelanchier canadensis* species.

#### **Item 36 – Proximity to Protected Structures**

In response to Vincent Collard stating that the 4 storey apartment blocks provided would detract aesthetically from the protected structure at Tinakilly House (RPS 25-15) the applicant and design team directly refute this claim. The proposed development is appropriately located on residential zoned lands at Tinakilly.

The development redline boundary is located c. 68 metres from the protected structure at its closest point. The 4-storey apartment element of the permitted development is located on the west side of the development site, approximately 450 metres from the protected structure.

It is therefore submitted that the development boundary distance and distance of the 4-storey element of the permitted development from the protected structure at Tinakilly house will not detract from the protected structure.

#### **Item 37 - Inaccessibility of Planning Drawings**

In response to Vincent Collard stating that Planning Drawings were inaccessible, the applicant and design team directly refute this claim. The Planning Application drawings for the application were available in a number of locations as follows:

- Hard Copies at the offices of Wicklow County Council
- Soft copies on the Wicklow County Council Planning Portal
- Soft copies on the dedicated application website (<https://tinakillydemesnelrd.ie>)

There were no issues noted by Wicklow County Council or other third parties to the applicant regarding difficulties accessing the planning drawings.