



Planning & Development  
Consultants

## Planning Objection Report

Third Party Planning Objection Report in respect of Wicklow County Council planning application, reg. ref. 22380. The proposed development comprises of: "42 no. residential units comprising - 20 no. 1-bed apartments, 20 no. 2 bed (4 person) apartments, Works to Stylebawn house to provide a 4 bed house, Works to the Gardeners Cottage to provide a 2 bed house. The proposed apartments are provided in a single 5 storey block comprising a basement level, lower and upper ground floors and first and second floors. 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 boundary works. Demolitions and site clearance are proposed to facilitate the development. All associated site development works including landscaping, internal roads, utilities, water infrastructure and construction phases works and development" at Stylebawn House, Delgany, Co. Wicklow.

This Planning Observation Report has been produced by BPS Planning Consultants Ltd for and on behalf of Delgany Community Council C/O Paul Armstrong, Chair of Delgany Community Council, C/O "Dunroamin", The Nurseries, Delgany, County Wicklow.

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## 1.0 Introduction

BPS Planning Consultants Ltd, a firm of Irish Planning Institute accredited planning consultants, have been retained by Delgany Community Council C/O Paul Armstrong, Chair of Delgany Community Council, C/O "Dunroamin", The Nurseries, Delgany, County Wicklow to produce and to lodge a Third Party planning objection on its behalf in respect of Wicklow County Council [hereafter "WCC"] planning application, reg. ref. 22380.

The proposed development comprises of:

*The proposals provides for 42 no. residential units comprising - 20 no. 1-bed apartments, 20 no. 2 bed (4 person) apartments, Works to Stylebawn house to provide a 4 bed house, Works to the Gardeners Cottage to provide a 2 bed house. The proposed apartments are provided in a single 5 storey block comprising a basement level, lower and upper ground floors and first and second floors. 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 boundary works. Demolitions and site clearance are proposed to facilitate the development. All associated site development works including landscaping, internal roads, utilities, water infrastructure and construction phases works and development.*

This planning application was lodged with WCC on 08/04/2022. **The deadline for Third Party Observations is 12/05/2022.** This objection is lodged on or before this date.

Delgany Community Council (DCC) was formed more than 20 years ago and membership is open to all local residents and business owners. The council has an official constitution, and a new committee is elected at our annual AGM. DCC is an all-volunteer group of residents and businesses who work together to promote business, tourism and community life in Delgany. DCC has a history of participating in the planning process to achieve the best outcomes for Delgany village and its present and future residents. We are fortunate to have been able to draw on the donations of many local residents in order to fund this planning submission.

Our client wishes to confirm that DCC has not been consulted by the Applicant and have not agreed in advance of the lodgement of this planning application to any part of this development. Our client represents a group which is concerned about overdevelopment of the Applicant site relative to their properties and to the area, and therefore maintain several serious concerns in respect of this planning application. These are set out below.

For the convenience of WCC, BPS has set out a conclusion and recommendation in Sections 6.0 and 7.0.

### 1.1 Concurrent part 2 of this planning application (read "project splitting")

Our client notes how this planning objection should be reads as part 1 of their planning objection which pertains to the entirety of the Applicant scheme which also includes concurrent planning application, reg. ref. 22429, which has been split by the Applicant from planning application, reg. ref. 22380, to which this current Planning Objection Report refers.

The second part of the current planning application includes the following development on lands within the Applicant's blue line ownership boundary:

*The proposals provides for 99 no. residential units comprising: 8 no. 1 bed apartments, 3 no. 2 bed (3 person) apartments, 15 no. 2 bed (4 person) apartments, 14 no. 3 bed houses, 59 no. 4 bed houses. 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 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 Trout Stream, utilities, water infrastructure and construction phases works and development. The site includes a protected structure.*

As noted in Section 5.0 of this Planning Objection Report, significant concerns arise as to project splitting for the purposes of the proper planning, environmental, transportation and biodiversity assessment of this entire scheme.

## 1.2 Possible conflict of interest with Bryan Deegan of Altemar

WCC may disagree with this, but our client's members have raised concerns that Bryan Deegan of Altemar is the part author of Appendix C of the Greystones/Delgany Local Area Plan Local Biodiversity Area. Mr Deegan is now presented as the author of the Applicant's Construction Environmental Management Plan and is therefore, as one member put it, "gamekeeper turned poacher". Our client considers that there are many points in the Altemar report submitted with this planning application which do not align with Appendix C and as such they ask that an independent ecologist report be commissioned from an individual or firm which has not previously been involved with this site or with WCC's assessment of this area of Delgany.

## 1.3 Previous planning refusal on this site (refs. 04/227 & ABP PL 27.214898)

As WCC will be aware, planning permission was refused by An Bord Pleanála previously on this site under planning application and appeal refs. 04/227 & ABP PL 27.214898. The proposed development provided for:

*Construction of 11 number total single dwellinghouses consisting of one number single level house, six number two-storey houses and four number three-storey split level houses, new gated entrance to development of Blackberry Lane, new internal roadway within development, readjustment of junction at Blackberry Lane and R762 roadway, provision of pedestrian footpath from R762 roadway to gated entrance to development together with associated development works at Stilebawn, Delgany, County Wicklow.*

Our clients do not consider that matters pertaining to the previous refusal on these lands to have been fully addressed. The current application merely shifts roads and traffic concerns onto the Glen Road without addressing the detailed concerns raised by ABP previously.

**REFUSE permission for the above proposed development based on the reasons and considerations set out below.**

**PL 27.214898**

**An Bord Pleanála**

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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 traffic hazard and would be contrary to the proper planning and sustainable development of the area.

**Fig. 1A: Reason for the refusal of planning appeal, reg. refs. 04/227 & ABP PL 27.214898**

## 2.0 Rationale for this objection

Our client is Delgany Community Council whose understanding of context is different to that of the Applicant. The Applicant's argument is the same as every other developer who has sought planning permission in this area in recent years – more housing justifies all else and the higher the density the better.

Our client objects to this housing focused approach which seeks to ignore the existing social, community, public transport, and visual context. The planning application appears to ignore the Assessment of Community and Recreational Needs of Greystones Municipal District 2021 which was commissioned by Wicklow County Council which raises serious concerns over the lack of community facilities in the area despite the sudden upsurge in housing planning permissions. Page 32 of this assessment states: " Delgany is considerably deprived of facilities with less than 3%, despite having 20% of the population". DCC is concerned over how:

Delgany has experienced rapid growth in the last 2 years without an accompanying provision of community facilities and transport links. Delgany has been treated as part of the greater Greystones/Delgany/Kilcoole area even though all three places have distinct separate identities.

The village has expanded to a far greater extent than Greystones without the required additional facilities and services.

The level of housing in the Greystones/Delgany area now exceeds its ability to cope and of the provision of better public transport, additional local employment as well as additional community services all need to be prioritized ahead of further housing.

Significant additional investment is needed to provide adequate public transport as well as employment and recreational opportunities for those who live locally. Delgany requires better infrastructure before any further planning permission is granted.

The visual appearance of Delgany which is an Architectural Conservation Area needs to be protected and this includes protecting the approaches to the village. The addition of large sightlines to serve the Applicant site along Gen Road cannot be justified.

Delgany Community Council maintains a range of concerns over this scheme which are set out in Appendix x of this report.

Delgany Community Council considers that three items are missing from the Applicant's planning application (which is part 1 of a larger scheme set out in a second planning application split from the first - reg. ref. 22429):

**No cumulative assessment is offered as to whether this scheme is currently required in Delgany.** The area has been the subject of multiple large planning permissions in recent years. There is a need for a justification for this scheme to be submitted in light of the sudden growth in Delgany. The proposed density and provision of apartments on this site may be inconsistent with regional and local planning policy based on RSES housing targets for Greystones-Delgany. The LAP targets are now out of date and concerns arise that the carrying capacity of Delgany will be exceeded in the short term.

**No community and social audit has been provided.** The Applicant has failed to provide a community and social audit with this scheme which sets out that there are sufficient creche and school places available in this area to serve residents of this scheme and whether wider social and community infrastructure can cope with any further residential growth at this time. Such audit assessments are recommended under the Sustainable Residential Density Guidelines (2009).

**No public transport capacity assessment has been provided.** As WCC is aware a recent SHD was quashed partly on the grounds that the Applicant had failed to demonstrate that there was adequate public transport capacity available to serve the scheme. In this case, Dublin Bus serves Glen Road but these buses are full to capacity at peak times. The Applicant has offered no assessment of whether any resident of this scheme could in fact access public transport at peak times. It is no longer sufficient to just list bus routes and provide timetables. Villages such as Delgany are being overwhelmed by demand for places on buses at peak times and there is no sign of any improved public transport being offered.

**No Landscape and Visual Impact Assessment has been provided.** Delgany Community Council is very protective of Delgany Village and the approaches to the village. They are understandably proud at how it is an Architectural Conservation Area). While this site is outside of that area of designation it will have a visual impact on the village. The Stylebawn site is a key site in the village because it is a protected structure. The likely visual impact has not been addressed.

**No ecologist report has been submitted only a CEMP.** The Altemar CEMP makes statements which require careful review. The focus is on facilitating a development which they assume will obtain planning permission. Project impacts are assessed as inevitable. An ecologist report undertaken by another independent firm is needed against which to balance this CEMP's project facilitating approach. There are too many issues with this report to list in this objection report.

**For these reasons and those set out in Section 5.0 of this report, our client considers that this scheme should be refused.**

### 3.0 Site location and description

The site is located within a sensitive site located to the south west of Delgany village, Co. The lands are accessible via the Glen Road (R762) which is located to the north of the site. Blackberry Lane bounds the site to the east. The subject site contains Stylebawn House, a protected structure, Clara House and Gardners Cottage.

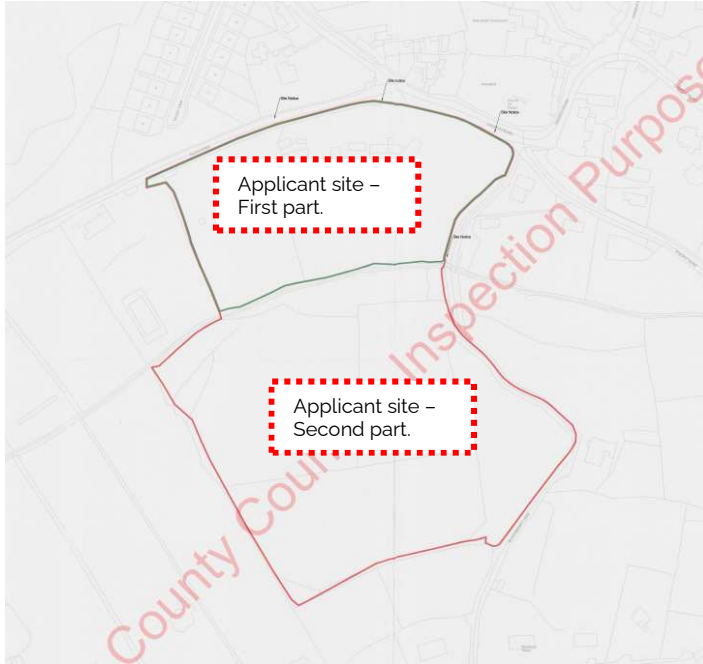
A feature of the lands is the mature gardens of Style Bawn House and the established trees and hedgerows, which form the boundaries to the site.



The topography comprises a steeply undulating site, which steeply drops from towards the centre and rises again to the south.

The Applicant reports refer to the site as being in a "neglected" state. This is not apparent from the Glen Road where views toward the site comprise of mature trees and a sylvan forested type environment.

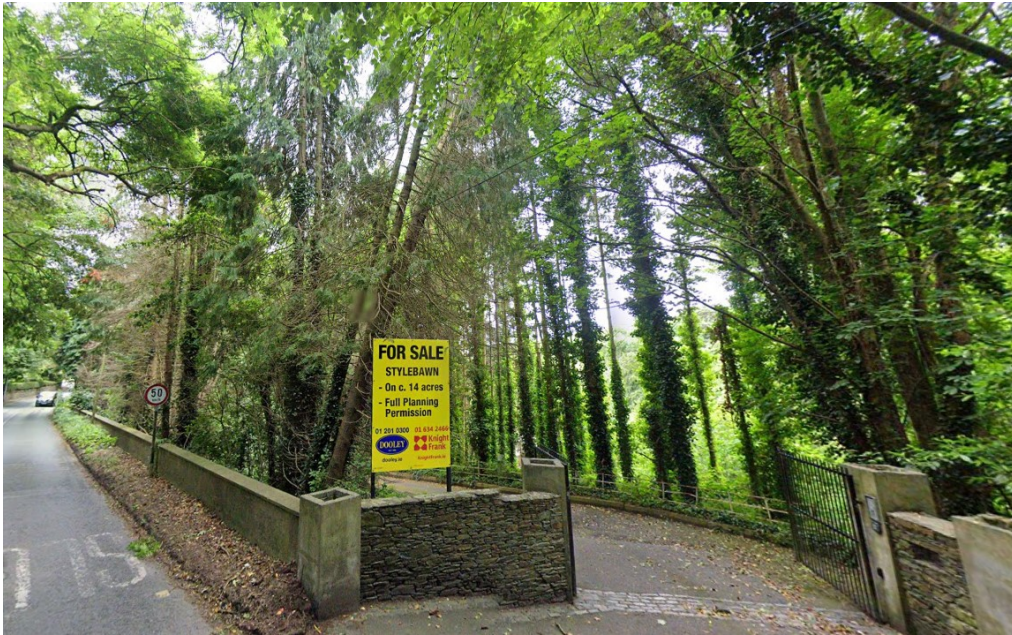
The site has an existing access from the Glen Road. Works to the entrance to try to achieve safe sightlines have clearly proven difficult. There are mature existing trees along this section of road which need to be protected.



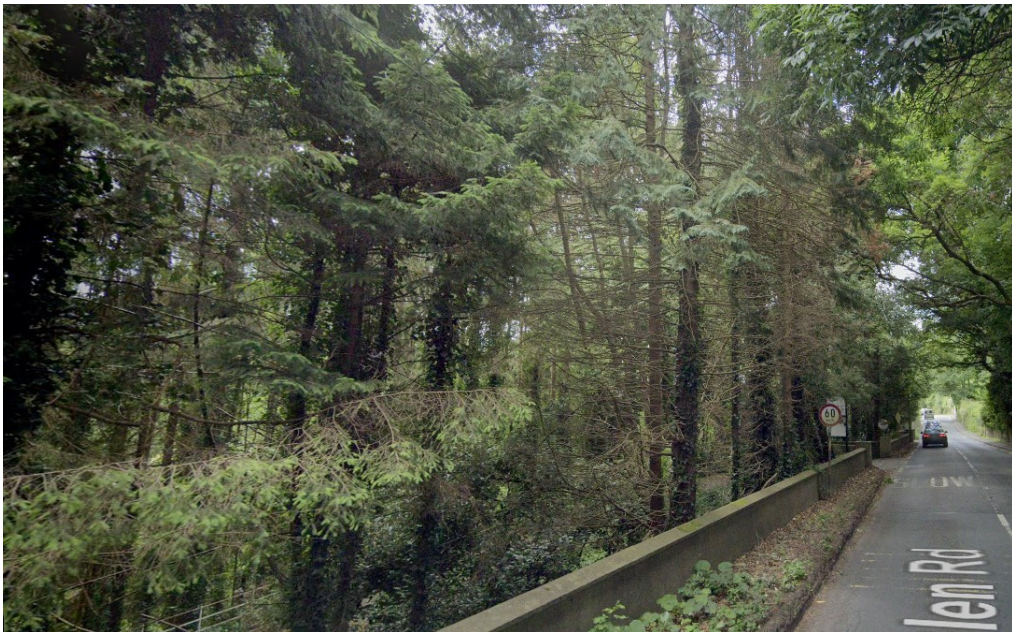
**Fig. 1B: Applicant site – submitted Site Location Plan (showing both sites)**



**Fig. 2: Applicant site – existing aerial photograph (Google Earth)**



**Fig. 3: View east along the road frontage to the north of the site – existing trees shown**



**Fig. 4: View west along the road frontage to the north of the site – existing trees shown**

#### 4.0 Proposed development

The Applicant has split a single planning application into two different planning applications 1A and 1B with the current planning application being for 1A. The current planning application sets out a range of development which causes concerns for our client including:

The introduction of a 42 apartment scheme into a site where such development may be considered overdevelopment of the site.

Clara House is proposed to be demolished to facilitate the proposed development which cannot be supported on the grounds of sustainable development and the need to retain the existing built fabric of this area.

The existing site entrance offers no safe sightlines onto the Glen Road. The Applicant proposals to achieve "safe" sightlines would involve the felling of multiple mature trees which currently benefit the streetscape and contribute to the sylvan character of the area. Their removal cannot be supported.



Proposed site clearance works would involve even further loss of mature trees from this site and the extent of tree loss cannot be supported. The site is somewhat overgrown but in becoming overgrown, a sylvan environment has emerged which is clear from the Glen Road. This needs to be protected.

## 5.0 Grounds for objection

### 5.1 Issue 1: Planning application splitting is poor planning and contrary to planning law

Our clients object to how the Applicant has divided what is one site into two different planning applications 1A and 1B with the current planning application being for 1A and the other is WCC reg. ref. 22429 (see Section 1.1 of this Planning Objection Report).

This project splitting and/or planning application splitting approach is not acceptable. Such an approach is most regularly taken when an application is seeking to avoid obligations under a European environment directive.

These two projects are one and the same. WCC will be aware that in a judgment issued in the O’Grianna & Ors v An Bord Pleanála judicial review proceedings on 12 December 2014 the High Court quashed the decision of An Bord Pleanála to grant a planning permission for a 6 turbine wind farm in County Cork finding that the Board failed to ensure the grid connection for the project had been considered as part of the EIA process. The Court held that the grid connection could not be separated from the balance of the project, notwithstanding that its design and specification would be controlled by the system operators, and therefore the cumulative effect of both the wind farm itself and its grid connection must be assessed in order to comply with the EIA Directive.

The Applicant Planning Report refers to the projects as being “complementary” when in fact they are the same project. Para. 2.12 of the submitted Planning Report states: “each [planning application] contains common infrastructure as appropriate”. In other words, they are dependent on one another as a wind turbine is to its grid connection.

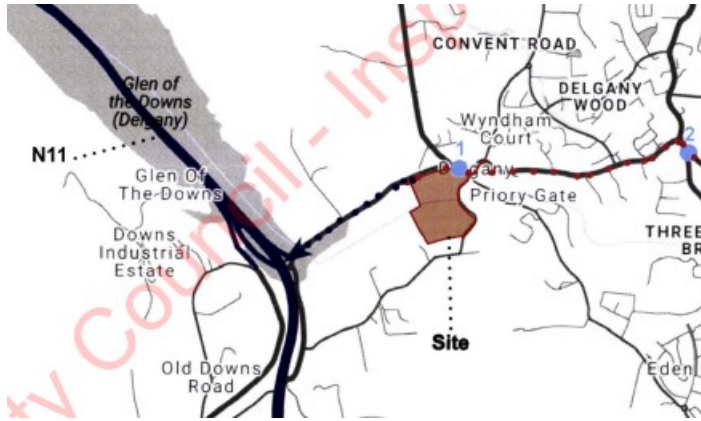
The submitted Design Statement confirms that the Applicant is in fact applying for 99 units and has merely split the application into two parts. Phases 1 and 2 should have been included as one application and not two. Clearly a decision was made at a late stage to split the applications to address LAP restrictions, etc:

*Project Description ... **The applicant is applying to Wicklow County Council for permission for a residential development of 99 units in a mix of apartments and houses along with all associated and ancillary development and infrastructural works, hard and soft landscaping, open spaces, boundary treatment works, ancillary car and bicycle parking spaces at surface and under-croft levels. The private houses are 1 to 2 storeys with the proposed apartment Blocks at 4 storeys [emphasis added].***

These two planning applications should be re-submitted as a single planning application.



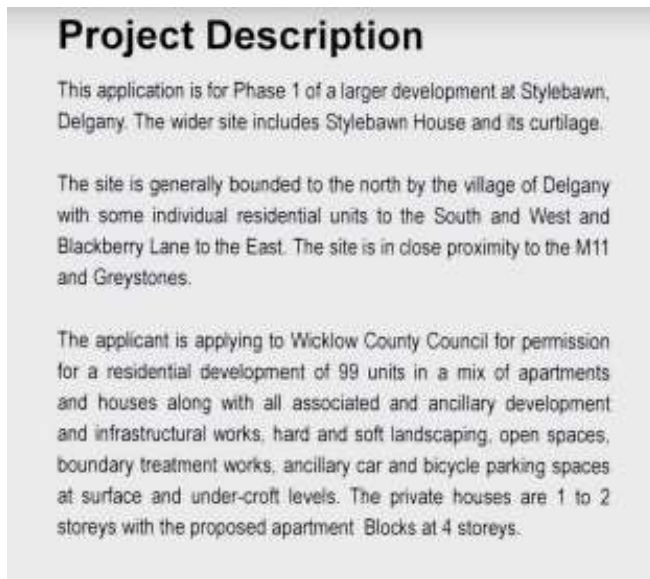
**Fig. 5: Cover of the Design Statement includes the two schemes as one site**



**Fig. 6: Content of the Design Statement includes the two schemes as one site**



**Fig. 7: Content of the Design Statement includes the two schemes as one site**



**Fig. 8: The Design Statement refers to a scheme of 99 units**

### 5.1.1 Project spitting has density compliance implications

The Applicant site – 1A (this current application – is limited to very low density development under the Local Area Plan. Even under statutory guidelines it is allowed a maximum of 15 to 20 uph. The splitting of these two planning applications will have the effect of massaging the density figures more than they already are by the inclusion of Stylebawn House within the density figures for this current scheme.

Para. 4.33 of the Applicant Planning Report states:

***As previously noted, a separate application is to be submitted for the southern portion of the lands. The density of the two applications combined is c. 35 units per hectare*** [emphasis added].

It is somewhat difficult to imagine a more deliberate attempt at project splitting to try to align with statutory guidance on the appropriate residential density allowable on the current application site which is a maximum of 15 to 20 uph.

### 5.1.2 Project splitting means one scheme depends on the amenities, etc of the other

BPS cannot understand how this proposal has been made in two planning applications as if one is refused it cause the other to be heavily impacted in terms of scheme facilities linkages, open spaces, etc.

Most of the claims made in the Design Statement pertaining to compliance with the Urban Design Manual (2009) depend on the entirety of the scheme obtaining planning permission which is not guaranteed.

WCC is asked to assess the entire scheme in each individual assessment as though the other will be granted. This approach is unfair to WCC's Planning Department.

### 5.1.3 Project splitting means no creche is provided in this dense apartment scheme

The Applicant argues that they should not provide a creche because the Guidelines for Planning Authorities on Childcare Facilities (2001) require the provision of a minimum of one childcare facility with 20 places for each 75 dwellings and therefore the proposed development does not provide for a childcare facility as it does not exceed 75 units.

This only arises because the Applicant has split the scheme into two parts. The overall scheme clearly requires at least one creche and may require more.

### 5.1.4 "Cumulative" impacts of two applications on the Three Trouts Stream

Our client objects to how both planning applications will need to assess their likely impacts on the Three Trouts Stream, but they will not be assessed in one single planning application. How then are cumulative project impacts (from two planning applications) on the stream to be properly assessed?

The decision to split the planning application when the site is so sensitively located relative to the stream is difficult to understand.

### 5.1.5 Two Construction Management Plans will need to avoid impacts on the environment

This sloping site will – whether the Applicant likes it or not – deliver surface water run-off down to the stream. This is just one of the two planning applications for this scheme which will cause surface water run-off to reach the stream

The Applicant has provided a Construction Environmental management Plan which our client has carefully read. This sets out a range of claims as to how the scheme's construction phase will achieve this and that and avoid impacting on the stream. However, it is just one of two Construction Environmental management Plans which will need to be coordinated across this entire development scheme – to be submitted as two planning applications – and as such coordination and cumulative impact concerns arise.

The Altomar and Cronin Sutton Consulting Engineers' reports set out considerable works and so will the other planning application. The necessary safeguards that would be required cannot be guaranteed when a future contractor may be trying to manage two separate planning permissions and their conditions which may be different in each case.

## 5.2 Issue 2: Scheme's density is not acceptable under national & local planning policy

### 5.2.1 In density terms, the apartment scheme should be separated out from the wider site

BPS has reviewed the Applicant scheme and we note how Stylebawn house is, in effect, a separate single house renovation scheme within the overall site. Assessment of the proposed density of the apartment scheme part of the development cannot reasonably be allowed to be diluted by the inclusion of Stylebawn House.

The gross density for the 42 residential units, within the development area subject of this application (green line on Applicant layout plan - 2.0204 ha) is c. 20.8 units per hectare with the inclusion of Stylebawn House.

The gross density for the 40 apartments, within the development area excluding the Stylebawn site (excluding Stylebawn House and gardens - 0.7664 ha) is **c. 52 units per hectare**. This is excessive and unacceptable when considered in this way.

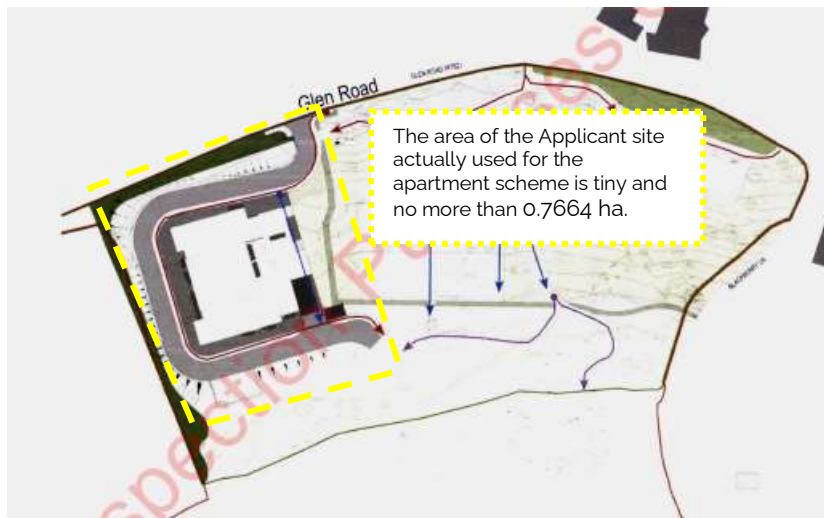
The Applicant approach to density is the equivalent of an infill apartment developer buying the house next door only in order to claim to be able to reach the allowable density on the adjoining site with this extra house added.

It is only in this massaged that the Applicant Planning Report can claim in para. 4.32

*4.32 Delgany is classified as a small town/village and the site is located at the edge of the village. The density proposed therefore at 20.8 units overall represents a scheme compliant with the Section 28 Guidelines. Having regard to the protected structure, a sensitively designed scheme at the lower end of the range is proposed*

**BPS considers that this figure of 52 uph is the appropriate one for the assessment of density as it pertains to the area of the site where new residential development is proposed. Stylebawn House forms no part of the area of the site within which the apartment scheme is proposed. It is little more than a prop to the actual scheme and a prop used to dilute the actual scheme density. This density is wholly at odds with the LAP and with national planning policy and guidance.**





**Fig. 9: The area of the site occupied by the apartment scheme is 0.7664 ha. in size**

### 5.2.2 The apartment scheme's plot ratio for its area of the site (0.7664ha.) is 1.445

The Applicant's proposed plot ratio for the area of the site proposed to contain just the apartment scheme is 1.445. This is based on the area of the site given over to the apartments provided in the Applicant Planning Report which is 0.7664ha. divided by the 5303sq.m of gross floor area proposed.

This is an extraordinary plot ratio density for an edge of village site. This is the type of plot ratio one would expect for a site located adjoining a Dart Station.

### 5.2.3 The scheme's density materially contravenes the Local Area Plan's zoning

The statutory plan for this area is the Greystones -Delgany and Kilcoole LAP 2013-2019. The subject lands have 2 no. zoning objectives under the Greystones -Delgany and Kilcoole LAP 2013-2019 (as extended) as follows:

**R2.5: Residential** 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.

**OS: Open Space** To preserve, provide for and improve public and private open space for recreational amenity and passive open space.

The LAP criteria specifies a density of 2.5 units per hectare for the subject lands within the residential zoning objective. The gross density for the 42 residential units, within the development area subject of this application excluding the Stylebawn site (excluding Stylebawn House and gardens - 0.7664 ha) is **c. 52 units per hectare**.

**The proposed development therefore represents a material contravention of the zoning objective pertaining to this site. Our client objects to this and submits that this planning application cannot be granted in these circumstances. Para. 4.30 of the Applicant Planning Report states: "The proposal therefore exceeds the 2.5 units per hectares specified in the LAP". Our client objects to the Applicant setting out a scheme which knowingly and deliberately ignores the adopted Local Area Plan in place for this area.**

**In considering the proposed density, one must bear in mind the extent to which WCC carefully zoned lands within the LAP area. There are no less than 8 no. residential categories of zoning set out in Table 11.1 'Zoning Matrix' of the LAP. These provide for densities ranging from 22 uph to 2.5 uph. The Applicant site is zoned R2.5 which is for the lowest possible density. This confirms that the Applicant scheme, which leapfrogs lands zoned for higher densities, is unsuitable for a high density apartment scheme.**

Section 4.34 of the Applicant Planning Report argues:

*It is respectfully submitted that the proposal is not a material contravention of the zoning objective, as zoning objectives relate to the use of the lands, rather than the specification of density. A scheme of 2.5 units per hectare would be considered an underutilisation of the lands which would not be consistent with the Section 28 Guidelines. The development proposal has been carefully designed by a multi disciplinary design team to achieve an appropriate density whilst respecting the site constraints and surrounding character of the area*

BPS does not accept this argument. The LAP is very specific as to the allowable density for this site which is 2.5 uph and this makes clear how this zoning is needed is to preserve and protect residential amenity. The Applicant proposals are up to 49.5 uph higher than this as they pertain to the area of the site which is actually being developed (excluding Stylebawn House). The proposals represent not only a material contravention but a significant material contravention.

The Applicant refers to Section 28 Guidelines and this issue is addressed below. Even if one applies the Section 28 guidelines to the letter as clarified by Circular Letter: NRUP 02/2021, the scheme remains a material contravention of the LAP 'and' it is not compliant with the various statutory guidance.

Add to this that the Applicant has:

- Added Stylebawn House in a manner which serves only to dilute the actual density of the apartment scheme which is actually 52 uph when this property is removed; and
- Project split the overall site such as to avoid an average density across the entirety of the two schemes of 35 uph,

it is necessary for our client to conclude that this planning application has been gerrymandered or whatever the correct term is only to try to be able to claim that an apartment scheme which is at odds with the site constraints and surrounding character of the area at this location can somehow be found to be acceptable quantitatively at least. This is not the case.

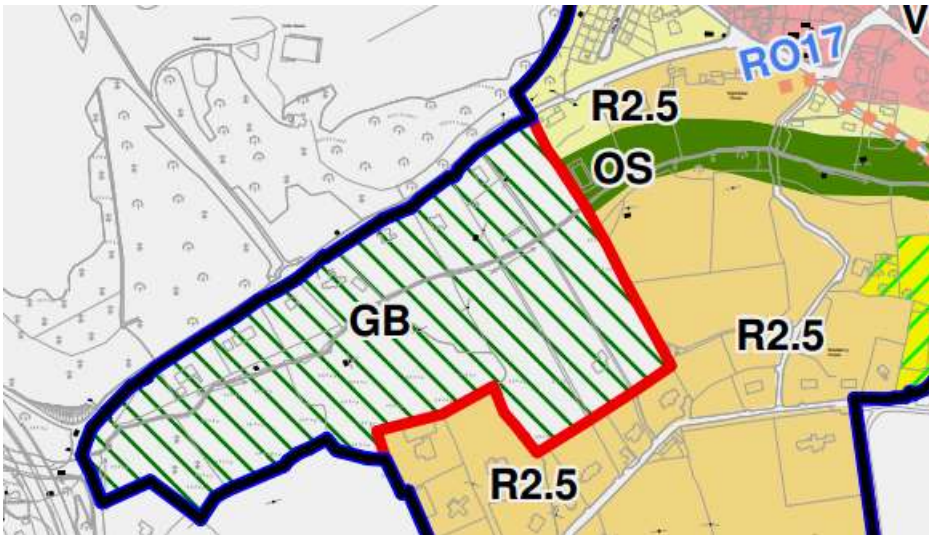


Fig. 10: Zonings of Applicant site under the Greystones -Delgany and Kilcoole LAP 2013-2019

**Table 11.1: Zoning Matrix**

<b>RE: Existing Residential</b>	To protect, provide for and improve residential amenities of adjoining properties and areas while allowing for infill residential development that reflects the established character of the area in which it is located.
<b>R22: Residential</b>	To provide for the development of sustainable residential communities up to a maximum density of 22 units per hectare and to preserve and protect residential amenity.
<b>R17: Residential</b>	To provide for the development of sustainable residential communities up to a maximum density of 17 units per hectare and to preserve and protect residential amenity.
<b>R15: Residential</b>	To provide for the development of sustainable residential communities up to a maximum density of 15 units per hectare and to preserve and protect residential amenity.
<b>R10: Residential</b>	To provide for the development of sustainable residential communities up to a maximum density of 10 units per hectare and to preserve and protect residential amenity.
<b>R5: Residential</b>	To provide for the development of sustainable residential communities up to a maximum density of 5 units per hectare and to preserve and protect residential amenity.
<b>R2.5: Residential</b>	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.
<b>Special R: Special Residential (A, B and C)</b>	To provide for the development of a limited amount of residential development on lands where there are exceptions to the standard residential objectives of the plan. The amount of units permitted on Special Residential Zones shall be in accordance with the objectives set out in 'Section 3: Population and Housing' of this plan.

Fig. 11: Excerpt from Table 11.1 'Zoning Matrix' of the LAP

#### 5.2.4 The proposed density contravenes Policy RES5 of the LAP

The proposed density set out for this site is contrary to Objective Density RES5 of the Greystones - Delgany and Kilcoole LAP 2013- 2019 which states;

*On undeveloped residentially zoned land, it is an objective of the Council to provide for the development of **sustainable residential communities up to a maximum density, as prescribed by the land use zoning objectives indicated on Map A and described in 'Table 11.1: Zoning Matrix'.** In existing residential areas, infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties ... Within existing residential areas, regard shall be paid at all times to the overriding objective of the Council to protect the residential amenity of these areas and to only allow infill residential development where this reflects the character of the existing residential area [emphasis added].*

Our client submits that the proposed development would materially contravene Policy RES5 as it fails to offer a density compatible with a sustainable community at this location as set out in the land use zoning objectives indicated on Map A and described in 'Table 11.1: Zoning Matrix' of the LAP. The proposed density as articulated through an apartment scheme does not respect the established character of the area in which it is located and fails to protect the residential amenities of the area.

#### 5.2.5 Circular Letter: NRUP 02/2021 allows only lower densities on sites beside villages

The Applicant Planning Report makes the – now standard – case for higher density to be permitted on this site arising from the National Planning Framework and various statutory guidelines issued in 2018, etc.<sup>1</sup>

Given the number of similar planning applications being lodged across Ireland for apartment schemes (high density residential schemes) on the edge of villages where such developments had not been anticipated under existing Local Area Plans or where no such plan existed, the Department of Housing, Local Government and Heritage was forced on the 21st of April 2021 to issue Circular Letter: NRUP 02/2021 'Residential Densities in Towns and Villages, as set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)' whose purpose was to clarify whether such schemes – often representing an abrupt departure from the established pattern of development alongside villages – was supported by planning policy and guidance at such locations. The Circular states:

*The NPF also acknowledges that there is a need for more proportionate and tailored approaches to residential development. **This means that it is necessary to adapt the scale, design and layout of housing in towns and villages, to ensure that suburban or high density urban approaches are not applied uniformly and that development responds appropriately to the character, scale and setting of the town or village.***

*As such, it is highlighted that **in certain locations, particularly at the edges of towns in a rural context, more compact forms of development may include residential densities at a lower level than would be considered appropriate in a city or large town context.***

*As set out below, current statutory guidance is already sufficiently flexible to facilitate greater variation in residential density at such locations. Accordingly, **this Circular clarifies the application of the Sustainable Residential Development Guidelines to ensure that when carrying out their planning functions, An Bord Pleanála and Planning Authorities apply a graduated and responsive, tailored approach to the assessment of residential densities in Peripheral and/or Less Accessible Urban Locations, as defined in the Apartment Guidelines and as they apply to towns of all sizes, to ensure that such places are developed in a sustainable and proportionate manner.***

*... planning policy and guidance are intended to **facilitate proportionate and tailored approaches to residential development, including the flexible application of residential density considerations further to current statutory ministerial planning guideline** [emphasis added].*

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<sup>1</sup> As WCC is aware, statutory 'Section 28' guidelines for planning authorities on Sustainable Residential Development in Urban Areas (the 'Sustainable Residential Development Guidelines'), were issued in 2009, with a companion Urban Design Manual also published as a best practice document. Further, related and overlapping guidelines were issued subsequent to the Sustainable Residential Development Guidelines in the form of updates to the Sustainable Urban Housing: Design Standards for New Apartments (the 'Apartment Guidelines') most recently in 2020, and the Urban Development and Building Heights Guidelines for Planning Authorities (the 'Building Height Guidelines'), in 2018.

The Circular notes how the "Building Height Guidelines Specific Planning Policy Requirement (SPPR) 4 of the Building Height Guidelines cross-references the application of residential density" and "Accordingly, 'minimum' densities should not be equated with 35 dwellings per hectare in all contexts, and may be lower than that figure" even on sites adjoining towns and cities. Delgany is not a town or a city and as such any density must be in the 15 to 20 uph range.

The Circular is very specific as to the maximum allowable density on a site such as the Applicant site which is located alongside a village. Section 6.0 of the Sustainable Residential Development Guidelines defines villages as those "with a population ranging from 400 to 5,000 persons". Section 6.11 of the Guidance provides a more clearly graduated approach to the application of densities within such locations, namely:

*Edge of small town/village: 15 - 20 dwellings per hectare. Provided such lower density development does not represent more than about 20% of the total new planned housing stock for the particular town/village*

Section 6.0 of the Sustainable Residential Development Guidelines note:

*... the difficulty in applying prescriptive density standards in locations that display a variety of contexts and land uses, such as those that can be found in towns and villages that have evolved organically over hundreds of years. The guidance cautions against large scale, rapid development that may overwhelm and detract from the quintessential character of towns and villages that have developed slowly and organically over time (refer to Section 6.3). There is already clear scope for greater variation in density in smaller towns, but this should not lead to provision for disproportionate development in such places through excessive zoning.*

**The Applicant scheme is located on the edge of a small town/village where 15 - 20 dwellings per hectare maximum is acceptable. The proposed density of the area of the Applicant scheme which is to be developed into apartments is 52uph. The proposal is 32 to 37 uph too dense for this site.**

**This area of Delgany is one which has developed organically over 100s of years. Indeed, Delgany Village is an ACA (Architectural Conservation Area). While this site is outside of that area of designation it will have an enormous impact on the village. The Stylebawn site is a key site in the village because it is a protected structure.**

**The guidelines caution against rapid developments such as this apartment scheme. The apartment scheme represents disproportionate development not supported by statutory guidelines as clarified by Circular Letter: NRUP 02/2021**

**The Applicant apartment scheme is not a proportionate and tailored approaches to residential development on the developable area of the site.**

## 5.2.6 Delgany's recent residential growth & existing permissions offer context

Our client Delgany Community Council has tried for some years to ensure that new developments in, around and alongside the village respect the existing context and statutory planning policies such as those in the LAP. They are fully informed of the NPF and the statutory guidelines.

The group has cast a cynical eye over this scheme and found it to be inappropriate on density grounds. Time and again they have commented on planning applications whose central argument comes down to the argument that the need to provide housing should trump all other planning considerations.

The group no longer accepts this. Delgany has experienced rapid growth in the last 2 years without an accompanying provision of community facilities and transport links. Delgany has been treated as part of the greater Greystones/Delgany/Kilcoole area even though all three places have distinct separate identities. There are now multiple large planning permissions granted and/or under construction in Delgany which will meet existing housing needs in this area.

There is no need for an overdeveloped apartment scheme to be sited within the Applicant site. The standard justification of more housing is exhausted in Delgany.

The village has expanded to a far greater extent than Greystones without the required additional facilities and services. The level of housing in the Greystones/Delgany area now exceeds its ability to cope and of the provision of better public transport, additional local employment as well as additional community services all need to be prioritized ahead of further housing.

The planning application appears to ignore the Assessment of Community and Recreational Needs of Greystones Municipal District 2021 which was commissioned by Wicklow County Council which raises



serious concerns over the lack of community facilities in the area despite the sudden upsurge in housing planning permissions.

Significant additional investment is needed to provide adequate public transport as well as employment and recreational opportunities for those who live locally. Delgany requires better infrastructure before any further planning permission is granted

### 5.2.7 The position of Delgany Community Council is that the density should be 2.5uph

DCC has assessed the proposed scheme from all angles, and they note that in deciding whether to zone these lands at all WCC did likewise. The lands are sensitive, they contain a stream; wildlife; trees, shrub, and hedgerows; they contain wildlife, etc. These lands are also difficult to access by vehicle and hard to service by way of foul drainage.

The LAPs zoning reflects all these factors. The LAP zoning also reflects the Sustainable Residential Density Guidelines (2009) which are used by the Applicant to argue for a higher density on this site. The LA zoning of 2.5uph was considered in setting out what the predicted population for Delgany would be in 2031. The Applicant proposals ask that Delgany take a greater than planned proportion of housing growth in this area. Indeed, given recent permissions, questions arise as to whether Delgany needs any more housing at all.

DCC considers that when all these points are taken into account and despite all planning legislation, regulations and guidelines issued since 2015, this site remains suitable for 2.5uph only. Any more would be beyond the carrying capacity of the site.

That the site is close to Delgany Village does not alter the fact that it is semi-rural and extremely vulnerable to change.

The site is zoned R2.5: "to provide for the development of **sustainable residential communities up to a maximum density of 2.5 units per hectare.**" In 4.29 of the Planning Report the applicant states that density for the 40 apartments is 52 units per hectare; this is the correct calculation of the proposed density as the extents of the existing Stylebawn House to be renovated should be excluded from the density calculation for the new development. This proposed density is 21 times the maximum density and is therefore a clear **Material Contravention of the LAP.**

**In summary, in determining the LAP density of 2.5 per hectare WCC took an informed view of the appropriate scale of development taking account the 2009 guidelines, the edge of village site, the topography and environmental aspect of the site and the housing needs of Greystones-Delgany.**

The applicant claims that the proposal complies national and regional policy but we set out below how it in fact is directly contrary to the NPF and RSES. There is already a surplus of housing units and zoned land in Greystones-Delgany relative to the 2031 housing targets determined in accordance with the NPR and RSES.

- The target housing unit growth for Greystones-Delgany for 2021 to 2031 is 1,078 units;
- Based on the number of housing units under construction and permitted in Greystones-Delgany there is already a surplus of 660 units over the 2031 target (61% of the target); and
- The development capacity of further existing zoned lands, calculated in accordance with LAP densities, provides another 2,900 units; (1,700 in built up area; 1,200 outside built up area).

It is abundantly clear that there is a surplus of land identified for residential development in the LAP and as such there is no justification for the need to increase the zoning density on the basis of housing need. **To increase the density of this site beyond that in the LAP would contravene the requirements of the NPF and RSES and constitute unsustainable planning.** Furthermore, in light of the significant surplus of zoned land, together with the steep sided wooded nature of the site, **there is a compelling argument for the zoning to be discontinued.**

**DCC asks that this planning application be refused such that a revised development proposal which respects the existing LAP zoning of the site which provides for 2.5uph may be applied.**

### 5.3 Issue 3: The principle of an apartment scheme at this location is not accepted

Our client does not consider this site suitable for the provision of apartments. The steep site and location alongside the Glen Road does not lend itself to an apartment scheme. The proposed apartment scheme is sited too close to The Glen Road. This is not a suitable and/or acceptable location for apartments under the LAP.

#### 5.3.1 The proposed apartment scheme is contrary to Policy RES5 of the LAP

The proposal to provide apartments on this site is contrary to Objective Density RES5 of the Greystones -Delgany and Kilcoole LAP 2013- 2019 which states;

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

***Apartments will not normally be permitted on sites surrounded by predominantly single family occupied housing estate developments*** [emphasis added].

For some reason, the above sentences are excluded from Section 5.7 of the Applicant Planning Report.

Our client submits that the Applicant proposal for an apartment scheme at this location further materially contravenes and/or is contrary to the objectives pertaining to Policy Res5 of the LAP. The site is not sited in Delgany Village Centre and is surrounded by family homes including those incorporated into the scheme.

### 5.3.2 The character and pattern of development requires houses not apartments

The lands are, subject to the proper treatment of existing trees, a natural extension of Delgany Village. They are located to the edge of the village. Village is the correct term. This is a low height village with an established character of terraced, detached, and semi-detached houses. An apartment scheme is contrary to the established character and pattern of development of the village and of this area.

### 5.3.3 Permission, reg. refs. 07/1150 & 13/8178, was suitable as it was detached houses

While planning permission, reg. refs. 07/1150 & 13/8178, did not provide for a perfect scheme and raised a range of roads and environmental issues, the lower density scheme of houses and not apartments was more appropriate for this site. This approach allowed the proposed detached houses to be hidden in amongst existing trees and new landscaping in a manner that reflected the existing character and pattern of development along the Glen Road and in this section of Delgany. An apartment scheme is not in keeping with the existing and established pattern and character of development at this location.

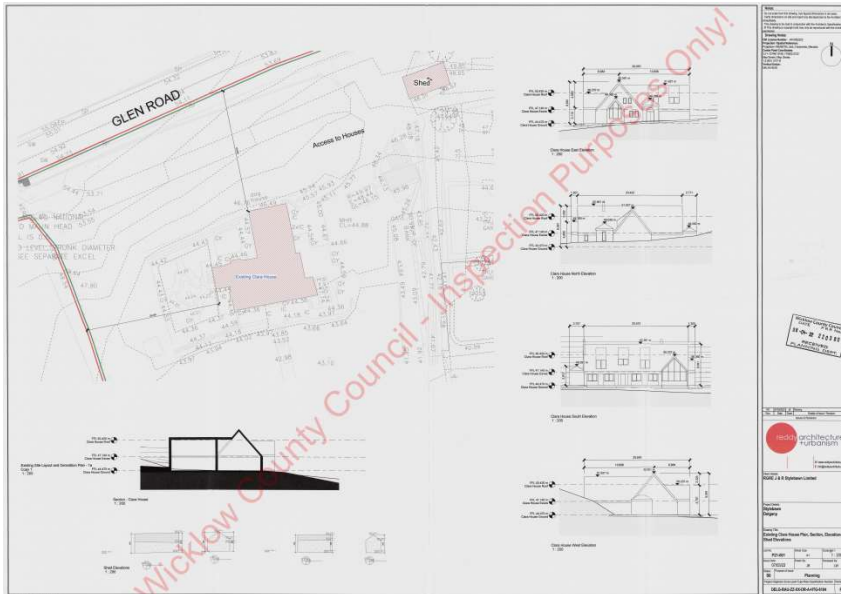
### 5.3.4 The demolition of Clara House is not accepted – it should be retained

Clara House is proposed to be demolished to facilitate the proposed development. This cannot be supported on the grounds of sustainable development and the need to retain the existing built fabric of this area.

Clara House represents an appropriate scaled development relative to the sloping nature of the site and the limited carrying capacity of what is a tree-filled site which is relatively inaccessible.

Our client asks that if a scheme is to be permitted at this location, then it should be appropriate in terms of its contribution to the sustainability of the growing community at Delgany. The following concerns suggest that this scheme will not offer this.

Clara House should not be replaced by an apartment block.



**Fig. 12: Clara House sited within the steep section of the site**

**5.4 Issue 4: The quality of the proposed scheme requires review**

Our client asks that if a scheme is to be permitted at this location, then it should be appropriate in terms of its contribution to the sustainability of the growing community at Delgany. The following concerns suggest that this scheme will not offer this.

**5.4.1 The mix of apartment units is poor & contrary to sustaining a community in Delgany**

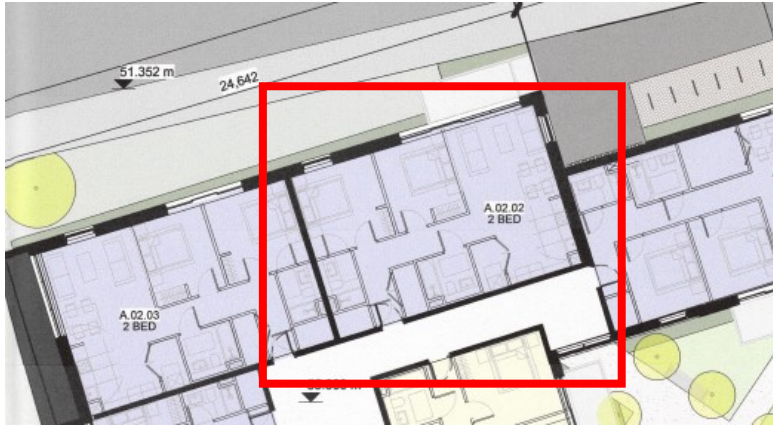
The proposed apartments comprise 50% 1 bed (20 no.) and 50% 2 bed (20 no.). These are small units in an area that needs family sized units. Our client considers that this is not an appropriate location for such small units as it will lead to transitory individuals and households living in the area who are not invested in the community.

**5.4.2 The Applicant claims no primarily north facing single aspect units - incorrect**

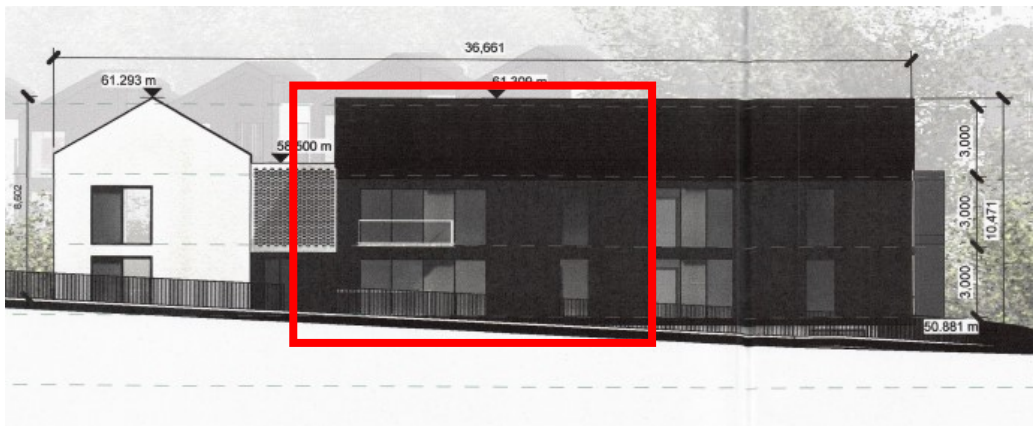
BPS has briefly reviewed the floor plans and we are concerned to find primarily north facing single aspect units when the Applicant reports argue that there are none. The units shown in Fig x are two bed units which would offer poor amenity possibly to families with children.



**Fig. 13A: Examples of single aspect primarily north facing units – A.02.01 & A.02.02**



**Fig. 13B: Examples of single aspect primarily north facing units – A.02.01 & A.02.02**



**Fig. 14: Examples of single aspect primarily north facing units – A.02.01 & A.02.02**

### 5.4.3 The BRE Guidelines are repeatedly failed

WCC will acknowledge that the BRE Guidelines set out a minimum standard for daylight and sunlight. These standards are repeatedly failed by multiple units and many only come close to passing.

The assessor tries to avoid the issue of the primarily north facing units and the other single aspect units which offer future residents poor sunlight and daylight by referring to how the standards are met for "those with a southerly aspect". That is, other units do not meet the standard and are excluded from the conclusions.

The assessor tries to be positive while setting out how unit after unit and room after room fail with only those with a southerly aspect in many instances achieving the standard.

The assessor accepts that the lower levels are the problem and the primarily north facing units. These areas are unacceptable and arise from excessive density and small units within a development type unsuited to this location.

BPS recommends that this scheme be re-designed and re-assessed as Dr Littlefair would have serious concerns over this scheme and to its assessment were it to go to Judicial Review.

Let us be clear:

Primarily north facing windows cannot pass the BRE Guidelines. DOR Littlefair has stated this at multiple Judicial Review cases.

All areas must be assessed and not only those with a southerly aspect.

Where failures occur – these are failures of minimum standards. Schemes should not proceed when minimum standards are failed for any area of the scheme. 2% of rooms fail the recommended levels of ADF, 4% fails the recommended levels of NSL, 7% of all living areas (and only those with a southerly aspect are mentioned) fail the recommended levels of APSH and WPSH, etc. These are unacceptably poor results and cannot be explained away.

It is unclear how the assessor reached the conclusion that the daylight and sunlight performance of the scheme is "excellent" when multiple units are wholly compromised insofar as sunlight is concerned. The assessor might comment on the primarily north facing single aspect units and those at Lower



Ground Level as to whether they are also "excellent" in terms of their lack of access to sunlight (permanently).

A qualitative review of this scheme confirms the living environment for many residents would be intolerable insofar as access to sunlight matters. They would be using electric lights all year around.

By way of conclusion and to try to justify the poor sunlight that many residents would receive, the report refers to Average Daylight Factor. BPS notes how discussions around average daylight factor are very controversial as averages can hide many problems (Dublin City Council's Draft CDP states that ADF cannot be used to assess overshadowing impacts on adjoining and surrounding areas. No averages should be allowed to be applied in this case.

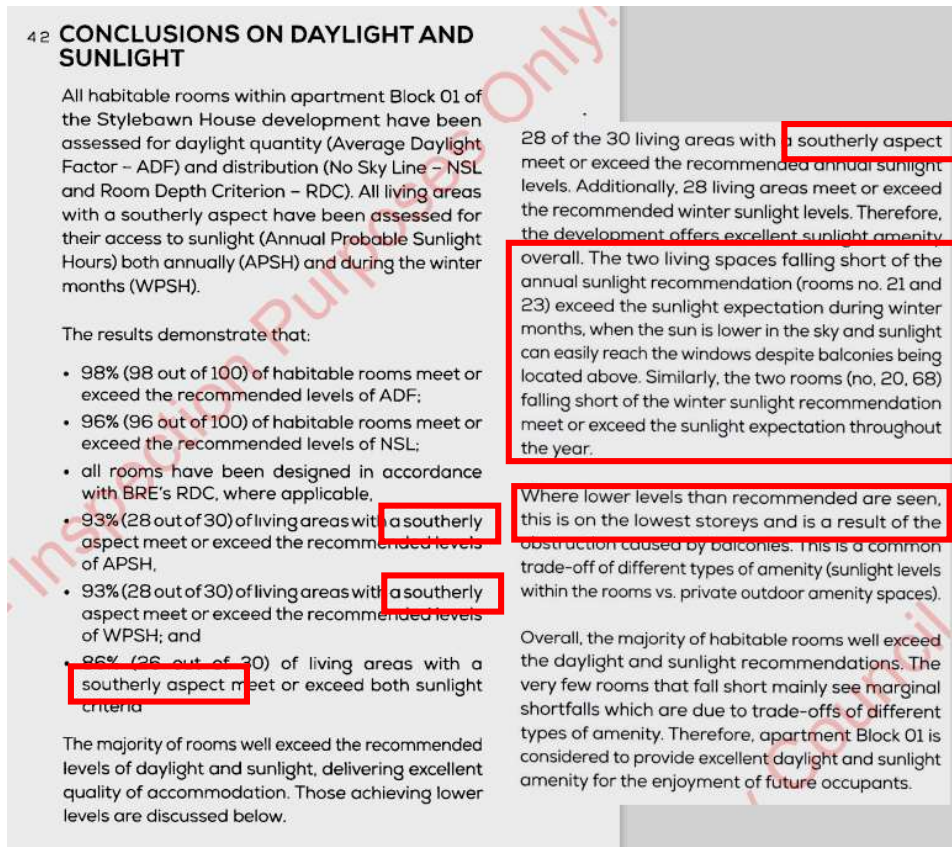


Fig. 15: Excerpt from the Daylight and Sunlight Report

#### 5.4.4 Submitted poor dual aspect ratio arises due to the unacceptable density

BPS has closely reviewed the submitted floor plans and elevations for this apartment scheme and compared these to the site location, etc. We can only conclude that the scheme has an extremely poor and unjustifiably low dual aspect ratio for its units. This is a sign of over development and further confirms that this site is not suited – as the LAP zoning makes clear – for a density of 52 uph as proposed for the apartment scheme area of the site.

The proposed apartment units have a dual aspect ratio of 37.50% which means that only 15 of 40 units have dual aspect despite the apartment scheme's location within a de facto village edge almost semi-rural location where there is minimal adjoining development which could be overlooked, etc.

The Design Standards for New Apartments (2020) require that 50% dual aspect be achieved. The Applicant seeks to justify the dual aspect ratio by stating: "in order to achieve a sustainable density of 20 units per hectare the development a 50% ratio is not achievable without increasing the height of the development" [emphasis added].

That is, in order to materially contravene the zoning of the site regarding density and to be non-compliant with statutory guidance as to the proposed density of the area of the site actually being converted into an apartment scheme (with a density of 52uph), the Applicant also wants to be allowed to fail to comply with the Apartment Guidelines. Our clients submit that two wrongs do not make a right.

The Applicant also refers to the topography of the site as working against an apartment scheme with an acceptable dual aspect ratio. This further confirms that this site is not suitable for an apartment scheme.

The proposed apartment scheme fails to comply with Specific Planning Policy Requirement 4 of the Design Standards for New Apartments (2020) and cannot be permitted in its current form as it would offer future residents a poor quality of residential amenity.

**5.4.5 No less than 10 units are provided at Lower Ground Floor Level**

No less than 10 units are provided at Lower Ground Floor Level. While it is acknowledged that the site slopes, many of the residents sited at Lower Ground Level, especially those without dual aspect, will experience a compromised environment.

Many of these units would receive poor light, poor views and poor amenity.



**Fig. 16: Lower Ground Floor – below ground units**



**Fig. 17: Lower Ground Floor – below ground units**

**5.5 Issue 5: The proposed Glen Road entrance is not acceptable**

Our client maintains reservations over the proposed use of what was originally the entrance to a single rural house being re-designed to facilitate an entire apartment scheme. The Glen Road is a very busy road at peak times and vehicles travel fast. The proposals to have vehicles entering and exiting the site and turning in both directions onto the road and into the proposed upgraded entrance may present a traffic hazard to users of the road including to pedestrians and cyclists.

### 5.5.1 Permission ref. ref. 07/1150 & 13/8178 is no longer relevant as to the access

Our client objects to how the Applicant refers repeatedly to the proposed scheme entrance and access arrangements as being almost the same as those permitted under permission reg. ref. 07/1150 & 13/8178. This permission is now very old and fully lapsed.

This permission offers no reasonable precedent for the current scheme because:

The permission also pre-dates the existing planning framework pertaining to this development at national, regional, and local level including the extant WCC CDP which are far stronger in terms of planning, environmental and biodiversity policies which protect existing trees and hedgerows.

The permission as granted at a time when there was less traffic on the Glen Road. Since this permission was granted, Delgany and the closest areas of Greystones have expended significantly in terms of residential density and as such more traffic now uses this road.

The permission pertained to a far less dense scheme whose traffic impacts on the Glen Road would have been less. The current scheme is up to 4 times denser. The proposals would cause a traffic hazard on the Glen Road

The Applicant scheme is designed as though it is inevitable it should have a Glen Road entrance. Our client submits that this is not the case. A historic entrance suitable for one house is not the same as a major entrance for 52 cars to enter and exit.

### 5.6 Issue 6: The slope of the site means earthworks & cut/fill for an apartment scheme

Our client considers this site to be wholly unsuited to an apartment scheme development of the intensity proposed. The topography comprises a steeply undulating site, which drops steeply from towards the centre and rises again to the south. The development will require extensive earthworks in what is an ecologically sensitive area.

Due to the steeply sided nature of the valley slopes, the cut and fill earthworks required for the proposed development will involve the complete destruction of the existing land use, landscape fabric and landscape character.

A large number mature trees, bat roosts and the loss of foraging and commuting areas for bat species that are known to use the site, will be lost, including a number of high quality trees.

The applicant admits that the magnitude of construction impact is deemed to be high. The applicant describes the subject property as comprising the sloping sides of a deeply wooded Sylvan Glen and admits the proposed development will represent a change of land use. The subject sites are of an extremely environmentally sensitive nature and the applicant does not address sufficiently the environmental impact of the proposed development on that landscape.

The destruction of the landscape and environment is contrary to a number of policies within the LAP and the CDP, for example HER3, HER5, NH12, and in particular NH14, NH16, NH17 and NH18.

#### 5.6.1 The extent of cut, fill, earthworks, etc. for the entrance & access is not accepted

Our client maintains significant concerns over the extent of cut, fill and earthworks required to facilitate the proposed entrance, internal access road and sightlines onto Glen Road. These works, designed by Cronin Sutton Consulting Engineers, are not achieved with minimal intervention to the topography of the site and to Glen Road.

#### 5.6.2 The extent of cut, fill, earthworks, etc. for the apartment block is not accepted

Our client maintains significant concerns over the extent of cut, fill and earthworks required to facilitate the proposed apartment block. These works, designed by Cronin Sutton Consulting Engineers, are not achieved with minimal intervention to the topography of the site and to Glen Road.

The Altamar Report notes how:

***The very steep topography of the site will require extensive earthworks to bring roads and structures to within approved gradients and will necessitate extensive regrading of the site in effected areas. The development of lands associated with Clare House face similar challenges in terms of designing buildings and infrastructure on a steeply sloping site*** [emphasis added].







**To protect the biodiversity value and associated habitats of water bodies within the plan area in accordance with the objectives as set out in the Wicklow County Development Plan and Eastern River Basin District Management Plan.** In considering proposals for development, regard shall be paid to the recommendations set out in Greystones/Delgany Local Biodiversity Area Study (2006). In particular, recommendations relating to the **Three Trouts Stream** shall be implemented, as deemed appropriate, by the planning authority. Water bodies within the plan area include the **Three Trouts Stream**, the Newtown River from Newtown to Kilcoole Marsh via Druids Glen Golf Course, Kilcoole Stream (from Kilpedder to Kilcoole feeding to Kilcoole Marsh), Kilcoole Marsh (a transitional estuarine water body), the southwestern Irish Sea-Killiney Bay (coastal water body) and a number of groundwater bodies [emphasis added].

Objective HER3 of the LAP which aims:

*To protect, wherever possible, wildlife habitats that are located outside protected and designated areas, including the coast, cliffs, dunes, trees, hedgerows, drainage ditches, scrub, woodland, rock outcrops, watercourses, stone walls and other features of the natural landscape that provide wildlife corridors and which contribute to the biodiversity of the area. In the assessment of planning applications, the Council may require that such features are retained and incorporated into future development.* In considering proposals for development, regard shall be paid to the Greystones-Delgany Local Biodiversity Area Study (2006). Recommendations set out in this study shall be implemented, as deemed appropriate, by the planning authority [emphasis added].

Objective NH12 of the CDP which aims:

*To 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 Natura 2000 network in Wicklow* [emphasis added].

Our client notes how Inland Fisheries Ireland has made a submission and the group agrees with its content.

### 5.7.1.1 The Altemar Report plays down the likely impacts on Designated Areas

Our client has read the submitted Altemar Report and considers that it plays down the likely impacts of the scheme on Designated Areas.

It is acknowledged that the only designated area within the site is the southerly extension of the Bray Head SAC and that the Glen of the Downs SAC is located outside the area, 300m to the west at its nearest point. **However**, the Three Trout Stream which feeds Glen of the Downs SAC and flows into the sea between the Charlesland Golf Club and the driving range, is a natural asset for the area and its importance cannot be underestimated. It is an important stream that contains migrating sea trout, eels, grey heron, dipper and otters (protected under Annex II of the Habitats Directive) and provides a strong natural wildlife corridor/refuge that divides the Greystones/Delgany area.

Appendix C of the LAP refers to the stream as one of the LAP "Areas meriting special attention". It surveyed the stream and noted the following points:

*The Three Trout Stream flows for 4km approximately within the Greystones/Delgany area and forms one of, if not the most important wildlife area in the Greystones/Delgany LAP area. It forms a natural and important wildlife corridor/refuge from Glen of the Downs SAC to the sea and is recognised as important for the migration of sea trout to the point where it reaches the N11. It is predominantly clear, fast flowing, shallow in nature with a significant gravel bed along most of its length. The stream enters the sea between Charlesland driving range and golfcourse (330407/211099). Going upstream the stream initially passes under the railway and follows concrete banks either side of which is a 5m wide low scrub corridor, between golf course to the south and driving range to the north. Brent Geese (150 approximately) and oystercatchers were observed on the driving range. Following the bridge beside the sewage treatment works (330218/211038) taller scrub and steeper banks develop. The field on the north bank of the stream (centre point 329947/210748) is substantially lower than that of the golf course on the other side of the stream, and is poorly drained grassland (GS4) and is possibly open to seasonal/ periodic flooding. Despite a steep incline 3-4m at the northern end of this field the wet grassland continues up the slope indicating a high water table.*

**Significant littering of the stream is evident at the bottlebank/waste centre of the golf club (330104/210608).**

A culverted stream enters Three Trout Stream just prior to an apartment complex (329952/210483) **where the wildlife corridor has been removed for 100m.** The Three Trout Stream is blocked by a fallen tree with builder's waste (timber, styrofoam, flooring, signs etc.) forming an impasse to fish at 329869/10513. Following on from the dual carriageway bridge at 329779/210531 the wildlife corridor widens to 10 m on the northside of the stream which contains willio sp, elder, gorse and holly.

On the southside scrub has been removed and replaced by fencing. This has been vandalised to provide access to the stream. **Littering including building waste is evident here also.**

**Possible seasonal flooding up to 5m from the stream is evident** at 329395/210601. Encroachment of housing and littering from (329348/210591) to (329019/ 210517) is clearly evident east of Three Trout Bridge, and impacts strongly on local biodiversity. Following the bridge at 328951//210465 and additional site of possible flooding is found on the north bank of the stream where the corridor is 2-3m wide. A substantial area of marsh (GM1) (70m x200m) with very high water table is located on the south side of the river at Farankelly House (328689 210473). The field on the north side of the river contains wet grassland (GS4) for approximately 40 meters from the stream.

A significant tributary enters the stream slightly west of Farankelly House (328508 210505). This was followed northwards. The west side of this stream was wet grassland (GS4) marshy in areas (GM1) for approx 50 m from the stream. The eastern bank of the stream forms a steep grassy slope and contains willow sp., holly gorse Ivy and bramble.

**A housing development (at 328513/210717) has removed the northern bank of the stream and the bed of the stream is now made of hardcore.** The flora of northern banks and southern banks of the stream have also been removed further upstream (328434/210745). From the junction with the tributary above, the Three Trout Stream continues towards Delgany. Scrub (WS1) is 25m in width approx and contains Holly, Salix species. Another impasse to fish, backed up with litter and building waste is located at 328246/210502.

**A significant building site is located on the western bank where all scrub has been removed. A new, possibly drainage, outfall is located at (328246/210502).** At this point the eastern side of the stream forms a slope of approximately 25m wide, 450 . While this area is classified as WN1 according to Fossit (2000) the area is too small to be considered of any real conservation significance. It does however represent a small fragment of native Irish woodland, a habitat which is in serious decline and for this reason should not be impacted on further. Another impasse to migrating trout/eels is located further upstream (at 328015/210628).

**The stream is currently extremely vulnerable to human based pressure and unless strict and significant preservation measures are put in place the Greystones Delgany area will imminently loose its main Local Biodiversity Area.** It is clear from examining the 6" maps, local flora and local knowledge that areas of this stream are liable to flooding. The presence of wet grassland and marsh in the area.

**Encroachment of housing and dumping along the Three Trout Stream First obstruction to stream (image taken from downstream) would tend to indicate areas that are possibly open to seasonal flooding.** This includes areas within the proposed Charlesland development and in the Delgany area.  
[Emphasis added].

**Concerns arise that this scheme fails to properly protect the Three Trouts Stream and/or development incursion relative to the stream cannot avoid causing negative impacts (see Section 5.7.1.2 of this report).**

#### 5.7.1.1.1 Appendix C of the LAP is not addressed as it applies to the Three Trouts Stream

There is insufficient assessment provided to confirm that the proposed 40-metre wide flood zone will be adequate to carry the additional water run-off from the development. Furthermore there is insufficient assessment provided to demonstrate that the proposed 40-metre-wide flood zone will in fact be suitable for designation as communal amenity space, or public open space. Limiting the POS to the flood plain means the POS is not usable.

Appendix C 'Local Biodiversity Area' of the LAP sets out a section titled 'Threats To Three Trout Stream'. The proposed development includes each of these threats:

**"Development, encroachment and their corresponding side-effects appear to currently be the most significant threat to the stream"** [emphasis added].

**Response:** The proposed development is very high density for this site and would involve considerable works taking place in close proximity to, adjoining and over the stream. Negative impacts are inevitable and proposed mitigation measures appear optimistic at best.

**"The removal of native vegetation from the sides of the banks increases both of these threats significantly. When the aerial image from 2000 is compared to the current status of the area and the current planning images, significant development has been carried out and is due to be carried out which will impact directly on the stream. With the potential scale of development that could arise, significant additional pressure could be placed both north and south of the stream resulting in a significant loss in the biodiversity associated with this stream"** [emphasis added].

**Response:** The proposed development involves significant loss of trees and a high scale of development close to the stream which will put significant pressure on the biodiversity associated with the stream. Again, the proposed mitigation measures appear optimistic given the long and surveyed history of developments not respecting the Stream and causing damage.

**"... the development of significant areas of land within the watershed reduces the absorbing nature of the land and as a result the stream is more liable to suffer flooding and also lower water levels in times of drought, when the stream is most sensitive to impacts such as pollution"** [emphasis added].

**Response:** The proposed development would despite the Applicant's claims to the contrary reduce the absorbing nature of land on either side of the stream. Surveyed issues with flooding and lower water levels in drought times need further consideration in light of this large-scale scheme.

**"Development of new houses and encroachment of by current inhabitants has removed the scrub and trees along the bank of the river making the river more vulnerable to extreme summer temperatures (reducing oxygen content) and an increases in particulates (clogging gravel beds). It is essential to the stream that the practice of scrub removal from either side of the bank is halted immediately and in areas that it has been removed"** [emphasis added].

**Response:** The proposed development would despite the Applicant's claims to the contrary inevitably result in the opening of banks of the stream such that it become a feature of the overall development. Scrub and trees sited in the way of views would be removed either as part of the scheme or in the future. Such removal regularly occurs when stream flow through housing developments as all residents want to be able to see the stream, etc. The Applicant cannot protect the stream permanently. Only less development can achieve this.

**"It is strongly recommended that a minimum of a 20m buffer zone of native vegetation, from each bank, is maintained along the bank of the stream ... It is also suggested where possible that an additional 3m of grassland/amenity area is maintained outside the buffer zone providing a "flyzone" for bats and Owl species. In areas where dense scrub (nor briar dominated) and tall trees have already been established that these are retained"** [emphasis added].

**Response:** The proposed development cannot realistically and will not realistically maintain a 23m wide buffer on either side of the stream. The scheme proposals provide for the removal of Category A, B and C trees from the site. This significant loss of trees and a high scale of development close to the stream will put significant pressure on the biodiversity associated with the stream. The proposed mitigation measures appear optimistic given the long and surveyed history of developments not respecting the Stream and causing damage.

Continuous monitoring of the stream is needed to ensure that it retains its wildlife. This would include the monitoring of biological and chemical contamination as well as vigilance in relation to dumping, removal of the scrub corridor and discharge of contaminants, as well as accidental/intentional damming, management procedures which could include fencing of waste areas ... additional development along the stream an increase in the dumping of waste could occur [emphasis added].

**Response:** The proposed development involves significant construction work which will put significant pressure on the biodiversity associated with the stream. Again, the proposed mitigation measures appear optimistic given the long and surveyed history of developments not respecting the Stream and causing damage.

**Our client considers that the only way for the stream to be protected is for an appropriate and lower density of development to be proposed on this site. The potential risks to the stream itself, to biodiversity and to trees and scrub along either side of the stream arising from the proposed**

development are significant and cannot be mitigated to the extent claimed. This scheme would represent an unacceptable and excessive incursion into areas which whose primary function should be to protect the stream, etc.

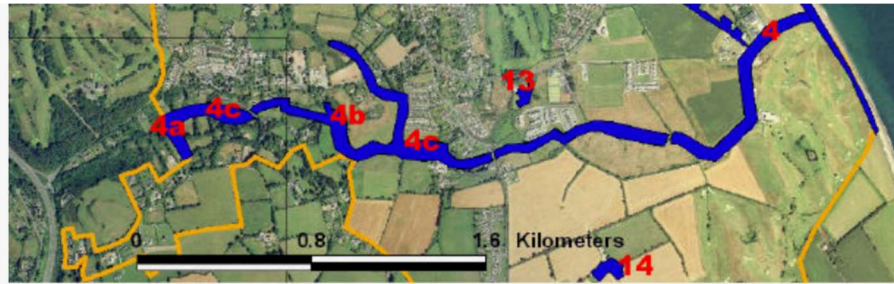



Figure 2b. Final extent of Local Biodiversity Areas including buffer zone on Three Trout Stream

**Fig. 19B: Excerpt from Fig. 2b of the Appendix C of the LAP – the buffer zone for the stream**



Figure 4. Three Trout Stream with a 20m buffer zone from each bank of the stream (blue) which also includes specific areas of interest A Glacial meltwater channel B) Marsh areas C) Oak Birch and Holly woodland. Areas of wet grassland (Purple) indicate possible seasonal flooding or a high water table.

**Fig. 19C: Excerpt from Fig. 4 of the Appendix C of the LAP – the 20m buffer zone for the stream**

Site No.	Townland/site name	Habitats present (Fossitt 2000)	Faunal/ Flora Species present or likely	Possible Threats	Relative Biodiversity importance	
4	Three Trout Stream and surrounding area (entire length from boundary to the sea)  Greystones Harbour	GS4 Wet Grassland GM1 Marsh WS1 Scrub ED3 Recolonising Bare Ground WN1 Oak Birch Holly woodland WL2 Treelines GA2 Amenity Grassland FW1 Eroding Upland Rivers FW2 Depositing Lowland Rivers BL1 Stone walls and other stonework WL1 Hedgerows	Sea Trout Common Eel Heron Mallard Stickleback Oak Willow Birch Dipper	Encroachment from development leading to accidental and intentional damming Litter Removal of treeline /scrub Siltation of gravel bed Pollution (organic/non organic)	Medium/ High	

**Fig. 19D: Excerpt from Appendix C of the LAP – Possible Threats to the Three Trout Stream**

### 5.7.2 The loss of trees to facilitate the Glen Road entrance is not acceptable

Our client objects to the proposed loss of existing trees that would be required to facilitate sightlines for the Glen Road entrance. The extent of tree loss involved would negatively alter the sylvan nature of this stretch of road and would impact negatively on the existing environment of the site and its surrounds. Proposals to mitigate this impact by way of more planting cannot be taken seriously given how the sightlines must remain devoid of trees in perpetuity which leaves a large area along the Glen Road looking as though it has had its hedgerows and trees fully removed.

The Altemar Report notes how

*A new access road from the R762 will cut through the existing screen planting in this area. This road will wind its way close to the western boundary where it will impact on the hybrid black poplar in this area. A number of deciduous trees close to the existing entrance will also be impacted upon by the road. The ornamental trees within the existing garden and the screen planting on the eastern*



boundary will also be lost ... As described within section 2.2 of this report the screen planting along the boundary with the R762 is of reduced quality due to a lack of appropriate management inputs and would require a relatively large percentage to be felled to remove hazardous specimens. This, in turn could open up the remaining trees to windthrow as the location is exposed to the elements (emphasis added).

The loss of these trees is of significant concern in its own right, but the loss of trees at this location would also have a significant and negative visual impact. This is acknowledged by the Altemar Report which states: "the visual impact from the removal of these trees will be strong".

The Altemar Report then justifies the tree loss by stating only that "their loss in the context of the proposed development it is not considered significant given that the removal of these trees in the relatively near future is inevitable". In other words, the scheme justifies the scheme justifies the scheme. This is not the case. There is no justification offered other than the scheme for the loss of these trees which do not need to be removed other than to facilitate this development.

The Altemar Report needs to be amended and/or another CEMP requested as BPS does not consider many of its statements as they pertain to existing trees to have any basis.



**Fig. 20: Proposed entrance design and sightlines along the Glen Road (1)**



**Fig. 21: Proposed entrance design and sightlines along the Glen Road (2)**



**Fig. 22: Existing sylvan nature of this stretch of road with many mature trees, etc.**

### 5.7.3 The general loss of trees within the site is excessive

The Applicant Planning Report accepts that the "existing site is heavily vegetated". Concerns arise that this scheme would replace this heavily vegetated and tree-filled environment with an apartment scheme which fundamentally alters the environment by way of tree loss and clearance works.

According to the CMK Arboriculture Assessment & Impact Report accompanying this application, **27 trees will be removed to facilitate the proposed development in the categories A, C and C and 14 in Category U. Most trees to be removed are of extremely high quality. This is a total loss of 41 trees. This excludes trees to be removed to facilitate the bridge and the entirety of the other planning application's tree losses.**

**The loss of these trees will have a significant and negative impact on the existing and established sylvan quality and high visual amenity landscape environment at this location.**

The Altemar Report argues that these trees will be cut down in the short term anyway so this justifies their loss. This is not a valid argument. It is a non sequitur. The means does not justify the ends. For example, the Altemar Report states in using this argument time and again:

*The same logic of strong visual impact tempered by inevitable short-term longevity is applied to the interpretation of the Arboricultural impact of the removal of the hybrid block poplar on the western boundary.*

Why is it inevitable this tree will be cut down in the short term? This is not explained.

The Altemar Report repeatedly makes statements that have no basis. For example:

***The loss of the internal ornamental trees and the eastern coniferous screen planting is not considered significant from an Arboricultural perspective as the trees are not visible to the general public and with one Category A canelo (*Drimys winteri*) there are no specimens of particular merit or trees of high ecological value present*** (emphasis added).

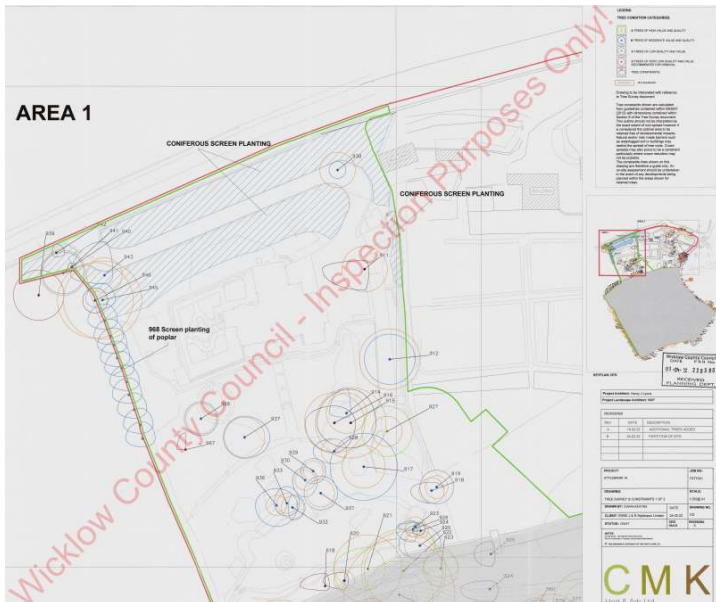
WCC needs to request a new CEMP as this Altemar Report is not acceptable. It refers to a Category A tree as not being of merit or high ecological value – why then is it Category A? Just because trees cannot be seen from a public area does not reduce their value. These statements require review.

Currently, the deeply wooded landscape is an extensive carbon sink. The proposed development will remove that carbon sink. The applicant does not address sufficiently the environmental impact of the removal of the carbon sink.





**Fig. 23: The significant quantum of existing mature trees within the Applicant site**



**Fig. 24: The significant quantum of existing mature trees within the Applicant site**



**Fig. 25A: The significant quantum – 204 – trees to be removed to facilitate this scheme**

### 5.7.3.1 The proposed tree losses are contrary to LAP policy including Appendix C

Appendix C of the LAP sets out how

*An additional survey of the hedgerows and treelines of significance outside local biodiversity areas was carried out. Areas with prominent treelines and areas of native hedgerows that should be preserved were identified. **The main area of significance within the LAP is the hillside south of Delgany. Here hedgerows have grown to include mature ash, beech, willow etc. giving the hillside a wooded appearance [emphasis added].***

Any objective view of the Applicant site confirms that it contains many trees and hedgerows which need protection from the current scheme's proposals for much clear felling and damage to hedgerows. The Applicant proposals are contrary to the following Appendix C 'Additional Recommendations in relation to Greystones/Delgany LAP-Local Biodiversity areas':

**"The maintenance of all hedgerows, treelines, scrub and native wooded areas would be deemed essential to preserve biodiversity in the area and their removal should be prohibited".**

**Response:** The Applicant proposals are contrary to this recommendation as they include the removal of Category A, B and C trees (and Category U trees) and hedgerows.

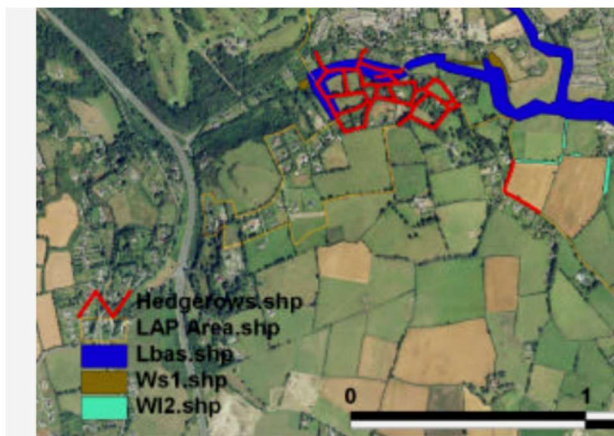
**"Buffer zones should be placed around areas that are deemed important to wildlife. This includes areas such as Three Trout Stream".**

**Response:** The Applicant proposals are contrary to this recommendation as they include the removal of Category A, B and C trees (and Category U trees) and hedgerows in close proximity to and in a manner which would impact on the stream and its biodiversity corridor.

**"The planning permission stage would be seen as the key to encourage biodiversity in the remaining areas that are going to be developed in the area".**

**Response:** The LAP's Appendix C does not consider that the loss of trees, hedgerows and scrub can be mitigated. It suggests their removal should be prohibited to protect the wildlife corridor and its biodiversity.

**Given the proposed extent of tree losses, the proposed scheme design which maximises tree and hedgerow losses and the lack of Arborist led design, the Applicant scheme is considered to be non-compliant with Appendix C of the LAP.**



**Fig. 25B: Areas of hedgerow within and on the boundaries of the Applicant site (Appendix C, LAP)**

### 5.7.3.2 The proposals for tree loss are contrary to CDP planning policies

The extent of tree loss proposed to facilitate this scheme's excessive interference in the landscape at this location cannot be justified under local planning policy.

The WCC CDP 2016 to 2022 contains Section 10.3.3 'Woodlands, Trees and Hedgerows' and states:

*Woodlands, trees and hedgerows are important natural habitats and groups and lines of trees/hedgerows are important wildlife corridors. Trees, individually or in groups, make a valuable contribution to the biodiversity and amenities of the town. **Groups of trees in urban areas can act as an attractive visual relief to the built environment and as an absorber of carbon emissions.***



***The Council aims to protect an individual tree, trees, a group of trees or woodland which are of environmental and/or amenity value*** [emphasis added].

Much of the Applicant proposals amount to clear felling of mature trees – even of Category A, B and C trees – this cannot be countenanced and cannot be mitigated as claimed by the Altemar Report.

Our client considers the proposals to be contrary to the following WCC CDP objectives:

Objective NH14 **"To promote the preservation of trees, groups of trees or woodlands in particular native tree species**, and those trees associated with demesne planting, in the interest of amenity or the environmental, as set out in Schedule 10.08 and Map 10.08 A, B & C of this plan" [emphasis added].

Objective NH16 **"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"** [emphasis added].

Objective NH17 **"To discourage the felling of mature trees to facilitate development and encourage tree surgery rather than felling where possible"** [emphasis added].

Objective NH18 **"To encourage the preservation and enhancement of native and semi-natural woodlands, groups of trees and individual trees, as part of the development management process**, and require the planting of native, and appropriate local characteristic species, in all new developments" [emphasis added].

Objective NH19: "To encourage the retention, wherever possible, of hedgerows and other distinctive boundary treatment in the County. Where removal of a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, provision of the same type of boundary will be required of similar length and set back within the site in advance of the commencement of construction works on the site (unless otherwise agreed by the Planning Authority)" [emphasis added].

**Given the proposed extent of tree losses, the proposed scheme design which maximises tree losses and the lack of Arborist led design, the Applicant scheme is considered to be non-compliant with Objectives NH14, NH16, NH17 and NH19 of the Wicklow County Development Plan 2016-2022.**

#### 5.7.4 Likely impacts on biodiversity are not acceptable – mitigation reliance is excessive

The site is home to protected species. The impact on otters and on bats requires careful consideration. As with the Altemar Report generally, the issue of bats and birds on the site is treated as just another issue which the project team can mitigate. BPS is not convinced by the Altemar CEMP which treats every environmental concern as mitigatable and uses the project itself to justify impacts.

The proposed development will radically alter the existing biodiversity in the sloping sides of the deeply wooded Glen. The applicant does not address sufficiently the impact of the development on existing biodiversity in the deeply wooded Glen.

The extent of mitigation reliance in the Applicant scheme is excessive. Sometimes negative impacts need to be avoided and this is the case here. A full ecologist's report is needed to assess the actual likely ecological impacts of this scheme and to carry out all appropriate site surveys, etc. The Altemar Report's whole focus is on project facilitation.

##### **Bat Fauna**

Three bat species were noted foraging on site. A soprano pipistrelle was noted roosting on site. The redevelopment of Stylebawn House will result in the loss of a bat roost. Lighting during construction has the potential to impact on bat foraging.

**Potential Impacts in the absence of mitigation: Moderate adverse / site / Negative Impact / Not significant / short term.** Mitigation is needed in the form of a pre-construction survey, provision of additional roosting opportunities and control of light spill during construction.

**Fig. 26A: Excerpt from the Altemar Report – bats**

**Bird Fauna**

Due to the presence of breeding birds on site the construction will result in a loss of foraging and nesting habitat for breeding birds.

Potential Impacts in the absence of mitigation: Low adverse / Local / Negative Impact / Not significant / long term.  
Mitigation is needed in the form of control site clearance and the provision of compensatory nesting habitat.

**Fig. 26B: Excerpt from the Alternar Report – birds**

### 5.7.5 The issue of invasive species on the site is not addressed

The Applicant site is badly affected by Japanese knotweed and Gunnera; however, the submitted proposals fail to set out how it is intended to address this

### 5.8 Issue 8: The issue of flood risk requires further consideration

The Three Trouts Stream flows through the site and has a wide flood plain. Our client is concerned to ensure that any proposed development on this site respects the stream and does not presume to low a level of flood risk. Further, the scheme itself, by speeding up surface water discharge from the site (when combined with that from the second part of this split scheme) could contribute to downstream flooding.

Three Trouts Stream separates the site that is the subject of application 22380 from the site that is the subject of application 22429. Three Trout Stream runs in a valley. On either side of the stream the ground rises steeply and comprises what the applicant correctly describes as "the sloping sides of a deeply wooded Sylvan Glen". Currently that deeply wooded landscape soaks up and controls surface water runoff down into Three Trout Stream. The proposed development on both sides of Three Trout Stream will disturb existing embankments and ditches and remove and substitute the woodland with extensive hard surfaces. Such hard surfaces will add enormously to the surface water runoff down into the stream. This additional water will:

- Expose adjoining properties to increased risk of flooding, for example, BlackBerry Lane to the east and the lands on the east side of BlackBerry Lane.
- affect the existing carrying capacity of Three Trout Stream and render the proposed 40-metre-wide flood zone inadequate to carry the additional water.
- Render the proposed 40-metre-wide flood zone insufficient to comply with the recommendations of Inland Fisheries
- Render the proposed 40-metre-wide flood zone unsuitable for designation as communal amenity space, or public open space.

### 5.9 Issue 9: Roads, traffic, and parking concerns

The proposed development would generate increased traffic, give rise to traffic congestion, and would endanger public safety by reason of traffic hazard in an area with small and narrow roads with restricted capacity.

This is confirmed by way of the following objections to this scheme's roads, traffic, and parking proposals.

#### 5.9.1 The unsuitability of the site to support active travel measures

The site is steeply sloped, and it is highly unlikely that this will encourage walking and cycling. The receiving environment of Delgany village has little in the way of public footpaths and no cycle ways. The development would be dominated by car use.

The 5% grade on road means it will not suitable for cycling or for the mobility impaired, leading to unsustainable car based development.

#### 5.9.2 Why is a footpath not provided? how can anyone safely cross the road?

BPS has stood on the footpath on the other side of the road from the Applicant's proposed entrance. There is the constant fear of vehicles and there is a constant stream of traffic. This traffic is heavy at peak times.

**How are residents of this scheme meant to safely cross the road to get to the village or to a bus stop?**

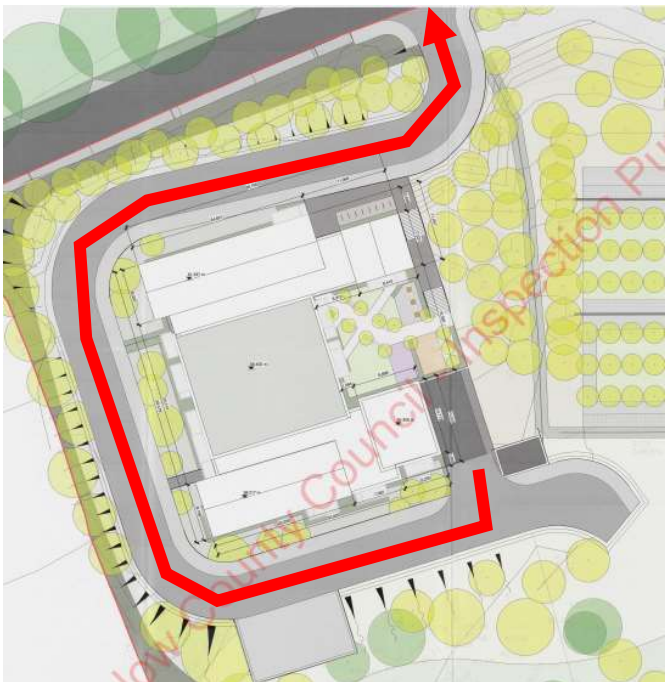
Why is the Applicant not providing a footpath for the full length of the site. It should run from Priory Road to the new entrance. This is the only way in which the Applicant could possibly claim this scheme to be in any way sustainable.

### 5.9.3 Bikes are provided but no infrastructure

The Applicant offers bike parking spaces but no bikes within a site from which few people would try to cycle to the public road. This is a steep section of internal road with no cycle path.

Any person on a bike would then reach the public road where there is no cycle lanes and which is well known as being unsuitable for cycling along due to its restricted width and the speeds of vehicles along the road.

Cyclists turning right from the entrance and towards the village and possibly Greystones would need to cross a lane of oncoming traffic.



**Fig. 27: Internal uphill cycle route – slope is all uphill to the road**

### 5.9.4 The Glen Road entrance would be a traffic hazard

WCC will be aware of the speeds at which traffic passes the proposed Glen Road entrance at non-peak times and of how much traffic passes the entrance at peak times. The LAP anticipated a small number of houses within this site and consequently small number of vehicular movements. It did not anticipate over 40 apartments and 52 parking spaces which will be frequently used including at peak times.

Our client submits that irrespective of the sightlines proposed, cars entering and exiting the site in both directions will cause traffic conflict at this location and a traffic hazard.

### 5.9.5 Baseline traffic assessment is too low

Our client has reviewed the Applicant's baseline traffic assessment and they consider it to be an underestimate because:

It is based on September 2017 data collected in September. No new baseline surveys of existing traffic levels have been conducted.

It excludes emerging traffic levels which arise from recent completed developments and those under construction. Existing traffic from Archers Wood and Bellevue Hill are included but that from recently completed and under construction schemes is not. The Applicant's Traffic and Transport Assessment refers to several planning permissions but assumes these will not come online until 2024.

The result of this is that all the junction analyses may not reflect the capacity issues being experienced at present.

### 5.9.6 Likely traffic generated by the scheme

Given the lack of high quality public transport and the lack of capacity of existing buses at peak times, our client considers that the assessed trip generation in the AM and PM peaks is too low. That is just 12 departures in the AM peak and 11 arrivals in the PM peak. This is not credible. TRICS data and analysis is not applicable in all cases. If a 42 house scheme were sited in this location, would we believe that just 12 of 52 cars would exit for work in the AM peak from this location?

The analysis suggests 59% of AM peak departures will head west – that is, toward the M11/N11.

They consider that the owners of cars in this scheme will almost all use them at peak times. This may only be to drive to the Dart Station but it still means the cars are being driven into and out of the Glen Road and contributing to traffic.

A DCC member who is a road engineer considers that the TTA contains erroneous assumptions and incorrect analysis. There are three fundamental flaws with the TTA, which under-estimates the traffic generation, baseline flows and background traffic growth. The Traffic & Transport Assessment has:

- under-estimated the number of car-based trips that the proposed development will generate at peak times;
- failed to include and assess the cumulative impact fully resulting in a significant under-estimation of 2022 baseline flows; and
- grossly under-estimated the amount of background traffic growth on the road network beyond 2022.

The consequence of these three key errors is that all the junction capacity assessments contained in the Traffic & Transport Assessment are erroneous, do not in any way present a realistic assessment of the future performance of the said junctions and cannot be relied upon to assess this aspect of the application.

### 5.9.7 No peak time analysis has been carried out as to the capacity of the M11/N11

The M11/N11 can be heavily congested in the morning peak travelling north and similarly in the PM peak traveling south. The Applicant is offering 52 car parking spaces sited within a short distance from the M11/N11 while not making it easy for people to take the bus as there is no footpath provided on the scheme side of the Glen Road (if there is any capacity on the bus).

The proposed development may be entirely car based and add to capacity deficiencies on the M11/N11. This has not been assessed by the Applicant. Assumptions are made which are unrealistic regarding the likely modal breakdown in trips to/from the scheme.

### 5.9.8 Despite the above, the proposed car parking provision is too low at this location

Our client acknowledges that the Applicant is offering 51 car parking spaces for 42 units and two existing houses which seems reasonable in principle. The problem is that this is an area where all households have 2 cars and there is already overflow car parking on roads in the area.

The issue of car parking is a wider problem for this site. It leads into the issue of traffic and the use of the Glen Road entrance. The more this is used to enter and exit the site the more issues arise for existing users of the road and the more possible traffic hazards that could arise on what is a heavily used distributor road at peaks times.

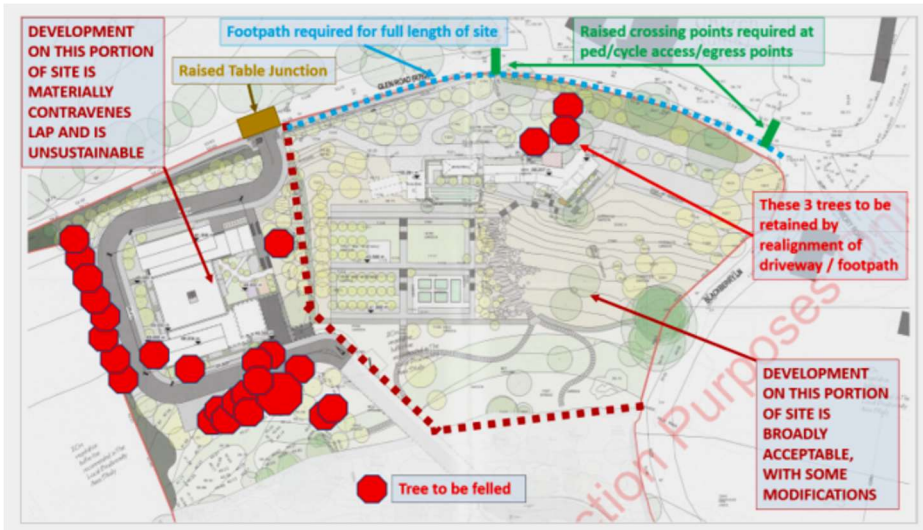
### 5.9.9 Road Improvements required and tree loss:

No road improvements are proposed as part of the development. As a minimum DCC considers the following road improvements are required:

1. a new footpath should be provided along the R762 Glen Road for the full length of the site;
2. raised crossing points should be provided to allow pedestrians and to cross the R762 safely;
3. a raised table junction should be provided for any new junction; and
4. the three trees to be felled should be retained by a minor change to the driveway / footpath.

The scheme cannot reasonably progress without these revisions.





**Fig. 28 – Road improvements required and Tree Loss**

**5.9.10 Pedestrian permeability to Blackberry Lane needs to be included**

DCC is concerned over the proposed lack of pedestrian permeability onto Blackberry Lane. This could be addressed without undue alteration to the scheme as there is an existing gate from Stylebawn onto Blackberry Lane which could be opened as a walkway.

**5.10 Issue 10: Proposal is contrary to Water Objective W13**

DCC was surprised to note how the Applicant scheme states: “A separate foul and surface water network is to be provided as part of the proposed scheme”. That is, the scheme needs a pumping station and does not directly connect to a foul drainage line.

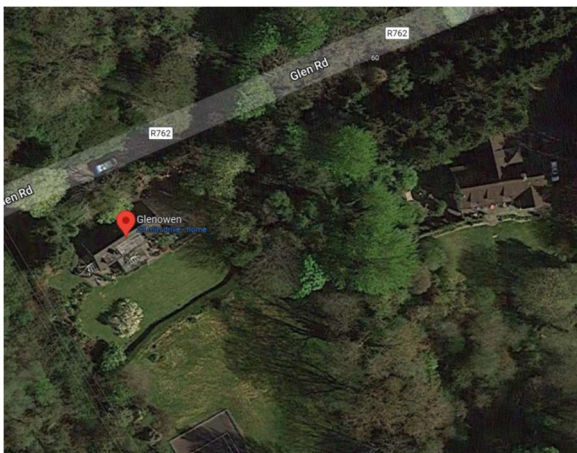
We understood that this is not permitted under Objective W13 of the Wicklow County Development Plan 2016-2022 which aims: “To require new developments to connect to public water supplies where services are adequate or where they will be provided in the near future”.

There can be no justification for a scheme of the size of that proposed across two planning applications to be served by its own separate non-public facilities.

**5.11 Issue 11: The proposal would cause a loss of amenity to Glenowen**

Our client has reviewed the Applicant proposal and considers that they would impact on the privacy of Glenowen to the west by way of overlooking and perception of overlooking. The proposals would also generate significant noise as earthworks are proposed.

These concerns are exacerbated by the extent of mature existing trees which are proposed to be removed by the Applicant. This would cause the Applicant site to be much more visible and for the future residents to be able to look into Glenowen.



**Fig. 28: The siting of Glenowen adjoining the Applicant site to the west**

### 5.12 **Issue 12: The proposal would cause a loss of amenity to the surrounding area**

DCC cannot fully predict how visible the Applicant's apartment scheme would be within the landscape at this location. The extent of tree loss and its height, scale and massing mean it will be far more visible than the existing house.

Concerns arise that the Applicant proposals would cause a loss of amenity to the surrounding area.

### 5.13 **Issue 13: The proposal would set poor precedents**

The proposed development would set negative precedents for future developments in Delgany including:

Excessive densities in semi-rural sites only zoned at 2.5 uph because they contained existing low density dwellings.

Encouraging developers to buy adjoining sites which are not proposed to be developed to dilute the actual density of a proposed apartment scheme on a more limited area of a site.

The provision of apartments on lands where apartments are not permitted under the LAP.

Allowing the heavy loss of trees including Category A, B and C trees to facilitate non-critical developments.

Allowing cut, fill and massive earthworks and retaining walls to alter the landscape to facilitate apartments where apartments are not appropriate.

Allowing negative impacts on bats, roosting birds, etc. whereby these impacts can only be partially mitigated if mitigated at all.

The creation of heavily trafficked apartments schemes opening onto Glen Road.

The creation of schemes served by poor pedestrian and cyclist connectivity and infrastructure.

The proposals are poorly considered and would encourage similar schemes along the Glen Road. This scheme cannot be permitted as proposed and/or as sited.

## 6.0 **Conclusion**

Our client has reviewed the Applicant planning application, has visited the site (without trespass) and its surrounds, and has considered all relevant planning policy including the National Planning Framework, statutory guidance, the Wicklow County Development Plan 2016-2022 and the Greystones -Delgany and Kilcoole Local Area Plan 2013-2019 and for the following reasons the group concludes this scheme should be refused:

The planning application comprises project splitting.

The scheme's density is not permitted under the LAP and represent a material contravention of the LAP's zoning of this site which allows for 2.5 uph and Policy Objective RES5 which further confirms the legitimacy of the zoning. The scheme's density is not justified by reference to statutory guidance when referred to Circular Letter: NRUP 02/2021.

The principle of an apartment scheme at this location is not accepted as such a proposal is contrary to and may represent a material contravention of the Policy Objective RES5 of the LAP. The character and pattern of development requires houses not apartments. The site's planning history confirms it as only suitable for houses. Clara House could be retained in a revised scheme.

The quality of the proposed apartment scheme is deficient in a range of ways including: (a) The mix of apartment units is poor & contrary to sustaining a community in Delgany (b) There are primarily north facing single aspect units within the scheme and Lower Ground Level units whose siting compromise their future residential and visual amenities; (c) The BRE Guidelines are repeatedly failed; and (d) The scheme offers a poor dual aspect ratio. The proposal represents a substandard apartment design which is unsuited in principle and practice to this site.

The proposed Glen Road entrance with its wide sightlines reminiscent of a grand house with its wings spreading along the public road with all hedgerows and trees removed is unacceptable for multiple reasons including visual impact, traffic hazard, loss of trees, poor siting for an apartment scheme entrance, poor cyclists, and pedestrian permeability, etc. The entrance is not justified

merely because it already exists and/or because of historic permission reg refs. 07/1150 & 13/8178 is no longer relevant as to the access.

The extent of cut, fill and other earthworks needed to create an apartment scheme and the new accessway and entrance at this sloping location under which there is a large basement car park cannot be justified. The quantum, of earth and rock that would need shifting would be immense and environmentally unsound.

The environmental impacts and loss of trees that this scheme would cause cannot be condoned. The likely impacts of the scheme the Three Trouts Stream are not fully addressed . The loss of trees to facilitate the Glen Road entrance is not acceptable. The general loss of trees within the site is excessive. The likely impacts on biodiversity are not acceptable – mitigation reliance is excessive. As much as the Applicant tries to write off these impacts as matters that can be mitigated, the sheer volume of these concerns cannot be ignored.

The issue of flood risk requires further consideration if only to ensure that the stream is properly treated. The Applicant states that there is no general flood risk, but the stream does break its banks during very heavy periods of rainfall and this needs to be more fully acknowledged and these pluvial issues addressed.

There are a range of roads, traffic, and parking concerns including: (a) The unsuitability of the site to support active travel measures; (b) The lack of a footpath on the scheme side of Glen Road; (c) No safe pedestrian/cyclist crossing point on Glen Road (the red line boundary does not even extend across the road; (d) Bikes are provided but no infrastructure; (e) The Glen Road entrance would be a traffic hazard; and (f) The traffic assessment report required review.

The above points raise serious concerns as to whether the Applicant's apartment scheme can be considered – even in principle – to qualify as a grantable scheme for this site. The Applicant's Planning Application Form states that a pre-planning meeting took place on 2/6/2021 at 2:30pm with the WCC Planning Department. One must assume that the Applicant needed to undertake another pre-planning meeting once their design had progressed as the submitted scheme – whether viewed on its own or alongside the concurrent scheme – is not acceptable as submitted.

That residential development is permissible on a site does not mean residential development of any scale: without any constraints.

The zoning of this site provides for residential development that protects and/or improves the residential amenity of the area and it require a low density scheme which respects the environmental constraints at this location.

It is our client's position that any residential development on this scheme must respect the site's zoning and not treat the property as a de facto "greenfield site" without any development constraints. The submitted scheme's density – for this entire scheme – is clearly not compliant with the zoning of the site.

What must be kept in mind is that what is proposed is not a critical piece of nationally required infrastructure or a single building of world class architectural design. What is proposed is simply an over-scaled and over-ambitious apartment scheme. This scheme seeks to maximise density, scale, height, and massing. In our client's opinion, the proposed compromises regarding the predictable negative impacts of the scheme on adjoining and surrounding visual amenities and those of future scheme residents cannot be tolerated.

As much as the applicant has sought to argue that the compromises necessary would be outweighed by the provision of the subject development's housing, this Planning Objection Report illustrates why this is not the case. The proposal is contrary to the CDP 2016-2022 and to the LAP. BPS has explained Circular Letter: NRUP 02/2021 to our client and they accept its content. This content requires a lower density and more sensitive scheme for this site.

What appears key, in the consideration of this proposal, is that the application before WCC is the culmination of a process where the consideration of the impacts on the receiving environment have been second to the Applicant's own requirements and plans, particularly in respect of negative impacts arising for the site and for adjoining areas.

The suitability of the site in principle and the ability of the receiving environment to absorb the proposed development buildings are two very different considerations and this, in our client's opinion, is where the needs of the Applicant and the concerns of our client diverge.

Where such divergence in vision exists and a large development proposal is made irrespective of its clear and apparent divergence from the established pattern and character of an area, there is a need to identify appropriate assessment criteria by which to judge the proposal.

The critical development framework for this area is the LAP. The LAP does not allow such a high density or even an apartment scheme at this location. Our client submits that there is no justification in this case for allowing these planning policies to be materially contravened.

If permitted, the proposed development would significantly and adversely alter the visual environment within and outside the environs of the site.

Our client considers that the visual and other impacts of this scheme could be mitigated by way of a non-apartment scheme approach to the development of this site and re-consideration of the Glen Road entrance. A scheme more sympathetic to the site is needed.

**Cumulatively, the negative impacts of the proposed development on the site and on the environment of the site and the surrounding area are such that this scheme cannot be granted in its current form. It would set a negative precedent and bring the planning system into disrepute. The Applicant's reliance on material contravention to avoid complying with the two most fundamental planning policies which regulate any development of this site is not acceptable. This scheme is too dense for this site, it is an apartment scheme and it shows no sympathy for the site's existing character (shape, trees, vegetation, biodiversity, etc).**

## 6.1 Performance-based planning risk assessment conclusions

In this era of 'performance-based' standards in respect of the assessment of a proposed scheme's density, scale, height, massing, bulk, and parking, it is necessary to carry out a planning risk assessment in light of the likely performance of this scheme. BPS has carried out this assessment by assessing the scheme in light of its locational and planning context. The conclusions of this exercise are:

- There is a **substantial planning risk** that establishing the principle of an apartment scheme at this location would set a negative precedent for material contravention of the Policy Objective RES5 of the LAP. The character and pattern of development requires houses not apartments. The site's planning history confirms it as only suitable for houses.
- There is a **substantial planning risk** that the apartment block element of this scheme if assessed in a standalone manner would comprise a density of 52 uph / 1.445 plot ratio. Such densities are appropriate in town centres and not on the semi-rural edge of villages where they are contrary to the established character and pattern of development.
- There is a **substantial planning risk** that this scheme's proposed density would be incompatible with the established character and pattern of development of adjoining lands which are of a substantially lower density. The abrupt increase in density has resulted in equally abrupt increases in scale, height and massing of the proposed apartment block. The proposal is contrary to and may represent a material contravention of the Policy Objective RES5 of the LAP.
- There is a **substantial planning risk** that this planning application proposes the excessive overdevelopment and over-scaling of a site suitable under the LAP and statutory guidance for a density of 2.5 to 20 uph (if all other planning considerations are addressed). The proposed material contravention of the LAP is not justified by national planning policies which require the sensitive application of increased density on the edges of villages.
- There is a **substantial planning risk** that this planning application proposes the excessive overdevelopment and over-scaling of the site that would significantly, negatively, and permanently impact on the visual amenities and visual environment of areas adjoining this site.
- There is a **substantial planning risk** that this planning application would cause the excessive loss of trees which contribute to the sylvan nature and visual amenity of this area.
- There is a **significant planning risk** that the proposed development will cause substantial and negative impacts on the site by way of excessive cut, fill and other earthworks.
- There is a **significant planning risk** that the scheme would cause a traffic hazard and/or negative traffic impacts on the Glen Road.
- There is a **significant planning risk** that the scheme would be deficient in a range of ways including: (a) The mix of apartment units is poor & contrary to sustaining a community in Delgany (b) There are primarily north facing single aspect units within the scheme and Lower Ground Level units whose siting compromise their future residential and visual amenities; (c) The BRE Guidelines are



repeatedly failed; and (d) The scheme offers a poor dual aspect ratio. The proposal represents a substandard apartment design which is unsuited in principle and practice to this site.

- There is a **significant planning risk** that the scheme would impact negatively on the ecology of the site, the biodiversity of the site and Three Trouts Stream in a manner which cannot be mitigated as claimed.

**Our clients submit that following their assessment, the Applicant planning application represents too high a risk of causing significant and negative impacts on the area and would also risk providing only insufficient amenity to its proposed future residents, for ABP to consider granting planning permission.**

## 7.0 Recommendation

In light of the above, BPS recommends that WCC either:

Refuse planning permission for the reasons given in Section 7.1 of this Planning Observation Report; Or Condition substantial revisions to the scheme in line with the list set out in Section 7.2 of this Planning Observation Report.

## 7.1 Recommended reasons for refusal

Our clients submit that the proposed development should be refused for the following reasons:

5. The proposed development of the site would fail to comply with and would represent a material contravention of zoning of this site and objectives pertaining to this area which are set out under the Greystones -Delgany and Kilcoole Local Area Plan 2013-2019 and in that plan's Table 11.1 'Zoning Matrix'. The R2.5: Residential zoning provides 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 gross density for the 42 residential units, within the development area subject of this application excluding the Stylebawn site (excluding Stylebawn House and gardens - 0.7664 ha) is c. 52 units per hectare. Having regard to Circular Letter: NRUP 02/2021, the proposed apartment scheme's density is considered to be contrary to policies and objectives contained in 'Sustainable Residential Development in Urban Areas', the 'Urban Design Manual - A Best Practice Guide', the Building Height Guidelines and the Apartment Design Guidelines. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
6. The proposal development of an apartment scheme at this location is not permitted under and is a material contravention of Policy RES5 of the Greystones -Delgany and Kilcoole Local Area Plan 2013-2019 which states; Apartments generally will only be permitted within Greystones Town Centre, Kilcoole Town Centre, Delgany Village Centre, Neighbourhood Centres, Small Local Centres, Greystones Harbour and North Beach Action Plan, South Beach Action Plan and within 10 minutes walking distance of Greystones train station .... Apartments will not normally be permitted on sites surrounded by predominantly single family occupied housing estate developments. The proposed apartment development is considered to be unacceptable and inconsistent with the proper planning and sustainable development of the area. It is considered that the proposed design strategy, by reason of its excessive scale, massing, dominant form, overbearing impacts and insufficient transition provision, proximate to environmentally sensitive sites and domestic scale dwellings, does not provide the optimal design solution for the site having regard to the site's locational context and is considered not to be in compliance with Criteria No. 1 'Context' of the Urban Design Manual, published by the Department of Environment, Heritage and Local Government, 2009. The proposal is considered not to respect the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring users and the development does not positively contribute to the character and identity of the neighbourhood at this location. Having regard to all the above, the proposal is considered to be unacceptable and contrary to the proper planning and sustainable development of the area.
7. The proposal is contrary to the National Planning Framework and to Section 6.0 of the Sustainable Residential Development Guidelines which set out how it is necessary to adapt the scale, design and layout of housing in towns and villages, to ensure that suburban or high density urban approaches are not applied uniformly and that development responds appropriately to the character, scale and setting of the town or village. In certain locations, particularly at the edges of towns in a rural context, more compact forms of development may include residential densities at a lower level than would be considered appropriate in a city or large town context. Circular Letter: NRUP 02/2021 clarifies the application of the Sustainable Residential Development Guidelines to ensure that when carrying out their planning functions, An Bord Pleanála and Planning Authorities apply a graduated and responsive, tailored approach to the assessment of residential densities in Peripheral and/or Less Accessible Urban Locations, as defined in the Apartment Guidelines and as

they apply to towns of all sizes, to ensure that such places are developed in a sustainable and proportionate manner. The guidelines caution against rapid developments such as this apartment scheme. The apartment scheme represents disproportionate development not supported by statutory guidelines as clarified by Circular Letter: NRUP 02/2021. Having regard to all the above, the proposal is considered to be unacceptable and contrary to the proper planning and sustainable development of the area.

8. The proposed development, as a result of the level of intensification of additional vulnerable road users, on Glen Road between the proposed development and the approach to the Delgany Village would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise. The proposed development is premature because of the lack of adequate, safe facilities for vulnerable road users on Glen Road between the proposed development and the approach to the village which renders it unsuitable to carry the increased vulnerable road user traffic likely to result from the proposed development. In addition, the precedent that a grant of permission for the proposed development would set for other relevant development would adversely affect the use of Glen Road by traffic. This is contrary to the proper planning and sustainable development of the area.
9. Having regard to the extent of land shaping works, retaining walls and the loss of trees on the subject site, it is considered that the proposed development is not an appropriate design response to the constraints of the subject site located in a semi-rural area. This is contrary to the Greystones -Delgany and Kilcoole Local Area Plan 2013-2019 and to Objectives NH14, NH16, NH17 and NH19 of the Wicklow County Development Plan 2016-2022. and to the following Ministerial Guidelines, 'Housing for Sustainable Communities, 2007' and the 'Guidelines and the Urban Design Manual Guide', 2009. In addition, the proposed development would seriously injure the amenities of property in the vicinity. This is contrary to the proper planning and sustainable development of the area.
10. The proposed apartment development in its current form, by virtue of its design and siting would be injurious to the future residential amenities of residents of the scheme. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
11. Having regard to the location of the site and to the established built form, pattern, and character of the area, it is considered that the proposed development would be incongruous in terms of its design, height, bulk and form, would be out of character with this site, would constitute overdevelopment of the relevant area of the site and would have a detrimental impact to the residential amenities of adjacent properties. The proposed development provides an inadequate design response to this sensitive site, would be of insufficient quality and would seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area.
12. The mature trees on this site are a significant ecological feature in the local landscape, and support a significant local wildlife. The proposed development, by reason of its form and layout, would result in the loss or removal of a significant number of mature trees from the site, which would be contrary to objectives HER3 and HER5 of the Greystones -Delgany and Kilcoole Local Area Plan 2013-2019 and Objective NH12 of the Wicklow County Development Plan 2016-2022 which seek to protect the biodiversity value and associated habitats of water bodies within the plan area in accordance with the objectives as set out in the Wicklow County Development Plan and Eastern River Basin District Management Plan, to protect wildlife corridors and which contribute to the biodiversity of the area and landscape features and associated wildlife where these form part of the ecological network and which would seriously injure the visual and residential amenities of the site and property in its vicinity. Accordingly, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.
13. The site of the proposed development is located in a semi-rural site poorly served by supporting infrastructure including adequate footpaths, public lighting and wastewater treatment facilities. It is considered that residential development of the scale proposed would result in uncoordinated, piecemeal and an unsustainable car dependent form of development which would be contrary to the Ministerial Guidelines set out in the Sustainable Residential in Urban Areas Guidelines issued by the Department of the Environment, Heritage and Local Government in May, 2009. Furthermore, it is considered that, by reason of pedestrian/vehicle conflict along the local road network serving the site, significant sections of which are rural in character and lacking in public footpaths, the proposed development would endanger public safety by reason of a traffic hazard. Accordingly, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

## 7.2 Revisions required by condition in the event of a request for Further Information

In light of the above, BPS notes that the following revisions to the scheme would be needed to address our client's concerns.

### Density:

The scheme density needs to be reduced to between 15 uph and 20 uph within the area of the site which is being developed (excluding Stylebawn House). Preferably this would be 2.5 uph; however, taking into account statutory guidelines, our client accepts that if WCC is to permit a scheme on this site then the density will likely exceed the 2.5 uph allowed under the LAP thereby removing all density nuances from the LAP (which provide for a staggered scheme of densities for sequentially preferred sites which ends at 2.5 uph).

DCC does however formally object to the proposal to materially contravene the LAP in this regard.

### In respect of the height, scale, and massing of the scheme:

A scheme of houses and not apartments is preferred as this would have less impact on the landscape, on biodiversity, on trees, on Glen Road, on visual amenities, etc.

### Glen Road:

Our client does not consider the Glen Road entrance to be suitable to serve a scheme of 15 uph upwards. The pedestrian, cycle and car traffic trying to enter and exit into the scheme, to cross the road to the footpath, to cycle along this road would all be placed in hazardous situations. The fewer of these situations that arise the better.

While there is a footpath on the north side of Glen Road, there is no crossing point and no footpath proposed on the south side of Glen Road outside the site. This is not acceptable as an entrance/exit for pedestrians in terms of infrastructure and safety.

## **BPS Planning Consultants LTD**

Members of the Irish Planning Institute

12 May 2022

Ends/.