



An  
Bord  
Pleanála

## Inspector's Report ABP-319091-24

### Development

Demolition of two habitable dwellings and associated out buildings, restoration and refurbishment of Kindlestown House, construction of 55 apartments and 30 houses, car parking, creche, and all associated site works.

### Location

Kindlestown House, Chapel Road, Delgany, Co. Wicklow.

### Planning Authority

Wicklow County Council.

### Planning Authority Reg. Ref.

23276.

### Applicant(s)

Beackonshaw Hill Ltd.

### Type of Application

Permission.

### Planning Authority Decision

Grant Permission

### Type of Appeal

First Party and Third Party

### Appellant(s)

Delgany Community Council; Tara O'Brien; Beackonshaw Hill Ltd.; Mark and Mairona Noonan.

### Observer(s)

Coolagad Environmenal.

**Date of Site Inspection**

27<sup>th</sup> November 2024.

**Inspector**

Ciarán Daly

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Appendix 1 – Form 1: EIA Pre-Screening

Appendix 2 – Form 2: EIA Preliminary Examination

## 1.0 Site Location and Description

- 1.1. The subject site, of 2.67ha in size, consists of Kindlestown House, a protected structure (ref no. 08-75, RPS no. 16400822), a distinctive Italianate style villa which is semi-derelict and its outbuildings and grounds which include significant tree cover and green areas and which is heavily overgrown in parts at the lower level to the south and behind the main house where the land steps down via a number of overgrown terraces. The site slopes downhill from north to south beginning to the south of Kindlestown House and also slopes downhill behind Kindlestown House toward the eastern boundary. The landscaped area in front of the house and to the west is relatively flat.
- 1.2. There are some derelict outbuildings including what are referred to as two houses located towards the southern boundary which area is heavily overgrown and these inaccessible outbuildings are located at a lower level and in which area I also observed a large pile of earth/clay/sand. The site is surrounded by new residential development (Churchlands mainly two-storey semi-detached and terraced dwellings) to the east and residential development under construction to the east of the northern part of the site, St Laurence's School to the north, Cherry Glade residential estate (two storey detached dwellings) to part of the south and some detached residences on larger plots to part of the south, detached residences to the west on the other side of Chapel Road and part of Eastmount Gardens residential estate (mainly two-storey semi-detached dwellings) opposite to the west.
- 1.3. There is an existing vehicular access to the site off the corner of Chapel Road towards the north-west end of the site.

## 2.0 Proposed Development

2.1. The proposed development, in summary, includes the following, at application stage:

- 49 no. apartments in 3 no. blocks (one 5 storey, with 18 units, one 3 storey with 17 units and one 4 storey with 14 units – all have penthouse setbacks), all over a part basement part podium with parking and storage areas below. The unit mix is 15 no. one bedroom units, 24 no. two bedroom units and 16 no. three bedroom units and a creche of 104sq.m.
- 26 no. two storey houses and two no. bungalows.

- 6 no. apartments are proposed in Kindlestown House and two no. apartment units in the adjacent courtyard buildings.
- Restoration and refurbishment works to Kindlestown House including extension and adjoining outbuildings including the demolition of two no. sheds.
- Demolition of two no. habitable dwellings and associated outbuildings including derelict stables and storage units in the southern area.
- Access from Chapel Road, existing entrance for pedestrians and new vehicular access to serve Kindlestown House apartments, the creche, two houses in the converted outbuildings and two bungalows. The remainder of the development to be accessed off the Churchlands residential development to the east via Delgany Glen and Wood.
- Site development, landscaping works and tree planting.

2.2. The application was revised to a total of 84 no.s units from the previous 85, by way of significant further information submitted and the revisions, in summary, consist of the following:

- The apartments are in two no. blocks with expanded footprints in the same location as the original three blocks. The middle block has been omitted. Revised no. of units is 50. The revised unit mix is 25 no. one bed units, 24 no. two bed units and one no. three bed unit.
- Block 1 has been reduced in height by one storey. Redesign of the parts of the blocks closest to Kindlestown House including reductions and setbacks.
- Car parking as before below the apartments in a semi-basement and revised layout to the front of the house.
- 25 no. two storey houses and one dormer bungalow with two bungalows in south-west corner omitted.
- 6 no. apartments (4 no. one bed units and two no. two bed units) are proposed in Kindlestown House and two no. two bedroom apartment units in the adjacent courtyard buildings.
- One different house type in the former farm south of Kindlestown House.

- The original vehicular entrance is retained and will access the house, outbuildings and creche. The new vehicular entrance on Chapel Road has been omitted.
- Alterations to landscaping, services and layouts.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Initially Wicklow County Council requested further information in relation to 14 no. items. Following receipt of Significant Further Information, including the design changes summarised above, the Council decided to grant permission subject to 36 no. conditions.

Notable conditions include the following:

- Condition no. 4 requires first occupation of all units by individual purchasers and not by a corporate entity and requirement for a Section 47 agreement.
- Condition no. 8 requires a plan for the phased delivery of the development with the refurbishment of Kindlestown House required to be completed before 50% of the house units have been completed.
- Condition no. 9 requires occupation of the residential units before the childcare facility is operational unless it can be demonstrated that a childcare facility is not needed at that time.
- Condition no. 10 requires a plan to be submitted for the remediation of the protected structure to reverse and stop further degradation of the building with the works to be carried out prior to any other development on the site.
- Condition no. 11 requires the submission of details in relation to all works to be carried out to the protected structure.
- Condition no. 13 requires the re-use of materials / features of architectural interest from demolished structures.
- Condition no. 20 requires protective measures for all trees, hedging and shrubs to be retained.

## 3.2.Planning Authority Reports

### 3.2.1. Planning Reports

The initial Wicklow County Council Planner's Report recommended requesting further information in relation to 14 no. items that related to design justification in relation to tree retention, biodiversity impact and impact on the character and setting of the protected structure with adverse impacts noted due to height, mass and scale of the blocks and the two new houses proposed within the front parkland were noted to intrude on the vista; details for the protection of Kindlestown House and the proposed extension; separation distances between the blocks; compliance with the Apartment Guidelines; inconsistencies in relation to external finishes of the blocks; concerns in relation to the additional vehicular entrance; road details, arrangements for access to the north including in relation to gates; parking standard concerns in relation to lack of spaces and layout; drainage issues; concerns regarding the Ecological Impact Assessment (ECIA); shadow impact concerns; details in relation to universal design; and a phasing proposal. The initial report noted that while the population for the settlement is targeted to increase to 21,727 by Q2 2028, the designation for growth actually reflects growth that has already occurred between 2016 and 2022. It states that *"the focus during the period of this development plan therefore for the settlement will be on infill development and consolidation of the built up area"*. For towns in Level 3, the target growth rate is noted to be 25%-30% and that per the CDP *"it is estimated that growth in Greystones – Delgany will exceed this target range before the end of the plan period due to legacy housing developments under construction"*.

The second Planner's Report assessed the response to the further information request and it was considered that the issues had been addressed subject to conditions. The main issues noted at this stage included:

- The design changes protect the character and setting of the protected structure with the original view from the gate retained.
- The reduction in height and bulk of block 1 was no longer considered to dominate when viewed from the north and elevations are more sympathetic.

- A reduction in the number of trees to be removed from 117 to 101 with higher category trees generally to be retained.
- New block layout achieves a 22m separation distance between blocks.
- Density at the lower range of target is acceptable.
- The proposals and justifications for the protected structure are acceptable.
- Apartment guidelines standards noted to be adhered to.
- Revised external details accepted.
- Technical details accepted subject to conditions.
- A connection/link to the north should be allowed for in the future.
- The revised ECIA addresses the FI request and includes mitigation measures.
- The design changes address overshadowing issues.
- Universal design is incorporated.
- In relation to phasing, the restoration of the house and outbuildings will commence at an early stage and this can be agreed prior to development.

### **3.3. Other Technical Reports**

- Municipal District Engineer: Further Information required. Following F.I. no objections.
- Roads: Further Information required.
- Heritage Officer: Further Information required.
- Biodiversity Officer: Further Information required.
- Chief Fire Officer: No objection subject to conditions.
- Transportation: Further information required.
- Water and Environmental Services: No objection subject to conditions.
- Housing: No objection subject to conditions.

### **3.4. Prescribed Bodies**

- Uisce Eireann: No objection subject to conditions.

- Transport Infrastructure Ireland: No objection subject to conditions.
- Department of Housing, Local Government and Heritage: No objection subject to conditions.

### 3.5. Third Party Observations

- 3.5.1. 32 no. third party submissions were received by the planning authority, which are summarised in the planner's report. The themes of the submissions are reflected in the appeals and observations submitted, which are summarised in Section 6.3.

## 4.0 Planning History

### Subject Site:

**ABP-316344-23:** Under the Taxes Consolidation Act 1997 (as amended), the Board decided not to include the subject site on the map of the Residential Zoned Land Tax of Wicklow County Council. Reason: the zoning of the lands under the Greystones-Delgany and Kilcoole Local Area Plan 2013-2019 had expired with a replacement under preparation at 24<sup>th</sup> November 2023.

### Farm section of site:

**08/419:** Wicklow County Council granted permission on southern section of the site and this was upheld on appeal (ABP ref. PL27.232816) for demolition of 2 No. habitable dwellings together with associated farm outbuildings and provision for 13 No. 2 storey over basement level, dwellings, new site access road via the existing Delgany Glen Housing Estate. Two houses were omitted by condition and the ridge heights of houses 9 to 12 were limited to 8.5m. This permission was never implemented.

**06/6561:** application withdrawn for three no. three storey apartment blocks on southern section of the site.

### Churchlands (adjacent to the east)

**20/488:** Permission granted by the Planning Authority and on appeal (ABP-308914-20) for 66 no. dwellings comprising 29 no. two storey three bed houses and 36 no. duplex apartment units in three no. three storey blocks, site level changes, public open space, 125 car parking spaces and vehicular access for 18 houses via Delgany

Glen and via permitted access road for remaining units. This development is currently under construction.

**16/1301:** Permission granted by the Planning Authority and on appeal (ABP ref. PL.249039) for the construction of 74 dwellings, creche, lands for active open space and public open space, redevelopment of pitch to provide two no. grass pitches, lands for passive open space, surface car parking and a set down to serve St Laurence's NS and community facilities, new vehicular junction, vehicular access from Delgany Glen and a green route.

Littlebrook (c.300m west)

**21/553:** Permission granted by the Planning Authority at Melwood, Kindlestown Upper, Delgany for the demolition of an existing dwelling and outbuildings and the construction of a residential development comprising 19 no. dwellings and new vehicular entrance.

**20/624:** Permission granted by the Planning Authority at Chapel Road, Kindlestown Upper, Delgany, for 99 no. two and three storey dwellings, creche and new entrance.

Eastmount (c.150m west)

**18/678:** Permission granted by the Planning Authority at Kindlestown, Chapel Road, Delgany, for demolition of dwelling, garage, shed and stables. Construction of 74 residential dwellings, link road and public open space.

## **5.0 Policy Context**

### **5.1. Wicklow County Development Plan 2022-2028 (as varied) (the CDP)**

- 5.1.1. To note, the Greystones-Delgany and Kilcoole Local Area Plan 2013-2019 (LAP) is no longer in force having expired and a replacement is currently being prepared with the process currently at Pre-Draft Public Consultation Stage with the consultation stage closed. Under this plan, the site and open space area adjacent to the south were zoned under objective "*RE- existing residential*". The zoning objective for the town and environs no longer apply. Variation no. 2 to the Development Plan is currently proposed and this provides for the inclusion of the land use zoning and key development objectives maps for the LAP settlements / areas (including Greystones

– Delgany and Kilcoole) to be integrated into Volume 2 of the County Development Plan.

- 5.1.2. The appeal site is located within the settlement of Greystones/Delgany. Under the Wicklow County Development Plan 2022 – 2028 (as varied), the core strategy designates Greystones-Delgany as a Level 3 Core Region Self-Sustaining Town in the Wicklow Settlement Hierarchy. The stated justification in this regard is “*Towns in Level 3 are targeted for growth rates of 25%-30%, with slight variations based of capacity / past trends. It is estimated that growth in Greystones – Delgany will exceed this target range before the end of the plan period due to legacy housing developments under construction*”.
- 5.1.3. Section 3.5 of the CDP in relation to zoning notes that “*This development plan provides the population and housing targets for all 21 settlements in the County up to 2031. However, it only provides plans for 13 settlements, the remainder of the settlements having their own standalone ‘Local Area Plans’, which will be reviewed after the adoption of this County Development Plan*”. In relation to the settlements within Levels 1 to under the settlement hierarchy, the CDP states that “***there shall be no quantitative restriction inferred from this Core Strategy and associated tables on the number of units that may be delivered on town centre regeneration / infill / brownfield sites***”.
- 5.1.4. New Local Area Plans are to be made for 5 listed towns including Greystones – Delgany – Kilcoole. It is stated in relation to the zoning principles, that a minimum of 30% of the housing growth will be delivered within the existing built up footprint of the settlements. In relation to densities, the zoning principles section states that “*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*”.
- 5.1.5. The sequential approach to zoning is to be applied with “*Priority 3 Infill within the existing built envelope of the town, as defined by the CSO Town Boundary. Town centre regeneration / infill / brownfield developments normally located within the existing built up part of the settlement, generally on lands zoned ‘town centre’,*

*‘village centre’, ‘primary area’, ‘existing residential’ and other similarly zoned, already developed lands will be prioritised and promoted in the first instance for new housing development’.*

5.1.6. Section 4.2 of the CDP outlines the role and function of Level 3 Self Sustaining Growth Towns. It notes that *“the key principles influencing self-sustaining growth towns include balanced growth, regeneration and revitalisation, compact growth, significant enhancement of employment opportunities, investment in sustainable transport and enhanced social infrastructure”.*

5.1.7. Section 6.3.5 of the CDP refers to densities with Table 6.1 of the plan setting out the density standards. The density standards are stated to be per the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009). Table 6.1 for Greystones-Delgany states these to be:

- *“- Public Transport Corridors: Minimum density of 50 units per hectare within 500m walking distance of bus stop or 1km of light rail stop or rail station.*
- *- Outer Suburban / Greenfield Sites: Minimum density of 35 - 50 dwellings per hectare.*
- *- Development at net densities less than 30 dwellings per hectare should generally be discouraged particularly on sites in excess of 0.5 hectares”.*

5.1.8. The following policies and objectives are relevant in this case:

**Strategic County Outcome: SCO1:** Sustainable Settlement Patterns and Compact Growth:

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

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

**CPO 4.6** *To require new housing development to locate on designated housing land within the boundaries of settlements, in accordance with the development policies for the settlement.*

### **Section 6.3.7** *Quality of Design in New Housing Developments*

**CPO 6.3** *New housing development shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.*

**CPO 6.5** *To require that new development be of the highest quality design and layout and contributes to the development of a coherent urban form and attractive built environment in accordance with the following key principles of urban design:*

- *Strengthening the character and urban fabric of the area;*
- *Reinforcing local identity and sense of place;*
- *Optimise the opportunities afforded by the historical and natural assets of a site / area;*
- *Providing a coherent, legible and permeable urban structure;*
- *Promoting an efficient use of land;*
- *Improving and enhancing the public realm;*
- *Conserving and respecting local heritage;*
- *Providing ease of movement and resolving conflict between pedestrians/cyclists and traffic;*
- *Promoting accessibility for all; and*
- *Cognisance of the impact on climate change and the reduction targets for carbon emissions set out by the Government.*

**CPO 6.14** *To densify existing built-up areas subject to the adequate protection of existing residential amenities.*

**CPO 6.25:** *In existing residential areas, the areas of open space permitted, designated or dedicated solely to the use of the residents will normally be zoned 'RE' as they form an intrinsic part of the overall residential development. Such lands will be retained as open space for the use of residents and new housing or other non-community related uses will not normally be permitted.*

**CPO 7.35** *Subject to safety considerations, natural features (trees, streams etc) shall be retained in new developments.*

**CPO 17.8** *Ensure ecological impact assessment is carried out for any proposed development likely to have a significant impact on proposed Natural Heritage Areas (pNHAs), Natural Heritage Areas (NHAs), Statutory Nature Reserves, Refuges for Fauna, Annex I habitats, or rare and threatened species including those species protected by law and their habitats. Ensure appropriate avoidance and mitigation measures are incorporated into development proposals as part of any ecological impact assessment.*

- 5.1.9. Chapter 2: Overall Strategy, Chapter 3: Core Strategy, Chapter 4: Settlement Strategy, Chapter 6: Housing, Chapter 8: Built Heritage, Chapter 12: Sustainable Transportation and Chapter 17: Natural Heritage and Biodiversity are also considered relevant. Design Standards are set out in Appendix 1.

## **5.2. Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES)**

- 5.2.1. The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which reflects the challenges and opportunities of the Region. It is a key principle of the strategy to promote people's quality of life through the creation of healthy and attractive places to live, work, visit and study in.
- 5.2.2. The site is located within the 'Dublin Metropolitan Area'. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on a number of large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The following RPO is of particular relevance:

**RPO 5.4:** *Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the 'Sustainable Residential Development in Urban Areas'. 'Sustainable*

*Urban Housing; Design Standards for New Apartment' Guidelines, and Draft 'Urban Development and Building Heights Guidelines for Planning Authorities'.*

### **5.3. The National Planning Framework**

5.3.1. The National Planning Framework seeks 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high-quality urban places and increased residential densities in appropriate locations while improving quality of life and place.

5.3.2. Relevant Policy Objectives include:

**National Policy Objective 4:** *Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.*

**National Policy Objective 13:** *In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.*

**National Policy Objective 33:** *Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.*

**National Policy Objective 35:** *Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.*

### **5.4. Section 28 Ministerial Guidelines**

5.4.1. Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024 (the Compact Settlement Guidelines).
- Sustainable Urban Housing: Design Standards for New Apartments (2022) (the Apartment Guidelines).
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018) (the Building Height Guidelines).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- Architectural Heritage Protection Guidelines for Planning Authorities (2011).
- Quality Housing for Sustainable Communities: Design Guidelines, (2007).
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (2023).

5.4.2. The following planning guidance and strategy documents are also considered relevant:

- Cycle Design Manual, Department of Transport (2023).
- AA of Plans and Projects in Ireland - Guidance for Planning Authorities (2009).
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (2018).
- Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0).

## **5.5. Natural Heritage Designations**

5.5.1. The site is not located within or adjoining a European Site. In relation to designated conservation sites, the subject site is located:

- c.1.4km to the east of Glen of the Downs Special Area of Conservation (SAC) and Proposed Natural Heritage Area (PNHA) (site code 000719),
- c. 2.1km south-west of Bray Head SAC and PNHA (site code 000714),
- c. 2.2km north-west of The Murrough Special Protection Area (SPA) (site code 004186),

- c. 3.2km north-west of The Murrough PNHA (site code 000730),
- c. 3.5km south-east of The Grey Sugar Loaf PNHA (site code 001769),
- c. 3.6km south-east of Kilmacanogue Marsh PNHA (site code 000724),
- c. 3.7km north-west of The Murrough SAC (site code 002249),
- c. 5.8km north-east of Carriggower PNHA (site code 000716),
- c. 5.9km north-east of Carriggower Bog SAC (site code 000716),
- c. 6.3km south-east of Dargle River Valley PNHA (site code 001754),
- c. 7.1km south-east of Powerscourt Woodland PNHA (site code 001768),
- c. 7.7 km east of Powerscourt Waterfall PNHA (site code 001767),
- c. 7.8km south-east of Ballyman Glen SAC and PNHA (site code 000713),
- c. 7.9km east of Wicklow Mountains SPA (site code 004040),
- c. 8km north-east of Varty Reservoir PNHA (site code 001771),
- c. 8.1km south-east of Knocksink Wood SAC and PNHA (site code 000725),
- c. 8.6km south-east of Glencree Valley PNHA (site code 001755).

## **5.6. EIA Screening**

- 5.6.1. See Forms 1 and 2 appended to this report. The proposed residential development is located within an urban area on serviced land that was previously zoned for residential development. Having regard to the nature, scale and design of the proposed development, to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended) and the absence of any connectivity to any ecologically sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded.

## **6.0 The Appeal**

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

6.1.1. 4 no. of appeals were received from the following:

- Delgany Community Council (Dunroamin, The Nurseries, Chapel Road, Delgany, Co Wicklow),
- Tara O' Brien (80 Churchlands, Delgany, Co Wicklow),
- Beackonshaw Hill Ltd (BBA Architecture, Suite 3, Eden Gate Centre, Delgany, Co Wicklow) (the applicant),
- Mark and Mairóna Noonan (78 Churchlands, Delgany, Co Wicklow).

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

#### Third Party Appeals

- Inaccuracies in relation to building heights and layout plans for Churchlands housing shown on drawings.
- Overshadowing of residences at Churchlands.
- Devaluation of houses in vicinity due to overshadowing.
- Traffic issues in the area, including congestion, volume and safety, as a result of access through Delgany Glen and Delgany Wood. Access should be via Chapel Road. Refusal of permission required.
- A Road Safety Audit is required and full traffic plan is required if granted.
- The local roads cannot handle the construction and waste traffic for the development and stand alone access is required.
- The development would be out of keeping with the sylvan and rural character of the area and would seriously injure local amenities.
- The site is not convenient to public transport and high density is not warranted. The density is located on a small portion of the site.
- A balanced design response in relation to the need for development and the protection of the protected structure and its setting has not been struck.
- Amenity and biodiversity value of the existing trees are not protected with tree loss noted to be excessive.

- Failure to meet the LAP density and scale requirements, explain rationale for apartment blocks and address negative visual impact on Kindlestown House and surrounding area supported by a letter from the Department of Housing and Local Government.
- The site is unsuited for this scale of development given its topography, proximity to national monuments and archaeological sites within 1km.
- Greystones/Delgany has already reached its housing targets for 2028.
- There is a global biodiversity/ecological/climate crisis.
- The density materially contravenes the site's zoning objective given it is a mix of apartment blocks and houses which do not reflect the character of the site and which fails to protect residential amenities of the area.
- The development is contrary to objectives RES5 and REST of the LAP including in relation to density for such lands.
- The apartment blocks will have an overbearing impact on Kindlestown House and are not consistent with natural heritage preservation and only houses should be permitted.
- The level of excavation, degree of cut and the extent of tree removal (over 60%) are not consistent with Objectives NH1, NH12, NH14, NH16, NH17, NHIS and NH51 of the previous Development Plan which seek to resist development that would significantly alter the natural landscape and topography or which would result in mature tree felling.
- Lack of detail provided to enable an assessment of the development.
- The removal of two bungalows is questionable as they could house older residents.
- Residential development should be minimised on such an archaeologically sensitive site in proximity to Kindlestown Castle and Killincarrig House.
- The apartment blocks will cast long shadows over properties to the east.
- The visual impact of the apartment blocks will have a strong overbearing impact on Kindlestown House and to the east and south of the site.

- The environmental impact and loss of trees on the site is not acceptable with the Habitat Report downplaying impacts. Bats are protected and birds such as kites, barn owls, buzzards and frogs have been observed on the site.
- The Ecological Impact Assessment (ECIA) is deficient in ignoring the Cherry Orchard Stream which has its source on or about the site.

#### First Party Appeal

- Condition 4 as it restricts the sale of units to corporate entities has been improperly imposed and/or worded. The relevant guidelines apply to houses and duplexes only.
- Condition 8 in relation to phasing as it requires the refurbishment of Kindlestown House be completed before no more than 50% of the house units have been completed creates funding problems for the developer. Revised condition requests occupation of 100% of the houses and 50% of the apartments before commencement of the restoration of the house and outbuildings and that the house and outbuildings be fenced off, secured and made weatherproof.
- Condition 9 in relation to the creche is not appropriate. It should not be required to be operational and any demand for the facility will only arise upon occupation of all the dwellings. Phasing should be revised and considered “de novo”.

### **6.2. Applicant Response**

6.2.1. The applicant’s response to the third party grounds of appeal can be summarised as follows:

- The issues raised are unsubstantiated.
- Overshadowing impacts are shown to be further reduced by the updated enclosed addendum daylight, sunlight and shadowing study to take account of the as built line of houses at Churchlands, including no. 80.
- The heights of the existing buildings do not influence the shadowing impacts and are shown accurately in any event.
- The shadowing impacts on adjacent properties accord with BRE standards.
- The other access from Chapel Road is limited in capacity and is not a suitable alternative access. The principle of access was established in 2008.

- The OCSC Engineer's response notes that the subsequent modelling and assessments provided for future growth.
- The reference to the Local Area Plan is outdated and there is a failure to take account of the current Development Plan and Ministerial Guidelines.
- The principle of development is encouraged by policy including for infill development, height and density.
- The Protected Structure status specifically excludes the structure and features within the curtilage.
- Heights of proposed buildings are less than the main house and are positioned to respect the historic relationship with the land to the east.
- The assertions in relation to trees fail to include a qualitative analysis and the bulk of trees to be removed do not form part of the original landscape. No category A and B trees will be removed and c.220 will be planted to enhance the landscape.
- In a 2006 biodiversity study of the area, the site was not considered of significant importance.
- The visual impact was demonstrated to be acceptable in the applicant's submissions and reports.
- The detailed reports submitted allow for an assessment of the development.
- The Departmental submission concurred with the proposed mitigation measures in relation to archaeology and recommended monitoring conditions.
- The documentation submitted in relation to trees, landscaping, biodiversity, AA screening and ecological impact assessment support the design.
- Green and blue infrastructure ensure no impacts on water courses or streams in the area, including the Cherry Orchard stream.
- The OCSC traffic assessment deals with the issues raised including that the access arrangements comply with DMURS for safety and access, and there is noted to be adequate capacity in the general road network.
- The submitted Social Infrastructure Audit demonstrates adequate services.
- Using the net density approach advocated by one of the appellants would only increase the density while remaining in the target range.
- The separation distances to Cherry Glade mitigate any impacts.

- The restoration of the area to the front of the house as a parkland setting provides an appropriate setting.

### 6.3. Planning Authority Response

- 6.3.1. The Planning Authority refers the Board to its reports. Regarding condition no. 4, its removal would contravene Objective CPO 6.2 (prohibition of sales of residential units to commercial institutions) of the Development Plan. Regarding condition no. 8, the need to refurbish the house is reiterated but the P.A. is open to an alteration of the condition to allow for in default of agreement for referral to the Board. The P.A. would consider some changes in wording to Condition 8 to clarify “*50% of the proposed houses, unit no.s 1 to 26*” to avoid confusion between houses and apartments. Regarding condition no. 9, the P.A. notes the creche location in the outbuildings and would consider amendment that requires the completion of the creche prior to occupation of 50% of the dwellings but which still includes the “*unless otherwise agreed*” wording.
- 6.3.2. The response also notes that the BRE guidelines are applicable in relation to overshadowing impacts and a reasonable balance has been struck in reducing the height of unit no. 1.

### 6.4. Observations

- 6.4.1. One third party observation was received from Coolagad Environmental, Moytura House, Greystones, which can be summarised as follows:
- The local community do not want such a high density development at this location. The housing crisis will pass and national heritage must not be overbuilt.
  - The landscape should be protected and any development should be subservient in design, height, size and style.
  - The adjacent bat community must be protected and the biodiversity of the site should be protected.
  - The Greystones-Delgany area has already exceeded its housing target up to the year 2031.

- There is an infrastructure deficit in the area such that the development is premature.
- There is no efficient public transport in the area or within 2.5km of the site and the development will further increase car use.
- The road network needs to be upgraded before any large developments can proceed.
- Multi-storey apartments are most inappropriate to the setting of Kindlestown House.
- There is an existing deficit in school places without another proposed development.

## **6.5. Further Responses**

6.5.1. Three further appellant responses from Delgany Community Council, Tara O' Brien and Mark and Mairóna Noonan were received in relation to the first party response to the third party appeals and these responses can be summarised as follows:

- The local area plan is the current land use strategy and the process of drafting the next LAP has commenced.
- If the LAP is no longer in force, then the lands are no longer zoned and the application should be withdrawn.
- The Census results show Greystones has already exceeded the population targets for 2028.
- The development is not infill but rather a green field site.
- The 2006 Biodiversity Report did not include private properties.
- The planting programme will not ameliorate the biodiversity loss on the site.
- An examination of impact on water quality should be undertaken.
- Bat protection issues need to be carefully examined.
- The development of the house would contravene the "repair v replace" principle particularly in relation to the new roof.
- Adverse impacts would result on Kindlestown House and setting due to the excessive scale, form and location of development.

- The development contravenes the Compact Settlement Guidelines in relation to impacts on historic amenity, natural environment, natural features, habitats and spaces.
- The density is over concentrated to the rear of the protected structure.
- The two apartment blocks will be overbearing and out of keeping with surrounding structures.
- There are serious deficiencies noted in the Social Audit including in relation to school place provision, medical and dental services are closed to new patients, Delgany Health Centre is vacant for more than 10 years, there are no arts facilities and many social and community facilities are focused in Greystones town.
- Concerns in relation to overshadowing should be addressed.
- Some bungalows should be included to allow for a mix of housing.
- The permission granted is for a different number and type of units to that stated in the public notices and on the letters received and the application is not valid.
- The house located backing on to the rear of no. 78 Churchlands should be relocated further away from the boundary. A single storey bungalow is preferred and condition no. 36 should be retained.
- Houses 2 and 3 next to the bungalow should be revised as bungalows to ameliorate overshadowing and loss of amenity.
- The green space in the development should be used for housing relocated away from existing houses.
- Noted inaccuracies in the Daylight and Sunlight report including shadow study images are such that its conclusions cannot be relied upon.
- The assumptions of the traffic impact assessment are incorrect and based on opinion.
- The access through the adjacent development will be unsafe for car traffic, HGV and service vehicles and an alternative access route should be considered. A grant may be unlawful.
- A Road Safety Audit is required.
- Overshadowing and overlooking continue as a result of the proposed dormer bungalow as well as safety issues. Bungalow required instead of dormer.

- The sylvan setting to the rear of Churchlands will be destroyed and the development will be out of character with the rural setting and devalue property in the vicinity.
- Provisions for waste collection are inadequate with narrow roads.
- A grant of permission could be seen as unreasonable and irresponsible in relation to existing residents and children.

## 7.0 **Assessment**

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development.
- Density.
- Layout and Residential Standards.
- Visual Amenity.
- Residential Amenity.
- Landscape.
- Heritage.
- Ecology.
- Infrastructure Issues.
- First Party Appeal.
- Other Matters.

### 7.1. **Principle of Development**

- 7.1.1. While the zoning of the site previously expired and there is a proposed variation to the Development Plan that would effectively reinstate the previous residential zoning,

for the purposes of this assessment the site is considered to be unzoned serviced land. I note that the principle of development at the subject site was accepted by the P.A. on the basis of the site's then residential zoning.

- 7.1.2. Based on the CDP planning principles and policies in relation to settlements and settlement boundaries and development within same per Section 5.1 above, where infill residential development is generally provided for, I note the site's location with a Level 3 Core Region Self-Sustaining Town in the Wicklow Settlement Hierarchy. While the CDP targets significant growth for the settlement, I note the Planner's Report reference to the growth target effectively having been achieved to date with more capacity noted up to 2031. However, per Section 3.5 of the CDP, the CDP states that *"there shall be no quantitative restriction inferred from this Core Strategy and associated tables on the number of units that may be delivered on town centre regeneration / infill / brownfield sites"*.
- 7.1.3. I note the policies of the Development Plan which encourage and provide for such infill residential development with no quantitative restriction for the settlement. I note policies which seek consolidation (principle 1: compact growth of the zoning principles and principle 2: delivery of population and housing targets, principle 3: higher densities, principle 4: sequential approach) and development of such serviced sites within settlements for housing including within Greystones-Delgany per Section 3.4. Section 4.2 of the CDP, specifically in relation to Greystones-Delgany states that *"the focus during the period of this development plan therefore for the settlement will be on infill development and consolidation of the built up area"*. I also note conservation policies and objectives which seek to preserve and re-use protected structures and heritage assets consistent with conservation guidelines. In this context, I consider the proposed use of the site for housing and for the refurbishment and re-use of the protected structure, which would provide for its long-term preservation and sustainable use, to be acceptable in principle at this location within the urban built-up area generally surrounded by existing residential development.
- 7.1.4. The site was previously zoned under objective 'RE' under the expired LAP. Appellants have raised the issue of a potential material contravention of the zoning objective for the site. However, at present there is no zoning objective for the site

and, as a result, I consider that the development is in accordance with the CDP and is acceptable in principle.

## 7.2. Density

- 7.2.1. Table 6.1 of the CDP sets out its density standards for Greystones-Delgany. The applicable standard in this regard is a minimum of 35 – 50 units per hectare (uph) for such outer suburban / greenfield sites. Net densities less than 30 uph are discouraged on sites in excess of 0.5 ha. Circular 02/2021 provides for this proportionate approach. I note the provisions of the Compact Settlement Guidelines have not been incorporated into the Development Plan. The Board is required to have regard to such guidelines which supercede the previous guidelines on density which were incorporated within the CDP. I note that SPP4 of the Building Height Guidelines is incorporated into the Development Plan per Section 3.9. Figure 3.3 of the Compact Settlement Guidelines requires a three-step approach to establishing and refining density. The density range is established based on settlement size and area type.
- 7.2.2. I note that Greystones-Delgany can be considered to be a key/large town, consistent with the CDP, where a density range of 30 to 50 units per hectare shall generally be provided at suburban/urban extension locations of such towns. Density is then refined based on accessibility. I note the site location c.1.4km from Greystones train station. The site is located outside of a 500m walking distance of existing and planned Bus Connects core bus stops and density is to be reduced with distance from a transport node. This would put the suitable density for the site towards the lower 30 units per hectare end of the range. The final step is to refine density having regard to the impact on the character and amenity of the area, including on historic environments and this matter is assessed in detail further below in this report.
- 7.2.3. I note that it is proposed, following receipt of further information, to provide 84 no. of dwellings on a site area of 2.59 ha. which would result in a density of 32 units per hectare. As outlined in the below assessment, and noting the restrictions of the site in terms of the protected structure, its setting and the requirements for tree retention and integration into the site and with the wider area, I consider that the proposed

density of development represents a reasonable intensification of development and the appropriate and efficient use of the urban site given this context. I do not consider this approach to be materially inconsistent with the density provisions of the Development Plan (Table 6.1) being marginally below 35 uph and having regard to the site constraints particularly the need to have due regard to the character and setting of the protected structure and the area. I consider the proposed density to be acceptable subject to the below detailed assessment.

### **7.3. Layout and Residential Standards**

- 7.3.1. Appellants have raised the issue of providing for a balanced design response in relation to the need for development and the protection of Kindlestown House and its setting. I note the revised layout of the development, submitted by way of F.I., includes two no. 4-storey apartment blocks over ground level/basement to be located to the rear/ east of Kindlestown House on a north-south access and which would be separated from each other by an area of open space. The remaining units, two storey terraced and semi-detached houses with rear gardens, would be located in the southern section of the site adjacent mainly on an east-west alignment. The existing house would contain 6 no. apartment units and the outbuilding to the north would contain two no. units. The revised unit mix would be 29 (34.5%) one beds, 28 (33.3%) two beds, 23 three (27.3%) beds and three (4.9%) 4 bedroom units. Less than 50% of the apartment blocks would be one bedroom units consistent with SPPR 1 of the Apartment Guidelines which has been incorporated into the CDP and I am satisfied in relation to the proposed unit mix noting Section 3.1.1 of Appendix 1 of the CDP where it states a mix of dwelling types should be provided.
- 7.3.2. This layout would preserve the area to the front/east of the main house and to the side/south from residential development. This layout, based also on the site levels and location of the quality mature trees mainly around the front area of the main house, appears to be a reasonable response to the site constraints and one that seeks to largely preserve the main house and its setting consistent with Section 8.5 (Built Heritage Objectives) and CPO 7.35 (retention of natural features in new developments) of the CDP while providing for a compact form of development on the lower levels of the site away from the house. It would achieve a high standard of

place making with landscaped grounds, sufficient setbacks from sensitive areas of the site and buildings that would enclose and animate new streetscapes.

- 7.3.3. While the ground in the southern section of the site would be raised somewhat, given the limited height of the development proposed (two storeys) at this end and the adjacent ground levels, which are generally higher, I have no significant concerns and do not consider this to be an excessive intervention away from the protected structure and in a suburban development context noting Section 6.3.7 (Quality of Design in New Housing Developments) and CPO 6.5 (high quality design for new development) of the Development Plan.

#### Apartment Standards

- 7.3.4. Section 3.9 of the CDP lists out compliance with Specific Planning Policy Requirements including SPPR 3 of the Apartment Guidelines which provides for minimum floor areas for apartments. The CDP also references the Quality Housing for Sustainable Communities guidelines (2007) and this provides minimum floor area and other standards for houses. Having examined the revised floor plans and house floor plans together with the Appendix 2 (Housing Quality Assessment) of the Architectural Design Statement and Masterplan Further Information Response, I am satisfied that the proposed development complies with the minimum floor area standards including in relation to storage areas.
- 7.3.5. Section 6.3.6 of the CDP provides for universal design best practice arrangements to be encouraged and CPO 6.8 requires new residential developments in excess of 20 units to provide a minimum of 5% universally designed homes. Per Appendix 3 of the Architectural Design Statement and Masterplan submitted by way of F.I., I note that 5 no. apartment units would be of universal design. This represents 8.6% of the scheme apartments and this complies with CDP policy.

#### Daylight and Sunlight

- 7.3.6. In relation to daylight and sunlight standards within the scheme, Appendix 1 Section 3.2.7 (Design Quality) of the CDP requires that layouts ensure adequate sunlight and daylight, in accordance with '*Site Layout Planning for Daylight and Sunlight: A Guide*

to *Best Practice*' (BRE 1991). In relation to the application revised by way of further information, the applicant submitted a 'Daylight, Sunlight and Shadowing Assessment RFI' prepared by Metec Consulting Engineers. This was prepared under the 3rd Edition (2022) of BR209 '*Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice*'.

- 7.3.7. I note that the Compact Settlement Guidelines note in relation to daylight in new residential development that "*planning authorities must weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increased scales of urban residential development. Poor performance may arise due to design constraints associated with the site or location and there is a need to balance that assessment against the desirability of achieving wider planning objectives*".
- 7.3.8. The daylight assessment of the proposed development noted that 258 of the 260 rooms achieved the daylighting requirement in line with the lux standards. In relation to sunlight, Annual Probable Sunlight Hours (APSH) (target greater than 1.5 hours), the report shows that the majority of the windows achieve the standard and for those that fail, each unit has balconies "*that are well sunlit and serve as strong mitigation against the reduced sunlight falling on the windows*" with many units (63% of the blocks) also being dual aspect. Accordingly, I am satisfied that a reasonable level of daylight provision would be provided in the development.
- 7.3.9. I note that in relation to sunlight for the proposed amenity space, the BRE is standard is for at least half of the amenity space to receive at least two hours of sunlight on March 21<sup>st</sup>. The simulation results for the amenity spaces within the scheme, including the house gardens, demonstrate a minimum of 57% of gardens receiving greater than 2 hours sunlight with the majority of the spaces achieving over 75% of their areas over the 2 hours standard. Accordingly, I am satisfied in this regard.

#### Internal Separation distances

7.3.10. The separation distance between Block 1 and 2 would be c.22m and between the opposing first floor windows of 4 of the proposed houses to the south. These distances are also noted to be in excess of the minimum 16m required under SPPR 1 of the Compact Settlement Guidelines for opposing first floor windows and which accords with the CDP standard of 22m per Appendix 1 of same. I consider that there would be more than sufficient separation distances between the blocks and the houses and between the blocks and the protected structure such that I am satisfied in relation to significant privacy issues for future residents of the apartment units and houses.

#### Open Space

7.3.11. I am satisfied that the provision of private open space for the apartment units and for the houses with minimum standards met and exceeded. The provision of useable quality public open space on the site would be c.20% of the net site area excluding the fringe areas around the open grass areas and including the wooded areas. This would be significantly in excess of the minimum required standard under the CDP of 15% of the site area (Appendix 1: Section 3.1.4) and of that required in the Compact Settlement Guidelines of 10% to 15% of the net site area. I note the guidelines allow for the relaxation of this standard in relation to circumstances where significant heritage features apply such as on this site. On this basis, I am satisfied in relation to the provision of public open space in the scheme and I welcome its accessibility from the surrounding area to the east and west although this could be improved upon from the north and south as addressed further below in relation to site permeability.

7.3.12. Two attractive and useable areas of open public open space, which can also serve the residents of the apartments would be located to the front and side of Kindlestown House. This would be in addition to the attractive woodland areas surrounding these spaces which can function as ancillary space for walking and which contribution to the sylvan setting. Having regard to the site constraints, including significant level changes, I consider that the open space design provides a reasonable level of accessibility for all potential users.

7.3.13. I note Appendix 1 of the Apartment Guidelines which provides for communal amenity space standards based on bedroom types. Based on the unit mix for the apartments, this gives rise to an area requirement of 352sqm. There is no separate standard for communal open space in the CDP. Given the quality of public open space to be provided, together with the landscaped area to be provided between Blocks 1 and 2 of c.460sqm, and the formal landscaped areas to be provided to the rear of Kindlestown House which per the submitted Architectural Design Statement and Masterplan Further Information Response, are designated for communal open space, I am satisfied in relation to the availability and quality of communal open space for the future occupants of the apartments.

#### Childcare Facility

7.3.14. The proposed creche would be located in the northern most building to be adapted and reused for this purpose with adjacent outdoor play areas provided. The creche is stated to be 104sq.m. The Apartment Guidelines allow for the exclusion of one-bedroom units and the revised scheme consists of 29 no. one bedroom units. Section 7.2 of Appendix A of the CDP requires such provision in line with the Childcare Guidelines such that 20 childcare spaces shall be provided for every 75 dwellings. Appendix 2 of the childcare guidelines arrives at this figure by assuming that 35 of the 75 notional dwellings require the 20 spaces. This gives a scheme ratio of 0.46 spaces per dwelling which if applied to the remaining 55 (two-bed plus) units means that 26 units can be assumed to require childcare. Given the guidelines require 20 spaces per 35 units or a ratio of 0.57, then 15 childcare spaces would be required on this basis. On the higher basis consistent with Appendix 1 (general standards) of the Childcare Guidelines, I consider the floor area of the creche to be adequate to cater for the proposed development.

### **7.4. Visual Amenity**

7.4.1. Third parties have raised concerns in relation to the scale of the development and its impact on the site and character of the area and in relation to material contravention of the zoning objective. I note the submission of the Verified Views and CGI document prepared by 3D Design Bureau in respect of the revised design submitted

by way of further information. This provides CGI images from within the site and winter verified views from outside the development. I am satisfied that it depicts a sufficient range of views, together with the submitted drawings, to enable an assessment be made of the visual impact of the development. I have also reviewed the Landscape and Visual Impact Assessment report prepared by Mitchel and Associates in response to the F.I. request. This assesses many of the impacts from the selected viewpoints as ranging from imperceptible, slight, neutral, moderate to positive with no significant concerns noted. I note the block finishes consisting mainly of a mix of brown brick and timber finishes would aid in setting the blocks into the receiving environment and would be high quality and durable.

7.4.2. In terms of the setting of the protected structure, where the two blocks would appear in part as two storey blocks and three storey blocks, when viewed from the front / west of the blocks, I note that the blocks would not appear unduly visually dominant or close relative to the protected structure. CGI images 1 and 2, together with the elevations and sections, give rise to no significant concerns in this regard. CGI 3 taken from the south-east end of the site gives a perspective on the site levels and the interaction of the blocks and the houses with the setting of the protected structure where a view of same would be available from this end of the site.

7.4.3. Noting the significant separation distances between buildings and the consequent effect in terms of the open appearance of the site, I am satisfied in this regard. I consider that the modern design proposed for the new blocks with the more traditional house styles, would not result in any undue overbearing impacts on the site and would not be unduly visually dominant in the vicinity of Kindlestown House. A fuller assessment in relation to conservation issues will be conducted in the heritage section further below in this report.

7.4.4. I note the verified views shown from the east, including V6, V19, V20, V7, V8 and V21, where the blocks would appear to be located in a valley type dip in the emerging suburban landscape. The development under construction to the east at Churchlands, includes three no. three storey duplex terraces adjacent to the site as well as two storey houses. The proposed blocks would not appear unduly excessively scaled or bulky in this setting, despite the part 5 storey appearance that

would be available immediately to the east and the development would not appear unduly visually obtrusive from the east. I consider the development would not be out of character with the suburban setting when viewed from the east. Views would also be afforded of Kindlestown House, from the gap between the blocks and this framing strikes an appropriate balance between the protection of the setting of Kindlestown House while enabling for intensification of development in accordance with policy.

7.4.5. I note the verified views shown from the south including V14, V11, V13, V12, V10 and V9 where views of the development would be almost absent. The scale of the development to the south of the site at two storeys on a lower ground level would also ensure no significant negative visually obtrusive or overbearing impacts arise. I consider that in the context of the surrounding suburban, mainly two storey development, to the south, that the development would integrate with the character of the area and I have no significant concerns in this regard.

7.4.6. I note the verified views shown from the west including V15, V16 where the development would not be unduly visible from the west and which would integrate with the sylvan setting due to the tree cover, its scale and distance from the surroundings, and I am satisfied in this regard.

7.4.7. I note the verified views shown from the north including V1, V2, V3, V4, V5, V17 and V18. Other than in V5, the impact on views from the north would be negligible in terms of visibility from the surrounding area given the distance from the site, the scale of the development, its position on the lower level and the number of trees in the vicinity. It is clear the views of block 1 from the adjacent car park and school playground area (View 5) would be more significant. However, I consider the scale of block 1, having regard to the emerging surrounding suburban context and in the context of the sylvan setting to the northern end of the site and the protected structure, would sufficiently integrate with the receiving environment to not appear unduly visually obtrusive or overbearing when viewed from the north and would aid in providing some enclosure to part of the car parking space. This is aided by the location of block 1 at a significantly lower level and appropriate distance from the protected structure.

- 7.4.8. In summary, having regard to CDP policy including Section 6.3.7 (Quality of Design), CPO 6.21, CPO 6.22 and Principle 3: Higher Densities where infill development should respect the established character of the area and the height and scale of development proposed, and the emerging urban character of the area to the east, I am satisfied in relation to the visual impact of the development on the established character of the area. I consider it would integrate with the setting and wider area to a sufficient degree while enabling a reasonably intensive residential consolidation of the site without significant negative impacts on the visual amenities of the area. I note the zoning objective for the site is no longer applicable such that no material contravention issue arises. On the basis of the above and below assessment, I note I am satisfied in relation to impacts on residential amenity.

## **7.5. Impact on Adjoining Residential Amenity**

### Daylight, Sunlight and Shadow Impact

- 7.5.1. Third parties have raised concerns in relation to overshadowing of their adjacent residential properties. In relation to daylight and sunlight impacts, Appendix 1 Section 3.2.7 (Design Quality) of the CDP requires that layouts ensure adequate sunlight and daylight, in accordance with '*Site Layout Planning for Daylight and Sunlight: A Guide to Best Practice*' (BRE 1991). Design revisions were made in the F.I. scheme that included a revised dormer bungalow design for the south-eastern house to reduce its scale and height and associated impacts to the east.
- 7.5.2. Observers have raised concerns in relation to the validity of the applicant's daylight and sunlight study addendum report prepared by Metec Consulting Engineers and submitted in response to the third party appeals. This addendum was required as it is stated that the dwellings to the east were originally mapped in line with the planning documents but have now been mapped in line with the as-built situation which is different. The Addendum Report concludes that the impacts are further reduced on no.s 78 and 80 Churchlands given the more accurate representation with these houses located further to the east. The reduced height (to maximum 5.85m) of the proposed dwelling to the south-east has also been considered in the addendum.

- 7.5.3. Observers refer to inconsistencies in Table 8.0.2 of the addendum report. There are inconsistencies with VSC results for window 1 of both adjacent dwelling refs 1 and 2 (referred to as dwelling ref.s 29 (78 Churchlands) and 31 (80 Churchlands) in the RFI report which is broadly consistent with the addendum results) between the Table on page 20 of the addendum report and the images on page 30. I note the inconsistency for dwelling ref. 1, window 1 under the proposed scenario is the difference between 20.91 and 19.83. This gives a greater difference of 2.33 between before and after and this difference represents a loss of VSC of c.10.51% which is greater than the error figure of 5.6%. However it remains significantly below the 20% threshold where such a loss of VSC, as a worst case, would be noted to be excessive per the BRE guidelines.
- 7.5.4. In relation to dwelling ref. 2, window 1 under the proposed scenario there is a difference between the given figure of 19.23 and the figure from the image of 19.13. Taking the 19.13 figure, the VSC loss is 1.63 or 7.8% by comparison to the incorrect loss of 1.53 or 7.3% by comparison. However it remains significantly below the 20% threshold where such a loss of VSC would be noted to be excessive per the BRE guidelines. Accordingly, I am satisfied in relation to the raised discrepancies in the daylight and sunlight reports given the updates made in the Addendum and given the noted results under the worst case scenario above where VSC is below 27% but not less than 80% its former value.
- 7.5.5. In relation to the daylight assessment for neighbouring properties in the RFI report, the VSC was calculated for 45 no. surrounding residences to the east, south and west, which are located in close proximity to the site. This was noted to be compliant with the BRE guidelines including in relation to the surrounding dwellings to the south-east which would not result in a significant impact and I am satisfied in this regard, following the Addendum Report's updates discussed above.
- 7.5.6. In terms of the BRE criteria to safeguard sunlight to neighbouring properties, a standard of 25% of annual probable sunlight hours (APSH) or less than 5% of annual probably sunlight hours between 21st September and 21st March is recommended or does not receive less than 80% of its former sunlight hours during the period or a reduction in sunlight received over the whole year greater than 4% of annual

probable sunlight hours. Relevant surrounding dwellings in proximity to the site were assessed in the RFI report and the results found that the majority of the assessed neighbouring windows achieved the BRE recommended standard in this regard and where results of less than 25% (or 5% in winter) were noted with over a 20% reduction on the former value, these generally constituted a single window out of 4 or more examined for the particular dwelling. Accordingly, I am satisfied that adequate levels of sunlight will be available, also noting the updated Addendum Report.

7.5.7. Overshadowing concerns have been raised in relation to the APSH winter results from the addendum report including Table 9.0.2 for dwelling ref 2 (80 Churchlands) (dwelling ref 21 in the RFI report), whereby in winter APSH less than 5% while receiving less than 0.8 times its former value is predicted and also where there is a reduction in sunlight received over the whole year greater than 4% of APSH. Per the addendum report, window 1 would be 76.4% of its former 18.43 value (above the 5% threshold) while window 2 would be 80.13% of its former 3.07 value. As a result, I am satisfied that these results would provide a satisfactory sunlight standard based on the BRE criteria.

7.5.8. In relation to overshadowing of neighbouring amenity space under the BRE guidelines, 50% of amenity space should receive at least two hours of sunlight in the day. The addendum report shows that no. 78 Churchlands would have this percentage reduced from 56% to 53% while no. 80 would have this percentage reduced from 56% to 52% with a classification of minor adverse impact noted. Based on the BRE criteria, this is considered acceptable, and on balance, noting the characteristics of the receiving environment, I consider this an acceptable level of impact to allow for a scheme of this nature where appropriate infill development is generally encouraged in the development plan and I am satisfied in relation to compliance with the CDP standards in this regard. Should permission be granted, I recommend the height of unit no. 1 be reduced by condition to 5.85m consistent with the addendum assessment.

#### Other External Impacts

7.5.9. In terms of visual impact on the directly adjacent residential properties, I note that the separation distances would be adequate to ensure no undue overbearing impacts in

this regard with the closest dwellings to the south-east being 16m and 18m respectively and with separation distances from 28m to the east of the blocks.

- 7.5.10. Concerns have been raised about overlooking and loss of privacy. I note that there would be no directly opposing first floor windows closer than 16m between the proposed buildings and the existing adjacent properties. These separation distances are noted to be in excess of the minimum 16m required under SPPR 1 of the Compact Settlement Guidelines for opposing first floor windows and which would also accord with the CDP standard of 22m per Appendix 1 of same.
- 7.5.11. In relation to boundary treatments, trees and hedgerow would be removed from the eastern site boundary (for most of a 134m distance) in the vicinity of the proposed apartment blocks with existing trees and hedgerow to be largely retained along the northern and western boundaries. The tree and hedgerow removal along the eastern boundary would involve the loss of habitat for species and some biodiversity loss. Having regard to the submitted ECIA, I note no significant ecological impacts in this regard. It is noted that there is no significant trees/hedgerow to be retained on the southern boundary and in its vicinity given its absence. It is proposed to reinforce the northern boundary with a 1.2m high railing and it is noted that the earthberm boundaries as well as the entrance boundary walls and boundary railing section would be retained.
- 7.5.12. New boundary tree planting is proposed on the southern boundary and in its vicinity to the west. New tree planting and new hedgerow is proposed for the eastern boundary north of the new vehicular entrance to the site. Woodland retention is proposed for the western boundary in front of the main house and for the northern site boundary. Rear gardens of the houses would be divided by 1.8m high timber post and panel fences. I recommend a specific boundary condition is required in line with the P.A.'s condition to ensure appropriate detail is provided and to ensure implementation as described in the submitted landscape plans to protect and enhance residential amenity in the vicinity.

## **7.6.Landscape**

- 7.6.1. In relation to trees and the sylvan setting of Kindlestown House, the design layout has meant that the bulk of the trees to be removed would be of a younger age class and which do not form part of the original landscape planting on the site. The submitted Appendix A: Landscape RFI prepared by Mitchell and Associates notes that of the earlier planted trees, *“many are nearing the end of their safe useful lives with physiological and/or structural issues...that would see them needing to be removed now as part of management or in the short-term”*. Many of the trees to be removed are noted to be category C and U trees. The woodland to the east is noted to be relatively immature by the ecologist.
- 7.6.2. I note the ‘*A Condition Assessment of the Trees on the Site Area at ‘Kindlestown House’, Chapel Road, Delgany, Co Wicklow*’ report submitted by way of F.I. prepared by Arborist Associates Ltd. The report notes that the trees are mainly located around the immediate grounds of Kindlestown House and within linear tree belts of prominence within the streetscape of the area. The main tree species are noted to include Sycamore, Sweet Chestnut, Pine, Horse Chestnut, Lime, Beech and with an undergrowth of Cherry Laurel. It noted that scattered around the main house front lawn area are mature trees including Wellingtonia, Monterey Pine and Eucalyptus. It noted that the southern lower portion of the site includes self seeded trees such as Sycamore, Willow and Ash.
- 7.6.3. The report notes that there are two no. Category A (high quality/value) trees, 39 no. Category B (moderate quality/value) trees, 99 no. Category C (low quality/value) trees plus one tree group, one woodland block and three hedges, and 44 no. Category U (low quality/value lost within 10 years) trees. In terms of impact, the report notes that the bulk of the trees to be removed would be of a younger age class and do not form part of the original landscape planting on the site.
- 7.6.4. The report notes that in terms of tree removal, 0 (out of 2) Category A trees, 0 (out of 39) Category B trees, 60 (out of 99) Category C trees and 41 (out of 44) Category U trees would be removed. The report notes that the trees to be retained are located to the north, south and west of Kindlestown House. In relation to tree vegetation to be retained, mitigation measures will be required including protective fencing. Mitigation measures are proposed where works will encroach on the estimated root

protection areas including no-dig methods for roads and footpath surfaces. Monitoring measures are also proposed including the retention of a professionally qualified arborist during construction works.

- 7.6.5. In terms of mitigation measures for tree loss, the report notes the provision of new tree (whip to semi-mature), shrub and hedge planting designed to complement the development “*to provide good quality and sustainable long-term tree cover*”. I note this assessment and the landscape plan for the site together with the acceptability of this approach to the Planning Authority, and I consider that the proposed landscaping scheme represents an appropriate balance allowing for the retention and enhancement of the sylvan setting while providing for the residential development proposed. I do not consider that this conflicts with the objectives of the CDP in this regard including in relation to built heritage as well as landscape in urban areas per Section 17.3 (Landscape) and also in relation to tree protection and biodiversity (Section 17.4) and Section 1.3 (Appendix 1) which refers to protecting nature and biodiversity.

## **7.7. Heritage**

- 7.7.1. Section 8.5 (Built Heritage Objectives) and CPO 7.35 (retention of natural features in new developments) of the CDP are relevant as well as the other policies of the CDP in relation to the protection of protected structures and associated curtilages. I note the documentation submitted by way of further information including the Architectural Heritage Protection and Management Strategy prepared by Dr John Olley, the Architectural Heritage Protection and Management Strategy prepared by Molloy and Associates and the submitted Architectural Heritage Impact Assessment report prepared by Molloy and Associates Conservation Architects which details the internal works to the main house which would be carried out in line with best practice conservation methods seeking preservation to the extent possible.
- 7.7.2. I note that limited external works are proposed to Kindlestown House including repair or replacement of damaged parts of the building and a contemporary extension is proposed to the first floor level on the north-west corner which is in the style of a glazed orangery with contemporary windows, rolled metal roof finish and stepped

eaves. This would provide a kitchen space for apartment no. 5 access via a new opening in an existing blind window in the north elevation of the tower. The extension is designed to form a visually distinct form against the concrete background of the house. Internally the house would be sub-divided into 5 no. apartments in a way that seeks to preserve the original layout to the extent possible. Noting the modest extension design and external restoration including replacement roof proposed which have been adequately justified in the F.I. response, I do not consider that these alterations would materially or detrimentally alter the appearance of the house so as to change its character.

- 7.7.3. It appears that a sensitive design approach has been adopted for the house in this regard including providing for low impact, reversible interventions with internal additions designed to “*complement the existing fabric, while also clearly presenting as modern interventions...partition heights are designed to stop short of the existing ceilings (where service risers are not required), in order to visually preserve the ratios of the rooms, and reduce the physical impact on surviving architectural features such as ornate cornicing, decorative mouldings*” etc. per the Architectural Design Statement and Masterplan submitted by way of F.I.
- 7.7.4. The proposed development aims to retain and refurbish the stable yard buildings adjacent to the north of the house. These are not protected structures. The northernmost building would be adapted as a creche to serve the scheme. Modern interventions are proposed including a glazed lobby in the southern elevation of building no. 2 and east and west single storey extensions finished in rolled metal cladding and an outdoor play area would be located to the east of the yard. Building 3 located between buildings 2 and 4, described as an open front shelter, would be repaired and be used as a sheltered play area for the childcare facility.
- 7.7.5. Building 4 to the north of the house after building 5, which includes rubble masonry walls with brick around openings, existing sash windows and a slate roof, would be retained along with the chimney stacks originally proposed for removal. The roof would be raised in a contemporary design with rolled metal finish and separated from the original by new clerestory windows to provide for a new first floor and the building would be converted into two housing units. The roof would step inwards at the gable

ends and this is designed to preserve the outline of the historic building below. I note the stated approach of the architects providing for “*the combination of new and old materials within the stable yard intends to act as a bridging element between the historic main house and the contemporary apartment buildings proposed to the east of the site*” and I consider it to be an appropriately sensitive design for these buildings and the setting while providing for the sustainable re-use of the outbuildings. The two units would also be served by two separate areas of private open space adjacent to the east.

7.7.6. Building 5 would be used as an entrance and utility room for the proposed Apartment 6 located at lower ground level of Kindlestown House with access from the stable yard stated to be for fire safety reasons. Building 6, the single storey lean-to stables, would be renovated and used for external stores and a section of stables would be removed to provide a timber enclosure for the bin store. It is stated that these changes were made in consultation with the applicant’s conservation architects which found them acceptable to the maintenance of a quality architectural environment in deference to the setting and character of Kindlestown House. Noting the documentation submitted by way of further information, including the revised designs and drawings, the external finishes proposed and the contemporary and sensitive design arrangements for the main house and outbuildings, I am satisfied in relation heritage or conservation matters. I also note that the Development Applications Unit did not comment on building conservation matters and that the previous concerns of the P.A. at F.I. stage have been addressed to their satisfaction.

7.7.7. The application includes ‘An Historic Landscape Impact Assessment’ submitted by way of further information prepared by Dr John Olley. This notes the minimal external views from the site and house due to extensive tree planting and seeding. It notes the importance of the reuse of the original room layout to the east of the house. The report considers the access proposals to be carefully considered with the historic routes within the grounds to be re-established. It notes that the character of the site to the front of the house would be preserved, particularly by tree retention and supplementary planting. It notes that the limited tree surgery to the south-east of the site will re-open distant sea views. It notes the position of the blocks adjacent

to the lower terraces behind the main house and the use of a plinth to contain the parking below the blocks.

- 7.7.8. The report considers the current proposals, in the context of the transformation of the surrounding landscape from farmland to residential, to be a “*measured and appropriate response*”. It notes that the “*most significant assets of the grounds, the terraces and the area to the west of the house with the historic paths and mature planting are to be mostly retained. The landscape proposals give attention to surviving trees and to augment the planting where trees because of their condition have to be removed*” and that the heritage value of the house and grounds are best served by their sensitive re-use. Having examined the drawings, landscape and planting proposals and the layouts, I see no reason to differ from the conclusions of Dr Olley in relation to the impact on the setting of the main house which I consider would not be detrimentally altered such that its character would be materially effected. I do not consider that a lower scale and number of housing or the absence of apartments is required to ensure the protection of Kindlestown House and its grounds, while the development would enable the sustainable re-use of the protected structure and site.
- 7.7.9. Noting the landscape assessment in Section 7.6, and the drawings and documentation submitted with the application, I am satisfied that the proposed development accords with the CDP policies and objectives that relate to heritage protection including Objectives CPO 8.13 (protection of protected structures), 8.14 (protected structures and their re-use subject to suitable design), 8.18 (protection of historic structures), 8.19 (protection of historic structures), 8.20 (structures of heritage merit), 8.25 (protection of historical and cultural heritage), 17.1 (landscape and other protection), 17.12 (protection of non-designated sites), 17.14 (protection of biodiversity and ecological connectivity), 17.20 (protection of felling mature trees), 17.22 (preservation of woodlands and trees) and 17.23 (retention of hedgerows and other distinct boundary treatments).
- 7.7.10. In relation to archaeological issues, I note the submission on the file from the Department which referred to the submitted Archaeological Assessment report prepared by Irish Archaeological Consultancy and noted that it concurred with the

recommendations contained therein. The letter recommended the use of archaeological monitoring conditions which I consider reasonable should permission be granted.

- 7.7.11. I note the views of the house and traditional setting would be largely preserved when viewed from the western end of the site and from the entrance from Chapel Road. I consider the retention and enhancement of the sylvan setting of the house to be welcome while providing for its sustainable re-use and the re-use of the outbuildings to the north.

## **7.8. Ecology**

- 7.8.1. I note Section 17.4 of the CDP (Natural Heritage and Biodiversity Objectives), CPO 17.8, CPO 17.12 in relation to ECIA, the following objectives in relation to woodlands, trees and hedgerows CPO 17.18, CPO 17.20, CPO 17.21, CPO 17.22, CPO 17.23 and Section 1.3 (Appendix 1) of the CDP in relation to protecting nature and biodiversity. The application includes an Ecological Impact Assessment (ECIA) prepared by Altamar Marine and Environmental Consultancy submitted by way of further information. I note at F.I. stage the planning authority raised a number of ecological / biodiversity related issues which this report sought to address. These issues included achieving an appropriate balance between developing the site and its protection particularly in relation to trees and existing biodiversity and including drainage matters.
- 7.8.2. The ECIA report notes there are no direct pathways to any designated sites within 15km of the site. The report notes that the biodiversity value of the site has begun to increase given its overgrown state in parts.
- 7.8.3. The report notes that a substantial portion of the site around Kindlestown House consists of an area of highly modified mixed broadleaf/conifer woodland with the western portion forming a more mature woodland. The eastern portion is noted to consist of a more immature woodland. It notes that cherry laurel has become overgrown in several areas blocking light from the woodland floor and it notes poor floral biodiversity in these areas. There are also areas of scrub on the site that

include overgrown non-native species. Where vegetation clearance has been undertaken, the ECIA notes these areas have become recolonised.

- 7.8.4. The report notes that dry meadow and grass verges have emerged to the front and rear of the main house. It notes stone gravel covering the ground in the south-eastern portion of the site with no plants of conservation concern identified in this area. The report notes that no habitats of conservation importance were noted on the site. No rare or plant species of conservation value were noted during the field assessment and it noted no records of threatened plant species for the site.
- 7.8.5. In relation to fauna, no mammal of conservation importance was noted on the site. The report states that no badger setts were noted either. No resting or breeding places of mammal of conservation importance were noted on site. The report notes two disused fox dens in the woodland area. No rare or threatened terrestrial faunal species were recorded with the proposed site. While a small pond was noted within the site that could be important to frog species, the common frog was not observed on the site.
- 7.8.6. The ECIA report noted no breeding birds within the buildings or on the site. Historic records on biodiversity for the area were consulted with no species of interest recorded within the site area. In terms of potential construction impacts, the ECIA notes likely direct negative impacts upon existing habitats, fauna and flora with removal of the site's internal habitats and this would result in a loss of species of low biodiversity importance. It noted that the loss of trees on site will mean the loss of a nesting resource for birds of local importance.
- 7.8.7. Bat surveys within the active bat season in "*good weather*", including at dusk detector surveys, were carried out on 23rd July 2023, 3rd September 2022, 27th September 2022 and 1st October 2022 with no evidence of bats found in the buildings and artificial surfaces although the bat survey noted bat foraging across the site by four species of bat and one of the buildings to the south was noted to possibly be a bat roost for a single soprano pipistrelle bat. The ECIA noted that the demolition of this building will require a derogation licence from the National Parks

and Wildlife Service (NPWS) and “*compliance with conditions of the bat derogation licence*” is listed as a mitigation measure in Appendix 1 (Bat Survey) of the ECIA.

7.8.8. Given that there is no guarantee that such a bat derogation licence would be issued, I cannot conclude that there would be no disturbance of roosting sites for bats. This would be contrary to CPO 17.8 of the CDP where it seeks to “*ensure appropriate avoidance and mitigation measures are incorporated into development proposals as part of any ecological impact assessment*” in that the mitigation measure is not appropriate or cannot be guaranteed. This, in my view, merits a recommendation to omit the demolition of the two no. habitable dwellings and the construction of the 26 no. dwellings and associated access roads and works at the south of the site as it has not been demonstrated that the bat species on the site would be protected in accordance with Annex IV of the EU Habitats Directive, European Communities (Birds and Natural Habitats) Regulations 2011 (as amended).

7.8.9. This recommendation provides for a grant of permission that omits the demolition of the two no. habitable dwelling to the south of the site and omits the 26no. dwellings proposed for the south of the site. This approach would thereby permit the remainder of the development. I do not consider the results of this assessment in relation to environmental or other planning impacts of the remainder of the development to be contingent on the development of the south of the site. For example, I note that the drainage works necessary for the two apartment blocks, Kindlestown House refurbishment and outbuildings development can be carried out partially in the area for the housing to the extent required to facilitate the development excluding the houses to the south including the attenuation ponds. I note that the Board, if so minded, could alternatively consider requesting further information on the issue of the derogation licence in order to determine whether the applicant can put forward a response that could demonstrate there would be no disturbance of roosting sites for bats.

7.8.10. There is no direct pathway noted to local watercourses. The ECIA noted that any silt or pollutants that may enter the local watercourse network will settle, be dispersed or diluted and will not significantly impact on downstream designated conservation sites located no closer than 2km away. The report notes the inclusion

of “*significant biodiversity enhancement features*” within the development design. These include but are not limited to pollinator friendly tree planting, new native hedgerow, retention of existing grassland habitat, proposed pond, 30 no. bird boxes, 10 no. bat boxes, problematic species management and no direct lighting on tree lines. Without mitigation the report notes the construction impact will be a partial loss of existing habitats and species on site.

- 7.8.11. In relation to terrestrial mammals, the report noted a need for mitigation in the form of a pre-construction survey for terrestrial mammals of conservation importance. In relation to flora, mitigation is required in relation to invasive species such as rhododendron on the site. In terms of bat fauna, lighting during construction is noted to have a potential impact on bat foraging while the demolition of a house to the south of the site may result in the potential loss of a bat roost. It states that mitigation is needed in the form of a pre-construction survey, provision of additional roosting opportunities, a derogation licence and control of light spill during construction.
- 7.8.12. In terms of aquatic biodiversity impacts during construction, robust mitigation may be required in the form of control of silt, petrochemical and dust entering watercourses via runoff from the site to watercourses located at a distance and it is recommended that a pre-construction survey is carried out for frogs. In relation to bird fauna, the report notes that mitigation is required in site clearance control and the provision of compensating nesting habitat.
- 7.8.13. In relation to operational impacts, the ECIA notes the site would provide a stable ecological environment. It notes that the planting of native species will be important to re-establish nesting and foraging habitats lost on the site. It notes that proximate bat species will be sensitive to light spill and that biodiversity enhancement features are designed to enhance biodiversity on site. The report suggests that measures be taken to prevent light spill, contaminated surface water run-off and dust entering downstream riparian habitats. It notes no significant adverse measures in relation to surface water run-off and that foul wastewater will be directed to the local wastewater infrastructure network which leads to the Greystones wastewater

treatment plant. No significant impacts are noted in the absence of mitigation measures on designated conservation sites within 15km.

- 7.8.14. No significant operational impacts are noted in the ECIA in relation to terrestrial mammalian species, flora, bat fauna, aquatic biodiversity and bird fauna subject to the recommended mitigation measures including those in relation bats. The report notes that standard construction and operational controls incorporated into the proposed development will “*minimise the potential negative impacts on the ecology within the Zone of Influence (Zoi) including the Three Trouts Stream, downstream biodiversity, and local biodiversity within / proximate to the subject site*” and as outlined in ECIA Table 7 (designed-in mitigation) with robust measures noted for the protection of the Three Trouts Stream.
- 7.8.15. A lighting scheme is prepared by Metec Consulting Engineers with lighting to be primarily concentrated in two areas to the front of the main house and to the south of the development in the vicinity of the houses. Light spill would be controlled per the mitigation measures recommended in the ECIA.
- 7.8.16. The submitted report also notes cumulative impacts, having regard to permitted development in the vicinity of the site, with no projects noted that could potentially cause cumulative impacts on designated conservation sites or local biodiversity and no significant impacts anticipated.
- 7.8.17. In terms of residual impacts the report concludes that the overall impact on the ecology will result in long-term minor adverse not significant residual impact on the ecology of the area and locality overall. This is noted to be primarily because of the loss of terrestrial habitats on site, supported by the creation of additional biodiversity features including a sensitive landscaping and lighting strategy. Drainage matters are dealt with in more detail below in this report but it is noted that arising from this, subject to standard conditions, I have no other significant concerns in relation to the potential ecological impact acknowledging earlier concerns in relation to potential bat roosts on the site.

7.8.18. Noting the submitted ECIA and the concerns of third parties, particularly in relation to impacts on bats, the biodiversity value of the trees on site, the change in site levels and local watercourses, I consider the methodology and findings of the submitted ECIA to have been informed by best practice and I consider that, subject to conditions providing for the recommended mitigation measures proposed in the ECIA except in relation to bats, the proposed development would not result in excessive impacts on the local receiving environment. Balancing this with the requirement to provide for the sustainable densification of development on the site, I note no significant issues of concern other than in relation to the possible impact on bats. I do not consider the mitigation measures recommended in relation to impacts on bats, particularly the requirement for a derogation licence, to be reasonable given that there is no guarantee that a derogation licence would be granted. In this case, the absence of a significant mitigation measure is such that I cannot rule out that disturbance or destruction of roosting sites for bats may occur as a result of the proposed development.

7.8.19. Accordingly, having regard to the submitted ECIA and the bat survey, per Annex IV of the Annex IV of the EU Habitats Directive, European Communities (Birds and Natural Habitats) Regulations 2011 (as amended) and CPO 17.8 of the Development Plan, I consider that the applicant has failed to provide an adequate response in relation to bat protection within the existing building on the lower southern portion of the site to demonstrate that the proposed development would not lead to disturbance or destruction of roosting sites for bats, which are a protected species. This would be contrary to CPO 17.8 of the Development Plan which seeks to ensure that *“appropriate avoidance and mitigation measures are incorporated into development proposals as part of any ecological impact assessment”* and for this reason, I recommend the omission by condition of the demolition of the two houses to the south of the site and for the construction of the 26 no. houses to the south of the site only.

7.8.20. The National Biodiversity Action Plan (NBAP) includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss. Section 59B(1) of the Wildlife (Amendment) Act 2000 (as amended) requires the Board, as a public body, to have regard to the objectives and

targets of the NBAP in the performance of its functions, to the extent that they may affect or relate to the functions of the Board. The impact of development on biodiversity, including species and habitats, can be assessed at a European, National and Local level and is taken into account in our decision-making having regard to the Habitats and Birds Directives, Environmental Impact Assessment Directive, Water Framework Directive and Marine Strategy Framework Directive, and other relevant legislation, strategy and policy where applicable.

7.8.21. In terms of climate impact concerns raised, I consider that such an infill development within a formerly zoned area that is serviced and located within an existing settlement at an appropriate density can be considered to be a sustainable form of development that would avoid excessive car dependence given the location characteristics, would preserve the natural landscape, including trees, to a reasonable extent, and given the near zero building standards of the Building Regulations (Part L) would not result in excessive energy use. I consider that this approach would be consistent with the National Climate Action Plan 2024 which also seeks decarbonisation of car transport which can also be provided by electrification of vehicles and the electricity grid. I have no significant concerns, noting the modest nature of the proposed development and that significant tree planting is proposed, in relation to consistency with the Climate Action Plan 2024 and the Climate Act.

## **7.9. Infrastructure Issues**

### **Transportation**

7.9.1. I note the General Road Objectives of the CDP including CPO 12.29, CPO 12.30, CPO 12.31 and CPO 12.33 in relation to road standards and safety and also the local road objectives of the CDP. Following the F.I. design revisions the main scheme access would be from a new vehicular access towards the south-east of the site that would serve the new houses and the two apartment blocks. The existing site access for Kindlestown House would serve the apartments in the house and outbuildings and the creche to the north in the outbuildings. This approach seeks to preserve the existing access to the site from Chapel Road while providing for the main access to the south-east to be via the existing suburban street network through Churchlands, leading to Delgany Glen and Delgany Wood distributor road.

- 7.9.2. Concerns have been raised by third parties about these access arrangements, particularly in relation to the volume of traffic that would access the site via Churchlands and associated congestion and safety impacts.
- 7.9.3. OCSC Multidisciplinary Consulting Engineers submitted a response to the F.I. items raised in addition to the original submission of a Traffic and Transport Assessment. In relation to the traffic impact assessment, the F.I. response noted that the traffic surveys were carried out in October 2022 and that the assessment has allowed for traffic growth up to 15 years after the assumed date of opening and does not provide for a significant portion of trips by public transport. It notes that *“these factors allow for a variety of aspects including additional traffic generated by developments in the local and wider area, increased levels of car ownership and increased vehicle trips as a result of projected improvements to economic activity”*. The assessment is considered a worse-case scenario given factors such as increased working from home not provided for in the assessment.
- 7.9.4. In relation to the eastern entrance with access via Churchlands and Delgany Glen, the response states that using the TRICS database, the trips generated for the development are shown in the TIA to be negligible and would be partly split by the access from Chapel Road. It notes that the Delgany Glen junction operates with a very high reserve capacity up to the 2041 design year. The Traffic Impact Assessment considered the additional committed developments in the area with the results showing that the traffic generated by the development having a negligible impact on the relevant junctions except the junction of Delgany Wood and Delgany Glen where which would have a maximum ratio of flow to capacity of 17% which is well below the maximum of 90%.
- 7.9.5. It also notes the curvature of the north end of Delgany Glen road, the carriageway width of 5.5m per DMURS, the short length of road to Delgany Wood, the traffic calming measures including ramp and fully segregated footpaths and speed limit of 30 km per hour such that no road safety issues are noted for Delgany Glen and having reviewed the plans, associated documentation and submissions, I consider the conclusion set out to be reasonable.

- 7.9.6. The access from Chapel Road would operate as a left in / left out entrance with a line of bollards proposed along the centre of Chapel Road, a staggered entry system and pedestrian infrastructure. There is no noted issue in relation to sightlines in the vicinity of the entrance except for sightlines for right turning traffic into the entrance. Following consultation with the Council's roads engineer, subject to conditions in relation to traffic safety, and with a low number of anticipated traffic volume, the entrance arrangements were considered acceptable. It was recommended that the proposed one way system be reversed so that vehicles wait before exiting. It was also noted that improvement works are proposed for Chapel Road including a new one-way system. It was recommended that a safety audit be submitted prior to construction. Noting the submissions received, I concur with the P.A.'s assessment and I have no significant concerns in relation to the use of this entrance subject to the conditions recommended by the Council which are not dependent on the proposed one-way system for Chapel Road.
- 7.9.7. In term of traffic safety, I note that the internal road network for the scheme complies with DMURS (Design Manual for Urban Roads and Streets) standards which is appropriate for a scheme of this type. The eastern access road would be 5.5m wide per DMURS (section 4.4.1). It is noted that the proposed internal road for the houses would be 4.8m in width according with DMURS for home zones. In the vicinity of the main house the road would be a one-way system of 3.8m width which is required for fire tender access. The OCSC response report also noted that a swept path analysis was undertaken for HGV vehicles and I have no significant concerns in this regard. The P.A. found the scheme acceptable subject to DMURS requirements being met. I recommend that should permission be granted, a condition be required to ensure the internal road layout accords with DMURS standards and for prior agreement with the P.A..
- 7.9.8. I note the concerns raised by third parties, particularly in relation to access via Churchlands and the potential traffic/safety risk associated with this arrangement. I note the submitted OCSC response submitted by way of F.I. which noted that the ratios of flow to capacity for Delgany Glen and Churchlands was considered. This noted significant available capacity. I note that the adjacent residential estate, by

road design, does not facilitate speeding traffic or excessive speed and it includes segregated spaces and footpaths.

- 7.9.9. The route up to the eastern site access requires three no. 90 degree turns in short succession with no ability for vehicles to gain speed given the short road distances between turns and I also note the traffic calming measure employed between Delgany Glen and Churchlands. Moreover, I note that such a quantum of development is not outside what would be expected in a residential context and having regard to the submitted drawings and reports, I have no significant concerns in relation to general traffic impacts or impacts on residential amenity which would be in line with what would be expected in such a built-up environment.
- 7.9.10. In relation to construction traffic, I note the submitted Outline Construction Environment Management Plan (CEMP) prepared by OCSC Multidisciplinary Consulting Engineers which notes that all construction access would be facilitated from Chapel Road which would link with the N11 via the R762 and the report outlines mitigation measures in relation to the construction and operational impacts including in relation to noise impact, site management, community and local authority liaison, and ecology related matters consistent with the ECIA, among other matters.
- 7.9.11. While there would undoubtedly be some disruption associated with the construction of the proposed development, I note that such issues can be dealt with via standard construction traffic management condition to minimise same. I note that the road network in the vicinity at Churchlands is such that if construction vehicles mistakenly use this route they will be forced to operate with low traffic speeds given the short stretches of road, numerous turns and traffic calmed environment which is in accordance with relevant road design standards. Accordingly, I have no significant concerns in relation to this matter that cannot be managed by condition.
- 7.9.12. I note in relation to waste management the Outline Construction Demolition Waste Management Plan prepared by OCSC Multidisciplinary Consulting Engineers in addition to the Outline CEMP and the plans to separate construction waste onsite where possible and with all operational wastes requiring disposal to be separated and handled by an approved waste contractor, and provisions for re-use and

recovery where possible, among other details. I consider that should permission be granted, a condition requiring detailed waste disposal matters to be agreed with the P.A. would facilitate the implementation of an appropriate plan in accordance with best practice.

7.9.13. I note the minimum car parking standards of the CDP in Appendix 1 Table 2.3 which are 1.2 spaces\* per one to two bedroom unit and two spaces per three to 4 bedroom unit. (\*Per Section 3.1.5 for every 5 residential units provided with only one space, one visitor space shall be provided). For childcare facilities 0.5 spaces per staff member and one car parking space per 10 children is required. The childcare facility would be 104sqm and I consider the proposed 6 spaces in its vicinity in this regard to be acceptable. OCSC Multidisciplinary Consulting Engineers submitted a response to the F.I. items including in relation to car parking which noted that the car parking provision is per the requirements of the CDP.

7.9.14. There would be 25 no. one bedroom, 24 no. two bedroom and one no. three bedroom units in the two apartment blocks. For the 50 units to be provided in the two new blocks, this gives a minimum requirement for 59 spaces such that 39 apartments would have one space and for these 39 apartments, 7 visitor spaces are required (1 space per apartment with one space). This gives a requirement for 66 spaces for the one and two bedroom units plus 2 spaces for the three bedroom unit to give a total of 68 required spaces for apartment blocks 1 and 2. The proposed number of spaces for blocks 1 and 2 to be provided at ground level beneath the blocks is 77. This leaves 9 additional spaces to be allocated as parking is required for the Kindlestown House and outbuildings. There would also be 9 surface level spaces provided to the front of the house, so the extra 18 spaces can cater for the creche (6 spaces) and the 8 apartments (9 spaces required) in Kindlestown House and outbuildings. Each of the houses, three and four bedroom units, would have two parking spaces per the CDP standard. On this basis, of the CDP minimum standard, I have no significant concerns in relation to the provision and location of car parking spaces.

7.9.15. It is noted that the Compact Settlement Guidelines have not been incorporated into the CDP and SPPR 3 of same is directly applicable. This provides for a maximum

rate of two spaces per dwelling (where justified) in such intermediate and peripheral locations. For the 58 apartments, the proposed number of spaces is 86 spaces at a ratio of 1.5 spaces per apartment. There would also be two spaces per house. In total this would give 138 scheme spaces for 84 units, or a ratio of 1.6 spaces per unit. Given the location and the number of one bedroom units in the scheme, I consider the apartment ratio and total ratio to be well justified. This would aid in reducing car trips to and from the site which would also be consistent with the Climate Action Plan where reduced vehicular trips would reduce emissions per resident and per dwelling contributing towards the decarbonisation of transport. I consider that a condition for agreement with the Planning Authority should be provided, should permission be granted, to deal with detailed layout allocation including for the creche and in relation to EV spaces.

- 7.9.16. In relation to the internal layout, noting the proposed route layouts and the site constraints, including in terms of levels and trees, I consider that the routes provided would provide a good level accessibility around the site. There would be good permeability for non-vehicular users through the site in both east and west directions given the location of the vehicular entrances. However north-south permeability would be lacking unless specifically provided for by condition to ensure open unrestricted open pedestrian access and to require no barriers/obstructions be put in place.
- 7.9.17. From my site visit, I observed a path into the site adjacent to the Poplars and I can see no significant reason why an ungated access should not be provided from the site to meet with this route. Also, along the northern boundary of the site I observed a path opposite the school where pedestrian access to the site was available. I note the concerns of the Planning Authority in relation to this matter including in relation to crossing internal vehicular routes on the site. I note crossing of such routes would also be required to access the central open space area and that internal roads have been designed in accordance with DMURS to facilitate a calm traffic environment.
- 7.9.18. Noting Section 5.3.2 (Healthy Placemaking) of the CDP and CPO 12.13, I am of the opinion that there would be good visibility for both pedestrians and vehicles accessing the site from the north and I consider there to be no undue safety reason

why ungated pedestrian access not be provided given the importance of facilitating permeability through the sizeable site and the benefits the significant planning gains this would bring to those in the vicinity, including school attendees, reduced car trip demand, and the accessibility it would provide to the public open space.

7.9.19. While it may or may not be open to the Council to deliver paths at the northern and southern access points, these are not strictly necessary from a safety or access perspective. It would also be open to the Planning Authority to provide enhanced safety measures where this route meets the public road to the north and south, such as a raised pedestrian crossing. This northern and southern open pedestrian access, included in the initial Architectural Design Statement Masterplan submitted with the original application and included in the updated design statement notwithstanding the response to F.I. item no. 8, can be provided for by condition should permission be granted and internal accessible walking routes through the trees can be provided. I recommend this be conditioned, should permission be granted, to ensure this accessibility is maintained and enhanced.

7.9.20. Table 2.4 of Appendix 1 of the CDP provides bicycle parking standards which in relation to residential units which are 1 space per bedroom and 1 visitor space per 5 units. Per bedroom this gives a requirement for 143 spaces plus 16 visitor spaces which gives a total of 159 spaces. While there is no specific requirement for childcare facilities, I consider that 8 spaces would be reasonable to cater for staff and visitors. I note that it is proposed to provide 154 no. bicycle parking spaces in the scheme per the Traffic and Transport Assessment.

7.9.21. Per the Apartment Guidelines, incorporated into the CDP, the standard is one bicycle parking space per bedroom and 1 visitor space per two residential units. This gives a requirement for 143 spaces plus 48 visitor spaces which totals to 191 spaces. I note that the CDP provides that any deviation from these standards shall be at the discretion of the Planning Authority and shall be justified with regard to factors such as location, quality of facilities proposed and flexibility/enlargement. I consider the CDP standard to be reasonable in relation to visitor bicycle parking provision given the location and noting that 72 such spaces are proposed for the basement. I consider that this matter can be dealt with by standard condition for detailed

agreement with the P.A. and I note that spaces can also be provided at ground level in the vicinity of the apartment blocks units and the main house and outbuildings such that I have no significant concerns in this regard.

#### Water and Drainage Infrastructure

- 7.9.22. I note the submitted Engineering Services Report by way of F.I. prepared by OCSC Multidisciplinary Consulting Engineers. I also note that the F.I. items in relation to drainage matters including the existing storm culvert through the site with no alterations proposed in or around this, potential for nature-based drainage solutions, petrol interceptor and no piped section of stream noted within the site; were considered by the P.A. to be capable of being addressed by condition.
- 7.9.23. In relation to surface water drainage I note the sustainable drainage systems proposed including blue roofs and podium, permeable paving, climate change allowance and other proposals including filter drains, trapped road gullies, underground pipe network, silt traps, geocellular storage systems, SUDS tree pits, flow control device and surface water impact assessment. Underground attenuation would be located at the south-eastern end of the site and the outfall location would be adjacent to the south-east at Churchlands. Accordingly noting the design to ensure there would be no increase to flow rates and volumes from the site, I have no significant concerns in this regard and I recommend the inclusion of a SUDS related condition should permission be granted.
- 7.9.24. In relation to wastewater treatment, it is proposed to connect to the proposed wastewater treatment network to the east of the site. A Confirmation of Feasibility letter without requirement for infrastructure upgrade from Uisce Éireann has been included in the engineering services report and subject to standard conditions, I have no significant concerns in this regard.
- 7.9.25. In relation to water supply, connections are to be provided to the local network from both Chapel Road and to the east of the site from the new residential development currently under construction. The Uisce Éireann letter confirms the feasibility of these connections without the need for network upgrades. I recommend that should

permission be granted, a standard condition in relation to water provision be included.

#### Other Local Infrastructure

- 7.9.26. Concerns have been raised by third parties in relation to an infrastructure deficit in the area including in relation to community, health, retail, emergency, leisure and education facilities such as school places with an existing deficit of spaces noted in the area. I note Section 7.2 of the CDP in relation to Community Development and Land Use Planning and the requirement for the submission of a Social Infrastructure Audit for significant applications. The adequacy of the submitted Social Infrastructure Audit (SIA) report prepared by MCG Planning is questioned by third parties in this regard. Matters in relation to transportation infrastructure have been assessed above in this report.
- 7.9.27. I note the reference to area demographics in the report and that the infill policy for the proposed development has been previously accepted in principle in this report notwithstanding that population targets have been met for Greystones / Delgany. I note that national population growth has significantly increased since 2016.
- 7.9.28. In relation to schools, Table 8 of the submitted report notes the permitted school developments within 2km of the subject site. This includes three no. secondary schools, two of which have commenced construction and one 10,808sqm school granted permission at Glenheron, and one primary school for which construction of 4 no. prefabricated classrooms had commenced. I note that planning for school places is undertaken by the Department of Education and Skills, and while there may currently be issues in this regard, balancing the need for residential development in the existing built up area, I consider that such residential development, while it may contribute to an increased demand for school places, may also encourage the provision of school places by government and, overall, I do not consider this to be a significant impediment to granting permission in this case.
- 7.9.29. Childcare facilities have been dealt with above in this report and, on the basis of the proposed creche, I consider the level of childcare provision proposed to be adequate

to serve the development having regard to the provisions of the Apartment Guidelines in relation to calculating demand. The submitted report notes the locations of various health services within 2km of the subject site. While it has been asserted that there are waiting lists for GP services in the area, noting the infill status of the lands and the need to cater for residential development, and that the provision of such services is a matter for the market and/or government, I do not consider this to be a significant impediment to the proposed development and a greater population is more likely to encourage the provision of such services within the built up area.

7.9.30. While issue has been taken with the provision and location of community facilities, I nevertheless note that such facilities exist within the town as noted in the report and I note that it is open to local people to provide and/or enhance such facilities as they see fit. I note that increased population, including adjacent to the site, generally increases the viability of such services particularly niche services such as in the arts. I also note the significant range of sport and leisure facilities listed and I have no significant concerns in this regard. Based on the submitted report, I note there would be no significant shortage of retail provision in the town and environs.

7.9.31. Based on the totality of services and local infrastructure outlined in the submitted Social Infrastructure Audit, and in the context of the infill location of the site where planning policy favours such residential development at appropriate scale, I am satisfied that there is no infrastructure deficit which cannot be overcome in future through provision of additional infrastructure such as schools, GP surgeries and community facilities.

## **7.10. First Party Appeal**

7.10.1. The first party has appealed Condition no. 4 of the Council's grant of permission which subjected all of the units in the scheme to a condition restricting first occupation to individual purchasers. I note response of the P.A. and the provisions of the CDP CPO 6.2, that such this approach is required by Development Plan policy notwithstanding that it includes the apartments in the scheme and is not consistent with the Section 28 Regulations of Commercial Institutional Investment in Housing (2023) which apply only to houses and duplexes. I note that the Board has

previously considered this question (ABP-319474-24). Having regard to the provisions of the Development Plan, while having regard to Ministerial guidelines, it is considered appropriate that such a condition apply to all of the units in the scheme noting that objective CPO 6.2 remained in the adopted Development Plan following a contrary OPR recommendation in relation to its inclusion of houses. I also note that no challenge to the statutory standing of objective CPO 6.2 has occurred, either by way of Judicial Review, or by Ministerial Direction subsequent to the OPR recommendation. I also note the Housing Strategy which forms Appendix 3 of the CDP. The CDP states that a Housing Need Demand Assessment has not been carried out but that it will be carried out in due course. I consider that a condition consistent with the Council's condition on this matter is appropriate but one that allows flexibility to facilitate any amendments relevant to housing need and demand, as part of the NHDA to which the Council is committed to carry out in due course. On this basis, I recommend the insertion of the phrase "unless otherwise agreed in writing with the planning authority" in the condition wording. I recommend that, should permission be granted, a condition be provided for in this regard which is consistent with CDP policy to include all residential units rather than just the houses but otherwise to follow the wording recommended in the Ministerial guidelines.

7.10.2. If the Board considers this approach to be a material contravention of the Development Plan, in relation to CPO 6.2 therefore, the Board can use the powers open to it under Section 37(2)(a) to grant permission where a material contravention of the Development Plan arises. While not directly applicable, I draw attention to Section 37(2)(b) of the 2000 Act as amended and the criteria (i) to (iv) which a grant of permission would be required to satisfy if the Board agrees that a material contravention of the Development Plan arises. In particular I draw attention to criteria (iii) where a material contravention can be granted where the Board considers that permission should be granted having regard to guidelines under Section 28 of the Planning and Development Act 2000 as amended.

7.10.3. The applicant has appealed Condition no. 8 of the grant of permission as it relates to requiring refurbishment of Kindlestown House before no more than 50% of the housing units have been completed. Funding issues are raised on behalf of the developer in this regard. The applicant has requested a revised condition requiring

100% of the houses and 50% of the apartments be occupied prior to commencement of the restoration of the house and outbuildings and that the main house be fenced off, secured and made weatherproof. I do not consider the economic arguments made to be directly applicable planning matters in this regard. The viability of the development is a matter for the developer and not a planning matter. I note the response of the P.A. to this matter where it noted that some level of flexibility can be afforded on its side through the wording of the condition.

7.10.4. I note the P.A.'s response to the appeal where it states that is open to an alteration of the condition to allow for in default of agreement for referral to the Board and that it is open to some changes in wording to Condition 8 to clarify "*50% of the proposed houses, unit no.s 1 to 26*" to avoid confusion between houses and apartments. I agree with the P.A. that the refurbishment of the main house needs to be ensured as supported by CDP conservation policy and in this regard such a condition is reasonable in principle. I consider that the preservation and refurbishment of the protected structure can be ensured by changing the condition wording so that the refurbishment of Kindlestown House is required to be completed prior to the occupation of 100% of the houses (if permitted, i.e. if a full grant of permission is issued) and prior to the occupation of one of the two no. apartment blocks. The requirement to then complete the remaining apartment block should provide a strong incentive outweighing any incentive to delay the refurbishment and associated works to the main house and outbuildings. I consider that a bespoke condition to deal with this matter should be included which allows for these matters to be agreed with the P.A. with a requirement for referral to the Board where agreement cannot be reached given that the above proposed condition affords significant timing flexibility and clarity.

7.10.5. Regarding condition no. 9 and the phasing of the creche, the P.A. notes the creche location in the outbuildings and would consider amendment that requires the completion of the creche prior to occupation of 50% of the dwellings but which still includes the "*unless otherwise agreed*" wording. Noting this and reasonableness of this approach, I consider that it would be an excessive imposition on the developer with little planning rationale to require operation of the creche prior to occupation of all of the units it is designed to serve. The condition, in my view, should relate to

completion of the creche development and its availability for operation rather than its operation given that its operation is ultimately a commercial matter. I recommend a condition requiring the completion of the creche no later than the completion of 90% of the units in the development.

#### **7.11. Other Matters**

- 7.11.1. Third parties have raised the issue that the permission is not valid given that it is for a different no. of units to that stated in the public notices. While the number of units was altered by way of the further information response, this was announced in accordance with the regulations in relation to significant further information with public notices provided for and the parties were given opportunity to comment. I do not consider that, notwithstanding that the original development description is used in official correspondence but not in the Chief Executive's Order to grant permission, anyone examining the application in detail, particularly the parties to it, would not be aware that significant revisions were made to it. I am thus satisfied that no significant issues in relation to the legal validity of the revised application have been raised and I note that the appeal parties were all in a position to review the changes and make submissions in response to them as they saw fit.

### **8.0 AA Screening**

#### **Appropriate Assessment Screening Determination**

##### **(Stage 1, Article 6(3) of Habitats Directive)**

- 8.1. I have considered the proposed development in light of the requirements of Section 177S and 177U of the Planning and Development Act 2000 as amended.

- 8.2. A screening report for Appropriate Assessment prepared by Altamar was submitted with this application case. This report noted no possible in-combination effects and its conclusions included that there are no direct hydrological connections to European sites, there are indirect hydrological pathways to a number of marine-based European sites via foul and surface water drainage with no significant effects on downstream

European sites noted in the absence of mitigation, that foul wastewater will be directed to a wastewater infrastructure network that outfalls to the Greystones WWTP where it will be treated and discharged into the Irish sea with no significant effects noted on downstream European site likely, that no European sites are noted within the zone of influence of the proposed development and that the construction and operation of the proposed development will not impact on the conservation objectives of qualifying interests of European sites.

8.3. In the Local Authority assessment of the proposed development, Appropriate Assessment Screening was undertaken by Wicklow County Council as part of their planning assessment and a finding of no likely significant effects on a European Site was determined. Wicklow County Council concluded the proposed development would not require the preparation of a Natura Impact Statement and Appropriate Assessment was not carried out.

8.4. A detailed description is presented in Sections 1 and 2 of my report. In summary, the proposed development site is an infill site surrounded by the built-up area of Delgany and it consists of the site of Kindlestown House, a protected structure, its outbuildings, derelict buildings, mature trees, hedgerow, meadow with the southern portion of the site on lower ground in an overgrown state and including a deposit of sand/clay. The development will comprise of two no. blocks of apartments providing 50 units in total. Block 1 would be up to 4 storeys over basement/ground level. Block 2 would be four storeys over ground/basement level. Car parking is below the apartments in a semi-basement and to the front of the house. 25 no. two storey houses and one dormer bungalow. 6 no. apartments (4 no. one bed units and 2 no. two bed units) are proposed in Kindlestown House and two no. two bedroom apartment units in the adjacent courtyard buildings. The original vehicular entrance is retained and will access the house, outbuildings and creche with a new main access for the residences to the south-east via Churchlands. Alterations to landscaping, services and layouts are proposed. Water and waste will be connected to local services.

8.5. There are no watercourses or other ecological features of note on the site that would connect it directly to European Sites in the wider area. The Three Trouts stream located just over 800m to the south of the east flows in an easterly direction.

## **European Sites**

8.6. The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA). In relation to European sites, the subject site is located:

- c.1.4km to the east of Glen of the Downs Special Area of Conservation (SAC) (site code 000719),
- 2.1km south-west of Bray Head SAC (site code 000714),
- 2.2km north-west of The Murrrough Special Protection Area (SPA) (site code 004186).

8.7. While these sites could potentially be said to be within the zone of influence of the subject development based on proximity alone, I note no direct/indirect physical, hydrological or ecological linkages connected the project site to these European sites. I agree with the applicant's AA Screening Report that watercourses and surface runoff would be the main pathways for impacts to European sites and the Glen of the Downs SAC is located upstream of the subject site with no potential for pollutants, silt laden run-off or dust that could enter the watercourse during construction and operation of the proposed development that could have a significant effect on the conservation objectives of this SAC.

8.8. I note the absence of direct hydrological connections to European sites. Indirect pathways to the marine based European sites would be via foul or surface water drainage channels/routes. The AA Screening Report submitted notes that the surface water network discharges to the Brown Trouts Stream which discharges to the Three Trouts stream which subsequently outfalls to the Irish Sea c.2km east of the proposed development. Given the dispersal distance, I note that, in the absence of mitigation, any silt or pollutants that may enter these local watercourses will settle, be dispersed or diluted within such watercourses and within the sea and I agree that there would likely be no significant effect on the downstream European sites in this regard. Foul wastewater discharge would be treated at the Greystones WWTP and discharge into the Irish sea such that no downstream significant effects would arise on European sites.

8.9. Based on this, and that the site is not an ex-situ site for breeding or wintering birds, I consider that no European sites are within the zone of influence of the project and that

it would not give rise to any significant impacts on any European sites at construction or operation stages.

- 8.10. To note Glen of the Downs SAC is selected for its old oak woodland habitat is noted for old sessile oak woods with Ilex and Blechnum in the British Isles in terms of qualifying interests. The qualifying interests of Bray Head SAC are noted to be the vegetated sea cliffs and European dry heaths. The qualifying interest of the Murrough SPA are Red-throated Diver, Greylag Goose, Light-bellied Brent Goose, Wigeon, Teal, Black-headed Gull, Herring Gull, Little Tern and Wetland and Waterbirds.

**The Likely impacts of the project (alone or in combination)**

- 8.11. Due to the enclosed nature of the development site and the absence of direct hydrological links, pathways, ex-situ sites and the distance from European sites, I consider that the proposed development would not be expected to generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors.
- 8.12. During site clearance, demolition, refurbishment and construction of the blocks and houses, possible impact mechanisms of a temporary nature include generation of noise, dust and construction related emissions to surface water.
- 8.13. The contained nature of the site (serviced, defined site boundaries, no direct ecological connections or pathways) and distance from receiving features connected to the above named SACs and SPA make it highly unlikely that the proposed development at operational stage could generate impacts of a magnitude that could affect European Sites.
- 8.14. While no detail has been provided regarding the possible use of the amenity grassland by overwintering birds that are Special Conservation Interests of the Murrough SPA, I note that the grassland areas on the site were overgrown on my site visit and not of sufficient expanse for wintering birds. Given the scale of the proposed development within a suburban area, I do not consider it likely that any temporary noise or human disturbance that may occur during the construction phase would give rise to a significant increase on the current baseline if works were to commence during the wintering period.

### **Likely significant effects on the European sites in view of the conservation objectives**

- 8.15. The construction or operation of the proposed development will not result in impacts that could affect the conservation objectives of the SAC or SPA. Due to distance and lack of meaningful ecological connections there will be no changes in ecological functions due to any construction related emissions or disturbance.
- 8.16. There will be no direct or ex-situ effects from disturbance on mobile species during construction or operation of the proposed development. There will be no significant disturbance to any wintering birds (ex-situ) that may occasionally use the amenity grassland area adjacent to the proposed development site.
- 8.17. The proposed development would not have direct impacts on any European site.

### **In combination effects**

- 8.18. Noting the adjoining development currently under construction at Churchlands to the east which would likely be completed prior to commencement of the subject development and that direct impacts on any European sites were ruled out as part of its AA screening, I consider that the proposed development will not result in any effects that could contribute to an additive effect with other developments in the area.
- 8.19. No mitigation measures are required to come to these conclusions. I consider the provision of the oil/petrol interceptor a standard measure to prevent ingress of vehicle pollutants and is not a mitigation measure for the purpose of avoiding or preventing impacts to the SAC or SPA.

### **Overall Conclusion**

#### **Screening Determination**

- 8.20. Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude that that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites in the vicinity namely, Glen of the Downs SAC, Bray Head SAC and The Murrough SPA or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.
- 8.21. This determination is based on:

- The scale of the development in a contained setting and lack of impact mechanisms that could significantly affect a European Site,
- Distance from and weak indirect connections to the European sites,
- The AA Screening and the conclusion of the Planning Authority,
- No significant ex-situ impacts on wintering birds.

## 9.0 Final Conclusion and Recommendation

Overall, I am generally satisfied that the development complies with Development Plan policy subject to the recommendations in my assessment above. However, having regard to the substantive issue of the failure to demonstrate there would be no disturbance of roosting sites for bats contrary to CPO 17.8 of the Development Plan which seeks to “*ensure appropriate avoidance and mitigation measures are incorporated into development proposals as part of any ecological impact assessment*” in that the mitigation measure of applying for a derogation licence is not appropriate or cannot be guaranteed at this stage, I recommend that planning permission be omitted by condition for the applicable development on the southern portion of the site only, omit only the demolition of the two no. dwellings and the construction of the 26 no. houses in the southern area of the site and the access road for these houses. This is because it has not been demonstrated that the possible bat species on the site would be protected in accordance with Annex IV of the EU Habitats Directive, European Communities (Birds and Natural Habitats) Regulations 2011 (as amended). I consider that the remainder of the development outside of the area for the proposed 26 no. houses can be facilitated and granted permission given that the omission of the above part of the development would not significantly impact on my assessment above. It is, of course, alternatively open to the Board to consider requesting further information in relation to the possible disturbance of bat roosting sites which may include a more detailed bat survey of the relevant buildings and/or the submission of a derogation licence, for example.

Having considered the contents of the application, the provisions of the County Development Plan, grounds of appeal and my assessment of the planning issues, I recommend that permission be granted for the development subject to the omission by condition of the demolition of two no. habitable dwellings and associated

outbuildings including derelict stables and storage units in the southern area of the site and for the construction of 25 no. two storey houses and one dormer bungalow and associated access road and works in the southern area of the site. The number of units permitted would thereby be 58 no. dwellings including two apartment blocks totalling 50 no. dwellings (25 no. one bed units, 24 no. two bed units and one no. three bed unit) and a creche (104 square metres). Restoration and refurbishment works to Kindlestown House (a Protected Structure) to provide 6 no. apartments (4 no. one bed units and two no. two bed units) and two no. two bedroom apartment units in the adjacent courtyard buildings.

## **10.0 Reasons and Considerations**

Having regard to the location of the site within the built up environs of Delgany, the provisions of the Wicklow County Development Plan 2022 – 2022 (as varied), the infill nature of the site and associated policy encouraging appropriate infill development, the height, scale, layout and form of the development, the proposed mitigation measures in relation to local ecology including trees and to the nature and scale of the proposed development with no significant traffic congestion or traffic safety issues likely to result, it is considered that subject to compliance with the conditions set out below, the development would be acceptable.

The above development would not seriously injure the residential or visual amenities of the area or of property in the vicinity noting appropriate building height and scale and overshadowing impacts and would be acceptable in terms of traffic safety and convenience. Subject to the below conditions it would not result in significant adverse effects on the ecology or biodiversity of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **11.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 12th day of December 2023, except as may otherwise be required in order to comply with

the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The mitigation measures contained in the submitted 'Ecological Impact Assessment' (ECIA) prepared by Altemar Marine and Environmental Consultancy submitted on the 12<sup>th</sup> day of December 2023, shall be implemented in full.

Reason: to protect local biodiversity and the environment.

3. The development shall be amended as follows:
  - (a) The demolition of the two no. dwellings and the construction of the 26 no. houses (house numbers 1 to 26 inclusive) per 'Proposed Phasing Layout' drawing no. B-135-FI-SL-103-3 submitted to the Planning Authority on the 12<sup>th</sup> day of December 2023, in the southern area of the site and the access road and associated works for the 26 new houses shall be omitted. For clarity, the access road to the new apartment blocks is not hereby omitted. Prior to commencement of development the applicant shall submit for the prior written agreement of the Planning Authority a Proposed Site Layout Plan confirming the omission of the development of the southern section of the site for this part of the development.
  - (b) The maximum height for dwelling no. 1 shall be 5.5 metres above ground level and prior to commencement of development revised drawings and details shall be submitted for the written agreement of the Planning Authority in accordance with this requirement.

Reason: In the interests of local ecology and adjacent residential amenities.

4. (a) Unless otherwise agreed in writing with the planning authority, prior to the commencement of any residential unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an

agreement with the planning authority (such agreement must specify the number and location of each residential unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

5. The preservation, refurbishment and development of Kindlestown House and outbuildings shall be completed prior to the first occupation of all of the units within either apartment block 1 or 2. Prior to commencement of development the applicant shall submit for the prior written agreement of the Planning Authority a Proposed Site Layout Plan showing the proposed phasing plan in accordance with the above, or, in default of agreement, this matter shall be referred to An Bord Pleanála for determination.

Reason: To ensure local heritage restoration objectives are achieved prior to the completion of the development.

6. Not more than 90% of residential units shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate to the written satisfaction of the planning authority that a childcare facility is not needed (at this time).

Reason: To ensure that childcare facilities are provided in association with residential units, and in the interest of residential amenity.

7. Prior to commencement of development, the following shall be submitted for the written agreement of the Planning Authority:
  - (a) A plan shall be submitted for the remediation of Kindlestown House to reverse or stop further degradation of the building. The works in the agreed plan shall be carried out prior to any other development works on site.
  - (b) A detailed method statement covering all works proposed to be carried out to the protected structure and historic structures. All works shall be in accordance with good conservation practice.
  - (c) A full set of survey drawings providing details of the current condition of the structures including important features and fittings and the exterior of the building.
  - (d) All works to the protected structure and historic structures shall be carried out, under the supervision and in accordance with the requirements of a qualified professional with specialised conservation expertise (minimum level Royal Institute of Architects Ireland Grade 2).
  - (e) Details and drawings of proposals for the re-use of materials / features of architectural interest from demolished structures within the proposed development.

Reason: to secure the preservation of the protected structure and other historic structures and to ensure that the works are carried out in accordance with best conservation practice.

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

Reason: In the interest of visual amenity.

9. Car parking provision in accordance with the layout, finishes and quantity of spaces indicated on Drawing no.s B-135-FI-AB-B0-200 (Apartment Block 1 + 2 – Proposed Basement Plan) and B-135-FI-SL-103 (Proposed Site Layout) submitted to the planning authority on the 12<sup>th</sup> day of December 2023 with the application shall be provided upon the first occupation of units. The dimensions of the circulation aisles, car parking spaces and the details of the bicycle parking spaces and their location shall be subject to the written agreement of the planning authority. This shall include provision for specific Development Plan requirements for certain types of spaces including EV and accessible parking spaces/facilities.

Reason: To ensure that there is adequate car parking and bicycle parking spaces to serve the development, and to provide parking facilities for all likely users of the development in order to avoid on-street parking and congestion.

10. 167 no. safe and secure bicycle parking spaces shall be provided within the site including 8 no. spaces for the childcare facility located within close proximity to it. Provision should be made for a mix of bicycle types including cargo bicycles and individual lockers. Details of the layout and marking demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation

11. Prior to commencement of development, revised drawings and details shall be submitted for the written agreement of the Planning Authority showing provision for pedestrian connections and internal pathways at the northern boundary of the site at the current point of pedestrian access and along the southern boundary at the site's closest point to The Poplars with pedestrian

routes provided through the trees into the site, and otherwise generally in accordance with Landscape Detail Plan 01 drawing no. KIN-MAS-XX-XX-DR-L-0101 submitted on the 12th day of December 2023.

Reason: In the interest of area permeability and access to open space and historic landscape.

12. Prior to commencement of development, the developer shall submit final drawings and details for:
- (a) The design of the proposed junction with Chapel Road and the internal access road including measures for the management of traffic entering and existing the development site at Chapel Road.
  - (b) The tie-in between the Churchlands estate road and the proposed internal access road.
  - (c) The internal road network serving the development including roads, turning bays, junctions, parking areas, pedestrian facilities and kerbs and the basement car park.
  - (d) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority.

The design shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS). Details of all locations and materials to be used shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of traffic safety and proper planning and sustainable development.

13. (a) Prior to commencement of development a Stage 2 Road Safety Audit, including a Final Audit Report, for the development, prepared in accordance with the TII Road Safety Audit Standards Publication, shall be submitted. Where the audit identifies the need for design changes revised design details shall be submitted to and agreed in writing with the Planning Authority. The developer shall carry out all necessary works in accordance with the agreed revised design.

(b) Prior to occupation of the development, a Stage 3 Road Safety Audit, including a Final Audit Report, for the development, prepared in accordance with the TII Road Safety Audit Standards Publication, shall be submitted to and agreed in writing with the Planning Authority. Where the audit identifies the need for design changes, revised design details shall be submitted to and agreed in writing with the Planning Authority. The developer shall carry out all necessary works in accordance with the agreed revised design.

Reason: In the interest of traffic safety and proper planning and sustainable development.

14. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of sustainable transport and safety.

15. Prior to the commencement of development the developer shall enter into a Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

16. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interests of sustainable drainage.

17. All trees and hedgerows within and on the boundaries of the site shall be retained and maintained, with the exception of those shown for removal in the

submitted documents including the document submitted on the 12<sup>th</sup> day of December 2023 '*A Condition Assessment of the Trees on the Site Area at 'Kindlestown House', Chapel Road, Delgany, Co Wicklow*' report prepared by Arborist Associates Ltd, and with the exception of the following:

(a) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

(b) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum radius of two metres from the trunk of the tree or centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(c) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: In the interest of visual amenity and to protect trees and planting during the construction period.

18. The landscaping scheme shown on the Landscape Detail Plan 01 drawing number KIN-MAS-XX-XX-DR-L-0101, as submitted to the planning authority on the 12th day of December, 2023 shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until

the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

19. Prior to the commencement of development the developer shall submit, for the written agreement of the Planning Authority, details and drawing of all proposed boundary treatments throughout the development including on the adjoining lands and to the curtilages of the proposed sites. This shall include the height, materials and finishes. A colour coded map shall be included delineating all boundary types within the development.

Reason: In the interests of visual and residential amenity.

20. Prior to commencement of development, final details of all play facilities shall be agreed in writing with the Planning Authority.

Reason: In the interests of proper planning and sustainable development and orderly development.

21. All private open spaces shall be suitably graded such that they are fully usable, i.e. display a gradient of no greater than 1:10.

Reason: In the interests of residential amenity.

22. Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

23. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

24. Public lighting shall be provided in accordance with a scheme which shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within the development. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

25. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development..

26. The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development. Prior to the commencement of such works the archaeologist shall consult with and forward to the Local Authority archaeologist or the NMS as appropriate a method statement for written agreement. The use of

appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation including preservation in-situ/excavation.

The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.

Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation either in situ or by record of places, caves, sites, features or other objects of archaeological interest.

27. The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

28. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority. Reason: In order to safeguard the residential amenities of property in the vicinity.

29. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

(c) This plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

30. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

(a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;

(b) Location of areas for construction site offices and staff facilities;

(c) Details of site security fencing and hoardings;

(d) Details of on-site car parking facilities for site workers during the course of construction;

- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Provision of parking for existing properties at during the construction period;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority;

Reason: In the interest of amenities, public health and safety and environmental protection.

31. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended,

and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

32. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

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

the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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

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Ciarán Daly  
Planning Inspector

5<sup>th</sup> February 2025

## Appendix 1 – Form 1

### EIA Pre-Screening

<b>An Bord Pleanála</b>	ABP-319091-24		
<b>Case Reference</b>			
<b>Proposed Development Summary</b>	Two apartment blocks three to four storeys in height over ground floor/basement car park to accommodate 50 no. residential units, 6 no. apartments in Kindlestown House and two apartments in the courtyard buildings, 25 no. two storey houses and one dormer bungalow, partial access from Chapel Road with new entrance via Churchlands, parking, landscaping, services and layout alterations.		
<b>Development Address</b>	Kindlestown House, Chapel Road, Delgany, Co. Wicklow.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	Tick if relevant and proceed to Q2.
		<b>No</b>	Tick if relevant. No further action required
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	X	Part 2, Schedule 5 Class 10(b)(i)	Proceed to Q3.
<b>No</b>			Tick if relevant. No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X	Threshold is 500 dwellings or urban development on a site area of over 2 hectares.	Proceed to Q4

<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	X	Class 10(b)(i): Construction of more than 500 dwelling units. (iv) Urban development which would involve an area greater than 10 hectares in the case of other parts of the built-up area outside a business district.  The size of the development is for 84 residential units on an urban site area of 2.67 ha.	Preliminary examination required (Form 2)

<b>5. Has Schedule 7A information been submitted?</b>		
<b>No</b>	X	<b>Pre-screening Determination remains as above (Q1 to Q4)</b>
<b>Yes</b>		<b>Pre-Screening Determination required</b>

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

**Appendix 2 – Form 2**  
**EIA Preliminary Examination**

<b>An Bord Pleanála Case Reference Number</b>	<b>ABP- 319091-24</b>
<b>Proposed Development Summary</b>	Two apartment blocks three to four storeys in height over ground floor/basement car park to accommodate 50 no. residential units, 6 no. apartments in Kindlestown House and two apartments in the courtyard buildings, 25 no. two storey houses and one dormer bungalow, partial access from Chapel Road with new entrance via Churchlands, parking, landscaping, services and layout alterations.
<b>Development Address</b>	Kindlestown House, Chapel Road, Delgany, Co. Wicklow.
<p><b>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b> (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	The development over a sizeable footprint of the site, comes forward as a standalone project, requires modest demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
<p><b>Location of development</b> (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	The development is situated in an urban built-up serviced location on the site of a protected structure and its grounds, Kindlestown House.
<p><b>Types and characteristics of potential impacts</b> (Likely significant effects on environmental parameters, magnitude and spatial extent,</p>	There would be no significant loss of category A and category B trees on the site. There is potential for loss of bat roosts and associated potential loss of

nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	<p>this species (See Section 7.8 of above report) from the building to the south of the site where a bat derogation licence will be required if any roosts are found although the development herein permitted excludes the relevant demolition and construction works such that this risk would not arise provided this part of the development is omitted. The development is removed from sensitive designated sites and landscapes of identified significance in the County Development Plan. The development would provide for the sustainable re-use of Kindlestown House and outbuildings securing their preservation and future use. Having regard to the nature of the proposed development, consisting of mainly two new four storey over ground floor parking apartment blocks, two storey houses, site layout changes, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>
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## Conclusion

Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	No
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector:

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

DP/ADP: \_\_\_\_\_  
(only where Schedule 7A information or EIAR required)

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