



Paul Walsh



For the Attention of: Ms Emer O’Gorman, Chief Executive

**Wicklow County Council
County Buildings
Whitegates,
Wicklow Town
Co Wicklow**

Tuesday 15th of July 2025



**Submission on Wicklow Rathnew draft Local Area Plan 2025-2031
RE: Notice of Intention to Issue Direction to Wicklow Council**

Dear Ms O’Gorman

I am the owner of the site shown on the map below in Charvey Court, Rathnew. I used this for one of the planning applications I made on this site

I wish to make a submission on the recent decision by the office of the planning regulator to ask the Minister of Housing, Mr James Browne TD, to rescind the recent decision by a large majority of council members to zone this site as suitable for residential development and I would make the following comments in response to that request.

1. Development Plan zoning should not be proposed to achieve single aims, or indeed a couplet of aims as in this proposed Direction to the exclusion of other impacts. This not a piece of virgin land with a pastoral use. It is what was used as the builder’s yard in the middle of an existing established residential development of some twenty years standing. Permission had been granted long before national guidance on development and flood risk. This sub-site had permission as part of the overall Charvey Court development. It made sense at the time to grant it, as there was no history of flooding, and indeed Wicklow Co Council had a good history of avoiding granting residential development on sites that later became flooded. This was based on local knowledge and the ability of the Councils engineers to read the land. This can be easily verified. When the OPW funded the study of watercourses in this general area for the early CFRAM process, it was not due to any history of flooding in this area or this stream,

However the early CFRAM maps showed out of bank flow for this site, and other existing built house sites in Charvey Court. These maps showed flooding of the first 3 to 5m or so of the rear gardens, but nowhere near the dwelling houses themselves being prone to this out of bank flood modelling. The 2013 LAP thus had recognition of this and zoned it with an open space designation, but not the usual open space designation for computed amenity purposes, but simply with the intention of leaving such land fallow. This turned out to have unforeseen effects. It prevented ANY development being investigated, as the zoning immediately made any development a material contravention. It thus prevented a developer being able to fund detailed flood modelling of this watercourse and its tributary, to investigate if a suitable and appropriate development could be accommodated here.

This is not simply a theoretical possibility. There was a site upstream of this tributary watercourse in Rosanna Upper that was recommended to be refused as the flood modelling from the same OPW process showed potential flooding. Site specific modelling by Punch consulting engineers subsequently proved that site was not affected, and planning permission was subsequently granted. This material amendment simply allows for an applicant to invest in a particular and site-specific flood modelling of these watercourses to decide if completion of housing on Charvey Court on this sub-site is possible and in accordance with proper planning. Houses would have been completed and occupied only for the 2008 banking crisis and would have been as unaffected by flooding as the other houses already built there.

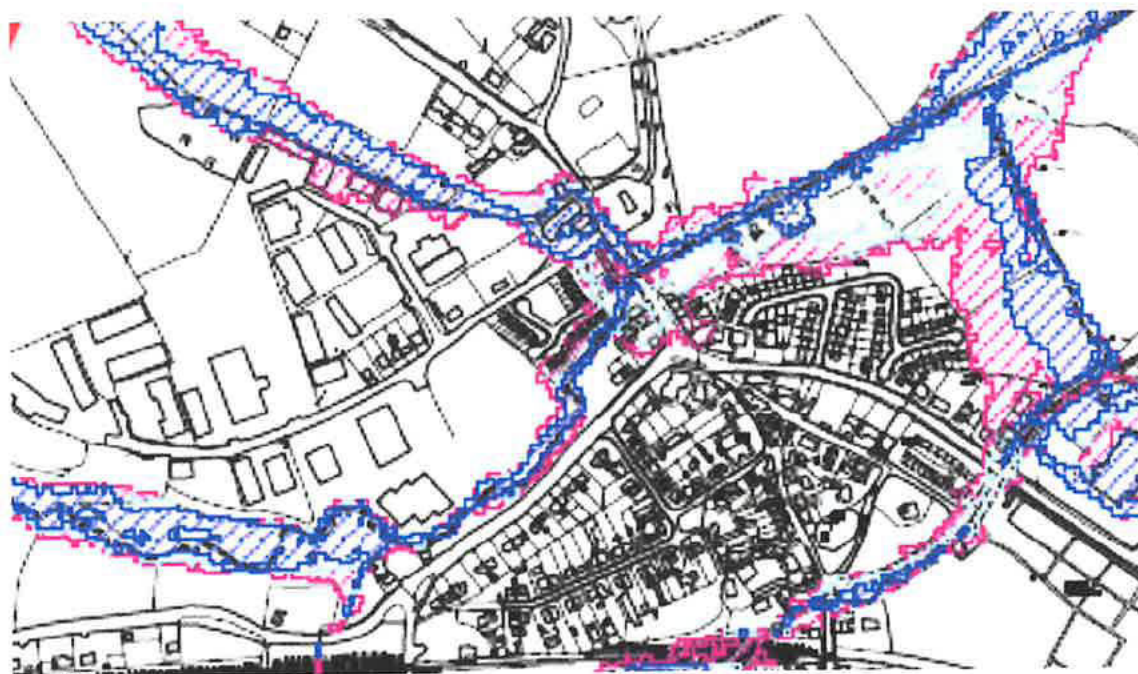
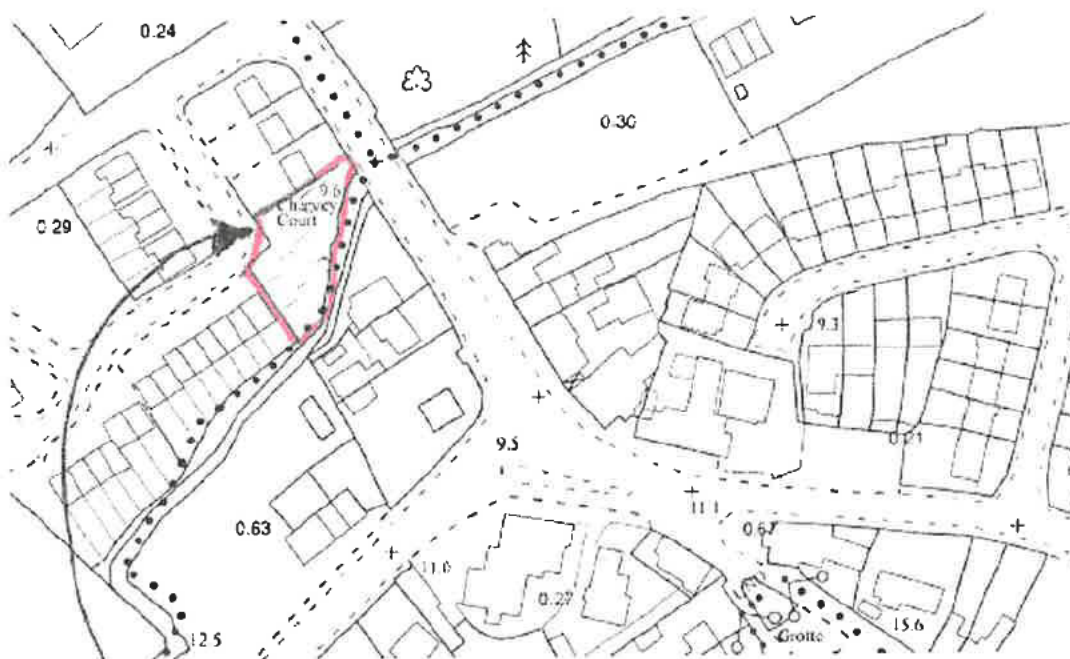
To get back to the point that zoning should not be used for a single or couplet of aims to the exclusion of others. The elephant in the zoning room in this case is the residential amenity of the existing residents of Charvey Court. There is a current disamenity here that is not going away. It is historical, and not the result of 'mala fides' by anyone. A development plan cannot simply ignore it. Allowing a zoning designation that can conceivably right matters, without in any manner undermining flood risk to either existing or future residents of Charvey Court, or other sites and citizens downstream is the antithesis of bad planning. The effect of this proposed Direction, for all its good intentions would simply be bad planning.

The current site has a non-conforming use as a builder's yard, that is in place for 20 years. It is a disamenity for the residents of Charvey court but is an established use that is statute barred from enforcement and is the only use that can give a return on this land holding. It is not in the best interests of the existing community to prolong this use. Regardless of the Direction being passed to designate this as open space, the likelihood is that the current use will continue. The current use would have the same impact on the SAC & SPA as the proposed residential use. In fact, a continued use as a builder's yard has much greater potential risks, such as fuel spillages etc. A normal Natura Impact Statement would immediately identify such risks from a stream flowing into a European Site.

2. Development Plans are not meant to micro decide on each tiny parcel of land, but to propose uses and designations that are prima facie rational. To guard against mistakes being made from such broad designations, layers of policies are included in Plans to make sure that at the development control stage, planning applications must prove that any proposed development is in line with all the relevant policies in a dev plan. In this case principally that it is not going to create flooding impacts for new or adjoining residents. The flood risk assessments prepared for the Council are at a high level and not site specific. Nor are they based on physical surveys. Any planning application would have to do modelling of the stream and its tributary and show the site, or probably part of the site, can accommodate residential development without adverse flooding impacts and in line with national guidance on flood risk. Development control is the stage to assess a development on a small site in the middle of residential existing development, not a crude instrument like a dev plan where no in depth studies has been carried out; but the unintended result will be that such studies can never be carried out. Dev control completely guards against inappropriate development, as was the intention of the law.

The intentions of this proposed Direction are meritorious; the instrument to achieve them is simply inappropriate. Common sense and the law as it is written and been developed strongly points to 'development control' as being the best way of achieving the aims of flood and ecological site protection. One of the reasons for this Directive is that the Council did not take on board the recommendations of the Planning Regulator. This is not correct. The elected members were aware of the objectives of the Regulator's recommendations; they were simply also aware of the effects of such recommendations on the existing residential amenities of Charvey Court residents, and the remedies of the planning permission process together with all the supporting policies in the planning they adopted.

There is endless debate now about the urgency for more housing. And affordable housing. Once, and if, hydrological modelling has demonstrated this site, or even parts of it are suitable for development, houses here can be brought on stream without delay as all site infrastructure is in place. This proposed Direction would prevent the possibility of achieving this modest addition to the solution of affordable housing deficit



I look forward to your response in due course, thank you.

Yours sincerely

Paul Walsh

