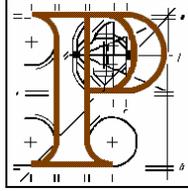


## An Bord Pleanála



## Inspector's Report

**Development:** Demolition of existing structures, construction of 40 no. houses, new site entrances to May Park Lane, car parking and all associated site works at Glanbia Liquid Milk Depot, Maypark Lane, Waterford.

### **Planning Application**

Planning Authority: Waterford City Council  
Planning Authority Reg. Ref.: 10/160  
Applicant: Glanbia Estates Limited  
Type of Application: Permission  
Planning Authority Decision: Grant Permission

### Planning Appeal

Appellant(s): Glanbia Estates Limited  
Rita Canney  
Type of Appeal: First Party V Conditions  
Third Party V Grant  
Observers: Anthony Rogers  
Trees for Life  
An Taisce  
Date of Site Inspection: 15<sup>th</sup> February 2011

**Inspector: Kenneth Moloney**

## **1.0 SITE DESCRIPTION**

The appeal site is located east of the city centre approximately 50 – 100 metres south of the Dunmore Road and fronts onto Maypark Lane on the opposite side of the public road from Waterford Regional Hospital.

The size of the appeal site is approximately 5.98 ha (14.7 acres) and the shape of the appeal site is irregular. There is currently a former Glanbia Food Factory on the site and some derelict buildings, which were formerly stables, to the south-west of the factory. There is an established woodland / urban forest situated to the west and north-west of the factory on the site.

The factory building ranges in height and in part is the equivalent of three-storeys. There is an existing yard to the rear and side of the factory building. The former stables buildings includes a series of buildings and the main stables is approximately 2-storeys high and is currently vacant and in a derelict condition.

There is a dense belt of mature trees situated to the west and north-west of the appeal site and this woodland is separated from the remainder of the site by palaside fencing. The woodland area is also relatively marshy. The appeal site currently has two established vehicular entrances onto Maypark lane and both are recessed from the side of the public road as there is a lay-by area to the front of the appeal site adjoining Maypark Lane.

The level of the appeal site is lower than the public road and generally the front of the site i.e. the eastern and south eastern side of the site, is flat, especially around the surfaced areas of the site. However to the west and north-west of the appeal site the gradient falls in level towards the River Suir which partially bounds the north-west of the appeal site.

The appeal site is adjoined on its northern boundary by a small housing estate of detached dwellings, i.e. Freshfield, and there are some individual houses situated to the south of the appeal site.

## **2.0 PROPOSED DEVELOPMENT**

The proposed development is for the construction of 40 houses comprising of 35 detached houses and the conversion of the existing stables into 5 terraced houses.

There are three types of detached houses proposed and the following is a summary of their main features;

<u>House Type</u>	<u>Floor Area</u>	<u>No. of Houses</u>	<u>No. of Bedrooms</u>
A	187.8m <sup>2</sup>	12	4
B	234.1m <sup>2</sup>	12	4
C	286.6m <sup>2</sup>	11	5

The front elevation of the proposed detached houses are generally comprised of plaster finish, natural stone plinth and timber framed windows and doors.

The proposed terraced houses within the existing stables building is to comprise of three 2-bed mid-terrace houses and two 3-bed end of terrace houses. The terraced houses are two-storey in height and their floor areas range from 131.1 sq. metres for an end of terrace to 95.1 sq. metres for a mid terrace property.

The car parking provision is provided to the front of individual dwellings and the private open space provision is in the form of rear gardens.

The proposed development also includes woodland / parkland to the rear of the site with dedicated walking routes.

### **3.0 PLANNING AUTHORITY'S DECISION**

The Planning Authority decided to grant planning permission subject to 10 conditions.

- **Condition no. 1** states that the development is for 29 dwellings and the following shall be omitted from the development, (a) houses no.s 19 – 22, (b) house no.s 5 -9 and (c) house no.s 1 and 25.
- **Condition no. 2** provides for a revised layout providing for the above condition and the provision of public open space.
- **Condition no. 3** relates to management of woodland.
- **Condition no. 4** – protection of trees and landscaping

The remainder of the conditions are standard.

Internal Reports: There are 4 internal reports on the file:

- Fire Safety: Requirements of the Fire Authority to be required with.
- Environment: No objections.
- Architects: No objection with the exception of the number of trees to be removed to facilitate the proposed development.
- City Horticulturist: The report prepared by R&H Dool has several shortcomings. The reports prepared by Mitchell and Associates & Cunnane Stratton Reynolds are acceptable subject to conditions.

Objections: There are seven third party objections on the planning file and the issues raised have been noted and considered.

Submissions: The DoEHLG require that conditions are imposed to any permission requiring re-development archaeological testing.

### **4.0 PLANNING HISTORY**

- There is no recent relevant planning history on the appeal site.

## **5.0 DEVELOPMENT PLAN**

The operational Development Plan is the Waterford City Development Plan, 2007 – 2013. The zoning objective of the appeal site is split in three and includes the following objectives;

The front half of the site is zoned both residential and industrial. The rear half of the site is zoned open space and this part of the site is designated as having ‘trees of special amenity value’.

Section 1.1 of the City Development Plan outlines goals for the city and this includes ‘*to promote sustainable development of the city so as to enable it to fulfil its role as the regional gateway city*’.

The trees on the grounds of the appeal site are the subject of a Tree Preservation Order.

Chapter 11 ‘Development Management’ sets out guidance and advice in relation to residential development and residential density. This section also recommends standards in relation to houses, residential development standards, building height control, car and cycle parking.

## **6.0 NATIONAL POLICY / GUIDELINES**

### National Spatial Strategy, 2002 – 2020

The appeal site is located within the South East region of the N.S.S., wherein the objectives are to enhance the critical mass through Waterford performing as ‘gateway’ supported by Kilkenny and Wexford as ‘hubs’. The strategy promotes a strong urban-rural structure needed throughout the country to complement development in the east, the strategy therefore builds on identified gateways and hubs.

### The South East Regional Planning Guidelines, 2010 – 2022

The Regional Planning Guidelines set out a settlement strategy (Section 3) for the region. Waterford City is identified as a ‘Regional Gateway’ and guidance is set out in Section 3.4 of the guidelines.

### Sustainable Residential Development in Urban Areas, 2009

The Guidelines promote higher densities in appropriate locations. A series of urban design criteria is set out, for the consideration of planning applications and appeals. Quantitative and qualitative standards for public open space are recommended. In general, increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant ‘brownfield’ sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout.

## **7.0 GROUNDS OF APPEAL**

Peter Thompson, Planning Solutions, submitted a first party appeal on behalf of the **applicant** and the following is a summary of the main grounds of appeal;

### Condition 1(b)

- It is contended that the removal of houses no. 19 – 22 goes beyond what is required to address the local authority's concern with tree removal which are of special amenity value.
- It is also submitted that the removal of trees no. 5 – 9 is unnecessary and inappropriate.
- It is not due to the lack of open space provision that the local authority have decided to omit the houses.

### Condition 2 (a)

- The applicant accepts the trees identified as 304, 307, 308 and 310 in the tree survey are special amenity value. It is also accepted that the removal of the second vehicular access in this location addresses some third party concerns.
- It is also submitted that an alternative to this condition is a revised layout as submitted. This revised layout (PL – 111) demonstrates (a) the removal of two houses only, (b) revised house types on sites 19, 22, 24 and 26, (c) removal of the second vehicular entrance, (d) creation of a large area of open space provision and (e) the provision of natural surveillance of the open space.

### Condition 2(b)

- The removal of the houses in accordance with this scheme makes the overall development unviable having regard to additional costs such as site clearance, tree works and restoration of pond.
- It is contended that changes could be made to lessen the impact of the proposed development on existing trees.
- It is unclear why trees identified as no. 518, 519 and 520 are considered to be of importance as both the project arborist and Mitchell and Associates found them not to be of particular high merit. There are no proposals for removal in the revised layout.
- The applicant considers that trees identified as no. 526 and 527 as important value and this is reflected in the revised layout.
- It is submitted that the 12m exclusion zone is dubious value in terms of justification. However modifications to houses on plots no. 8 to 5 and 7 would ensure that these properties are outside the 12m exclusion zone.
- The project arborist identifies a 1.2m deep man made trench between which will protect roots of trees to the north of this trench.
- The garages of house no. 6, 7 & 8 are under the canopies of mature trees however the project arborist does not consider that this will have an impact on these trees however these garages can be removed.
- It is submitted that there are two other recently permitted developments in Waterford City where there are mature trees of amenity value on site and these cases the canopy spread of trees was used as a guide rather than a 12m exclusion zone.

- In relation to the designation of the mature trees this relates to an area on the site to the north and north west of the proposed housing and does not extend to the development area, including the location of houses 5 to 9. There is a T.P.O. relating to the grounds of the Glanbia Plant at Mayfield however its coverage is unknown.
- A comparable planning application to the subject development is L.A. Ref. 09/129 (appeal ref. 235964) where a housing development was located beside an area which contained mature trees and is designated 'Tress of Special Amenity Value'. The planning inspector reporting on the case noted that the site relating to the housing development is different to the area designated 'Tress of Special Amenity Value' and the applicant considers that this is also the case on the current appeal site.
- A second example relates to L.A. Ref. 07/241 (**appeal ref. 226457**) where houses have been permitted in areas designated 'Tress of Special Amenity Value' and also trees of significant value have been permitted to be retained inside the curtilage of individual houses. This application also demonstrates that the 12m exclusion zone goes beyond what is required in the interest of the welfare of the trees.
- The applicant maintains that the submitted layout in relation to houses on plots 2 to 9 is the optimum design solution for the site. An alternative house type on plots 5 and 7 can deal with any concerns over relationship of the mature trees to be retained and houses. It is also submitted that garage structures can be removed if required.
- It is submitted that there should be no objection to the undesignated mature trees to the rear of houses 5 to 9 being retained in private gardens.
- It is submitted that the submitted option is the optimum solution as the layout provides for safety and security for neighbours to the south and public access to the overall site is focussed on the main access road.
- The location of the public access to the public wooded area maintains the privacy of the adjoining properties.
- An alternative layout is submitted (drawing no. PL – 111). This provides for (a) reorientation of houses no. 1 to 3 to maximise passive surveillance, (b) two new detached dwellings located to the rear of the converted stables and the trees which are located within the curtilage of no. 6 as not considered to be of significant amenity value, (c) the layout avoids public open space at the south-west corner of the site, (d) a further cottage type dwelling is located at the end of the cul-de-sac providing for maximum surveillance, (e) no development occurs within the 12m protection zone of matures of significant amenity value.
- It is submitted that if the Board considers the location of existing trees within private gardens that the revised layout (drawing no PL-101) will be considered in the same way as the local authority required the scheme to be revised under condition without recourse.

Condition 2 (c) & (d)

- Condition 2 (c) and (d) are not been appealed.

### Condition no. 3

- In relation to condition no. 3 the applicants are agreeable to this however it is considered that the terms of the transfer will not extend to future management and maintenance of the woodland.
- It is an objective of the City Council (Section 5.4 of the City Development Plan) to develop lands adjacent to Glanbia Plant.

### Condition no. 4

- In relation to condition no. 4 it is contended that this condition will not be appropriate should the subject land be transferred to the local authority in accordance with condition no. 3.
- The requirement for all woodland works to be carried out prior to the commencement of development is considered unreasonable.

### Condition no. 9

- In relation to condition 9 it is contended that the proposed development is unique as the proposal involves the provision of a major public recreational facility in the form of woodland park and walkway. The current contribution provides for, at its discretion to grant an exemption or reduction for certain contributions.
- It is requested that the Board apply a standard condition requiring that the amount of contributions due are prior to the commencement of development. It is contended that this may leave for greater flexibility when agreeing on the terms of the Section 47.

**Rita Canney**, third party, lodged an appeal and the grounds of appeal are summarised as follows:

### Degree of post-consent agreement will have adverse impact on protection of trees

- It is submitted that condition no. 4 would not adequately address issues in relation to the protection of T.P.O. / Tress of Special Amenity Value and biodiversity.
- It is contended that the revised plans sought under condition no. 2 (a) are not feasible without incurring impacts on tree 308. The proposed 12m exclusion zone may not be achieved. A revised smaller house would be acceptable on this site.
- The re-orientation of units 18 and 23 may result in an undesirable building line. This maybe addressed if the houses are only partially re-orientated.

### Ambiguity

- The exact location of trees in relation to proposed houses and infrastructure has not been determined. This is the case having regard to the submitted layout, the permitted layout and the proposed revisions. It is submitted that a drawing of this nature needs to be prepared in advance of the final grant of permission.
- The Mitchell and Associates Tree Survey Dwg. No. 100 indicates that the location of the trees cannot be guaranteed to be accurate. There is a discrepancy in the number of trees and due to the different numbering there is reason to doubt the locational accuracy of the Dool Tree Survey.

- The City Horticulturalist, in his report, notes significant inaccuracies in the tree survey and other tree-related documentation. Condition no. 4 confirms this.
- The local authority's decision makes no provision for the protection of boundary trees or isolated trees.
- The implication of the demolition of the stables has not been adequately assessed especially in relation to tree no. 1737 which is located close to the main stables. It is contended that a demolition method statement should have been prepared prior to the granting of planning permission.
- It is submitted that should condition no. 4 receive drawings with the level of inaccuracy similar to the planning application drawings then there is potential for loss of trees which are of high amenity value.

#### Loss of Trees

- The level of tree loss on the subject site is considered excessive. This is based on the Mitchell Tree Survey drawing, Dwg. SU – 101 and Dwg. PI 106.
- It is contended that Trees no. 1582, 1583, 1585 and 1587 will be lost to facilitate the development of unit 24. It is contended that these trees were part of Goff's woodland.
- High value and quality Tree 1593 and moderate quality trees 1637 and 1594 which will need to be felled to facilitate unit 26.
- Units 35 and 10 will result in the removal of high value and quality tree 1658 and 1659.
- The trees located to the south of the pond i.e. 0697, 1164, 1629 and 1661 are subject to works of the pond.
- Given the protection status of the trees it is questioned the need to remove so many trees.
- The road access associated with house no.s 30 – 33 will result in the felling of 1651, 1648, 1646.
- To facilitate the development of houses no. 2 & 3 the trees 1700, 1702 and 1724 are most likely to be felled.
- In order to facilitate the development of house no.s 29 & 17 it is likely to result in the felling of trees 1495 to 1505 and from 1506 to 1517.
- It is contended that the many of the larger trees to the rear of Freshfields will be removed to facilitate the development of units 23 & 24.
- It is noted that the location of the proposed house unit no. 24 is situated on sloped ground and therefore there will be a need for infilling and the subsequent re-contouring of the site has not be assessed.
- It is submitted that the same issues which apply to houses no. 1 & 25 would apply to unit no. 24.
- It is questioned how the Landscape Master Plan could have ever been prepared without an adequate survey.
- It is contended that the approach been adopted would be closer to a 'manicured park' rather than a natural woodland.
- It is contended that the area of the southern woodland edge will also be subjected to considerable infilling to facilitate the construction of units 30/31.
- The laying of the proposed 225mm 'proposed foul drain' will have implications for established trees.

- It is submitted that the Board should also give consideration to the use of Tree Bonds as conditioned in respect of appeal ref. 233684, condition no. 13.

#### Impact on cSAC

- The woodland will have a biodiversity value given its proximity to the adjacent cSAC.
- The site synopsis for the Lower Suir cSAC notes the presence of a small woodland.
- It is contended that the proposed development will now threaten to undermine its biodiversity value to a degree.
- An ecological assessment or appropriate assessment was not carried out assessing the subject development.
- It is agreed with the City Horticulturist that significant biodiversity issues have not been addressed.
- A bat survey should be undertaken.
- The Board is referred to the Inspectors report (appeal ref. 233937) and the opinions offered and the Board's decision. The Board's second reason for refusal stated that they were not satisfied that '*satisfactory ecological surveying had been carried out*'.
- It is contended that a pre-consent otter survey should be conducted.
- It is submitted that all material contraventions require screening for appropriate assessment.

#### Precedent for the Preservation of T.P.O.

- It is contended that the proposal sets a poor precedent for the T.P.O.'s.
- There are at least two other sites in the City which have T.P.O.'s and it is therefore contended that permitting development for the felling of trees would be liable to give rise to negative cumulative impacts.

#### Built Heritage

- It is contended that the basis for demolition of the stable has not been established.

### **8.0 OBSERVERS**

The following is the summary of an observation submitted by **Anthony Rogers**;

- The observer supports the original layout where the existing rear gardens adjoin onto the proposed rear gardens rather than a layout in accordance with condition no. 1 where existing rear gardens will adjoin onto a public open space.
- It is contended that the site currently has an issue with anti-social behaviour and the provision of a public open space in accordance with condition no. 1 will not address this issue.
- It is submitted that the amount of public open space, in the revised proposal, is grossly excessive for a small number of houses on the site. It is contended that one large open space in the woodland would be sufficient.

The following is the summary of an observation submitted by **Trees For Life**;

- The appeal site is described as a ‘most significant woodland’ and it is considered that the site was inadequately surveyed.
- It is a concern that there is post-consent revision and assessment. This is not appropriate given the context of the site adjacent to an cSAC.
- It is contended that the TPO in relation to the site was adopted in 1980 and applies to all mature trees. It is therefore considered that the full extent of the TPO is known.
- It is submitted that although this TPO was made sometime ago that it is more important now given its urban location and amenity value whereas 30 years ago the site was located on the edge of the city.
- It is contended that the removal of trees on the sloped part of the site would result in soil erosion.
- It is recommended that tree bonds be put in place.
- It is submitted that the removal of vegetation / trees will result in anti-social problems by diminishing the natural beauty of our surroundings.

The following is the summary of a second observation submitted by **Anthony Rogers**;

- There is concern regarding the creation of an open space beside established houses as this will result in anti-social behaviour.
- It is contended that the 5 – 6 acre woodland park would be sufficient for the open space provision.
- It is submitted that the trees have a better chance of protection when they are contained in rear gardens rather than the removal of houses from the proposed site layout.
- There is concern that there will be no supervision of the proposed woodland park.
- The existing houses are closer to the mature trees than the proposed houses.
- The trees will be protected by the law.
- The area has been zoned residential and it is therefore questioned why has it been turned into public park.
- The second option is not preferred for two reasons (a) the public open space beside the established houses is unsatisfactory, and (b) the public footpath from the woodland entrance will draw people up to the open space and impact on established residential amenities.
- The original proposal is the preferred option as there is no public space.

The following is the summary of an observation submitted by **An Taisce**;

- The garden was developed mainly in the 20<sup>th</sup> century and this included formal planting and artificial ponds.
- It is considered that the applicant has not adequately addressed concerns in relation to heritage and botanical value of the remaining woodland garden.
- We concur with the concerns raised in the appeal submission with regard to impact on the trees identified.

## **9.0 RESPONSES**

### **Second Party Response**

The following is the summary of a response submitted by the local authority;

- The appeal site has a mix-use zoning objective. In order to grant permission for the subject development a material contravention was passed on the 8<sup>th</sup> of November 2010.
- In relation to the trees on the appeal site protection is afforded in the form of T.P.O., and also Section 6.5 of the City Development Plan.
- Section 5.4 of the City Development Plan outlines that there is an objective to develop part of the appeal site into an Urban Park.
- Section 6.3 of the City Development Plan is also relevant to the subject development.
- The planning authority commissioned an independent tree survey on the subject site on which the assessment of the proposed development was based.
- The assessment of the proposed development in relation to trees was also based on submitted arboriculture and ecology reports submitted by R & H DOOL.
- The reports concluded that the layout of the proposed development would impact on mature trees deemed to be of significant value situated to the eastern and south western sections of the site. It was recommended that these trees be retained. The permitted development omitted part of the development by condition in order to facilitate the retention of the trees.
- The local authority strongly disagree with the applicant's contention that the conditions imposed are unwarranted and the reason for appealing conditions because they would make the scheme economically unviable is not in accordance with proper planning and sustainable development of the area.
- It is submitted that the permitted housing layout is based on a material contravention and proposals to revise the layout in accordance with the appellants' suggestions is misguided.
- It is submitted the inclusion of trees within private curtilages does not eliminate the risk to these trees.
- The proposed development is in compliance with BS 5837 'Trees in relation to Construction' (2005).
- The conditions attached to the grant of permission reflect the findings and recommendations of the independently commissioned tree impact assessment report and tree survey.
- It is not considered that the Tree numbering discrepancy on the Ron Dool Survey warranted a pre-consent correction, as the Planning Authority has taken appropriate measures to properly inform itself of the potential implications.
- Condition no. 4 deals with additional landscape and ecological assessments.

### **First Party Response**

The following is a summary of a response to the third party appeal submitted by the applicant's agent;

#### Ground of Appeal no. 1

- The subject woodland will be transferred to the local authority.
- Further detailed studies are not required in the woodland.
- The proposed development will not have significant impact on the amenity value of trees.
- The protection of trees has regard to the canopy spread of trees as calculated by Mitchell & Associates.
- Trees will be protected in the location of houses 18 to 23 and the proposed open space receives adequate natural surveillance.

#### Ground of Appeal no. 2

- It is submitted that both the application drawings and the revisions provide adequate information.
- Details regarding footpaths will be agreed at a later stage.
- It is an objective of a development plan that the subject woodland is acquired and developed by the planning authority.
- The report by Mitchell & Associates surveys trees with a girth less than 300mm. The Mitchell & Associates survey has no bearing on the revisions of the site which became the subject of conditions.
- It is submitted that the methodology of the applicant's arborist is standard practice.
- It is submitted that overlaying the Mitchell & Associates survey findings with those of Mr. Dool illustrates that there is no significant difference.
- All trees to be retained will be afforded appropriate protection during construction.
- No tree canopies project over the buildings to be demolished.

#### Ground of Appeal no. 3

- Some trees as referred to by the appellant will be lost however trees proximate to the access and road can be retained allowing for their canopy to overhang the road.
- Trees can be retained and protected within the curtilage of private dwellings.
- Should the Board consider it necessary the trees around the pond can be retained.
- It is noted that both trees of moderate value and quality and other high value trees such as sycamore that the local authority has no objection to their removal.
- The local authority is not concerned with the implications of re-grading the site around the proposed house no. 24.
- The appellant's concern that there was a lack of survey work in the main woodland area was based on the local authority's view that adequate survey work was carried out.
- The applicant has no objections to limiting the size of public open space.
- In relation to drainage pipes the local authority is satisfied that the proposal will not have adverse impact on existing trees.
- The retention of the trees to the front of houses will not deprive the main woodland the benefit of natural supervision.

#### Ground of Appeal no. 4

- It is submitted that the proposed development will have no adverse impact on the biodiversity value of the woodland or the cSAC.
- The proposed development will bring about management of the subject woodland.
- Management proposals will include an ecological survey.
- It is submitted that an examination of the site was undertaken to identify the presence of bats (report appended to submission). This report met the applicant's obligation in advance of the planning application.
- Given that bats are currently in hibernation it was considered that a further examination would take place. In advance of any works further examinations will be carried out.
- The DoEHLG were consulted during the planning application stage and made no comment.
- The applicants have no objections to a condition requiring that adequate bat survey is carried out prior to the commencement of development. This was the case in the recent case in Sligo (appeal ref. 233183).

#### Ground of Appeal no. 5

- The extent of the TPO is unknown.
- The Trees of Special Amenity Value designation does not extend to the area of the site which is to be developed.
- A limited number of healthy trees are to be removed.
- It is contended that the significant amount of native-tree planting and the provision of an urban parkland for public use more than complements any tree loss.

#### Ground of Appeal no. 6

- A significant portion of the stable block is been retained and will be visible from the public road.
- The proposed demolition works is applicable to a modern shed which was used until recently for storage.
- The remainder of the buildings are in poor condition.
- None of these buildings are protected structures.

#### **Third Party Response**

The following is the summary of a response submitted by Rita Canney;

- The proposed development may have hydrological changes to the site.
- There are potential adverse impacts arising from fill
- Destabilisation of trees due to root systems becoming inter-twined over years.
- Adverse impacts due to boundary treatments.
- Drainage works and road works will adversely impact on established trees

#### Material Contravention

- The material contravention should have been screened for appropriate assessment given proximity to Lower Suir cSAC.

- The reasons on the basis of the material contravention have not been fully explained.
- There was no reference to material contravention for L.A. Ref. 10/35

#### Economic Viability

- No evidence is submitted to suggest that the proposed development, with conditions, is economically unviable.

#### Condition 1

- It is submitted that the demarcation of the boundaries between public and private space on the site are dubious.
- The open space provision in the south west of the site would offer the best opportunity for a kick-about area.

#### Condition 2 (a) & (b)

- Any revised proposal to housing layout would have an adverse impact on TPO.
- It is considered that the house no. 19 cannot be accommodated on the site and there is no justification for the felling of the tree in relation to no. 19.
- It is preferable that a unit is constructed in the vicinity of no. 22 and unit no. 24 is omitted.
- The proximity of the substantial tree 1525 to the adjacent access road is a concern. The proposed development will adversely impact on this tree.
- It is noted that high quality / value tree 1521, which is not referenced in condition 2(a), has however been included in the revised drawings.
- Trunks have not been mapped in the revised drawings.
- The boundary areas which are intended for the front and side areas of unit 22 has not been made explicit in the revised drawings.
- Unit 26 provides adequate surveillance of the open spaces in question with-out demanding a re-orientation.

#### Condition 2 (b)

- The additional burdens in terms of economic viability are common to brownfield development.
- The trunks are not outlined on the revised drawings as is indicated in condition no. 2(b).
- It is contended that the merit of retaining trees in private gardens is flawed.
- The height of the trees is ignored.
- The 12m exclusion zone is not indicated on drawing PI-110.
- Details of the TPO have not been enclosed.
- Comparisons with St. John's College and Oaklands is not seen as applicable given that there is a TPO on the appeal site.
- In relation to the revised site layout to the south-west of the subject site it is considered that the proposal (a) lacks cohesiveness, (b) there is no reason to prohibit development on the footprint of unit 5, and (c) the lack of accurate mapping of the RPA of tree 1737 is considered problematic.

### Condition no. 3

- It is dubious whether a Section 47 agreement would address the matter of land transfer. This will create issues in relation to the management of the urban woodland.
- Condition no. 3 is in keeping with City Development Plan objectives.
- The proposed condition would provide for an amenity space where there is a shortage of such spaces.
- Condition no. 3 would provide for the management of woods containing a significant number of TPO's.
- It is considered that the applicant is entitled to some clarification regarding this condition.

### Condition no. 4

- It is submitted that condition no. 4(a) & (b) refers to survey work in respect of the entire site and not just the woodland.
- It is submitted that a post-consent survey is pointless.
- In relation to condition no. 3 it is contended that the subject transfer of lands may not occur and therefore appropriate survey work may not occur.
- It is submitted that the construction of houses no. 5 & 6 would negatively impact on High Quality / Value trees.
- It is contended that any space less than 12m, i.e. the exclusion zone, would be hardly be considered as public open space.
- The assessment and conclusion in relation to trees no. 505, 507, 511 and 512 is questioned.
- The filling of the referred 'trench / pathway' has not been addressed.
- It is submitted that the proposed transplanting will be unsuccessful. The proposal would also turn the garden of no. 23 into a mini-forest.
- The respondent does not agree that the residents would become proud caretakers of established trees.
- It is submitted that the ecological assessment should have taken the form of an appropriate assessment.
- The proposal involves a significant removal of mainly native vegetation, at odds with City Development Plan objectives Section 6.4.1 'Wildlife', Section 6.4 'Biodiversity'. It is contended that the level of encroachment represents a significant habitat modification.
- The proposal is contrary to the spirit of the Waterford City Biodiversity Plan.

### **Second Party Response**

The following is the summary of a response submitted by the local authority;

- It is submitted that the development contribution is set out in the scheme for Waterford City Council.
- There is no justification for the relaxation of the development contribution scheme in this instance.
- A copy of the calculation of the financial contribution is enclosed.

### **First Party Response**

The following is the summary of a response submitted by the applicant's agent;

- There is provision for an exemption within the adopted contribution scheme. Given that the applicant is providing 5 acres of its woodlands to the local authority for a development plan objective it is considered that this should be taken into account when deciding on the financial contribution. The proposal would provide for a community facility.
- It is submitted that agreement could be reached with the local authority following a favourable planning permission.
- A standard condition was used in appeal ref. 226869 and would allow for agreement to be reached between the two parties.
- The planning authority's response to the appeal provides no further clarification to the T.P.O.
- There is a City Development Plan objective to develop part of the appeal site into an urban park.
- It is contended that the applicant did not carry out a survey of tree's under 300mm following the direction of the local authority.
- It is submitted that the local authority commissioned Mitchell & Associates to carry out a tree survey however the late deliver of this report had no bearing in the decision making process. It is considered unfortunate that the local authority did not make a request for additional information seeking additional tree survey work.
- It is contended that there would be a net increase of 30% in overall development costs due to the proposed reduction of 11 houses by Waterford City Council. This is supported by a submission by Malone O'Regan.
- The proposed redesigned proposals in the appeal submission are proposed to alleviate concerns over impact on trees to be retained and to avoid some trees of significant amenity value being lost.
- The proposed redesign submission is not an alternative to the revised layout the local authority sought under condition no. 1.
- The revised proposals do not change the applicant's commitment to carry out significant planting proposals including the transplanting of existing trees.
- The trees proposed to be retained in rear gardens are not typical suburban gardens given their size.
- The position of the existing 1.2 deep ditch trench between the trees to be retained and the houses at the southern corner of the site ensures that there will be no root damage to the trees of significant amenity value.

### **Third Party Response**

The following is the summary of a response submitted by Rita Canney;

- It is questioned whether the material contravention confines the Planning Authority in terms of their processing this application. The original application was revised by excluding 11 houses and further altered by conditions no. 1 & 2.
- There is no evidence on the file to suggest that the local authority gave consideration to the TPO in their deliberation on the material contravention.

- There is no record of a meeting relating to the TPO on the appeal site.
- It is submitted that the view of the City Horticulturist is that the existing woodland and zoned open space should form part of the urban parkland. This view appears to be ignored in processing of the material contravention.
- It is submitted that there is conflict between the material contravention and other Development Plan policies. These include policies in relation to the protection of public spaces and management of trees.
- It is recommended that the Board refuse permission on the basis of unacceptable loss of the TPO and Special Amenity Value trees, public open space and visual impact.
- The Tree Management Policy states that *'the obligation to apply for consent under a TPO is not met by making of planning permission on the relative land'*.
- It is contended contrary to the local authority's view that the quality of the Mitchell & Associates Report can only be gauged without superimposing the entire Mitchell map on a composite site layout plan and undertaking other assessments required under condition no. 4.
- It is submitted that all documents pertaining to the trees should be made available at the pre-consent stage.
- It is submitted that woodland survey / management approach would be appropriate for the woodland in question.
- It is submitted that there are shortcomings in the Ecological Assessment.
- It is submitted that the retention of the woodland edge areas is of significant ecological importance.

## **10.0 ASSESSMENT**

The main issues to be considered in this case are: -

- Principle of Development
- Condition 1(b)
- Condition 2 (a)
- Condition 2(b)
- Condition 3
- Condition 4
- Layout and Setting
- Residential Amenities
- Built Heritage
- Development Contribution
- Bio-diversity

I propose to consider each of these in turn. Firstly, however the Board will note that, in this case, the proposed residential development would contravene materially the land use zoning objective for the site in accordance with the Waterford City Development Plan, 2007 – 2013. However in accordance with Section 34(6) of the Planning and Development Act, 2000, the members of the city council passed a resolution in relation to a material contravention of the City Development Plan, 2007 – 2013 for the proposes of the proposed development.

### Principle of Development

The proposed development is to comprise of 40 houses on a site which has a mixed zoning objective. The proposed housing development is primarily situated within the residential and industrial zoned land on the appeal site. I would note from Section 10.11 of the City Development Plan that the schedule of permitted uses is intended as a guideline and that uses not listed in the schedule will be considered on their merits.

However it is noted from the information of the file that Waterford City Council passed a resolution on the 8<sup>th</sup> November 2010, under Section 34(6) of the Planning and Development Act, 2000, requiring that a decision to grant permission be made.

In accordance with the National Spatial Strategy Waterford City is designated as a 'gateway' for the region and its objective will be to realise a critical mass in order to drive the region. The strategy promotes a strong urban-rural structure needed throughout the country to complement development in the east, the strategy therefore builds on identified gateways and hubs.

The Sustainable Residential Development in Urban Areas, 2009, encourage increased densities on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites.

Overall I would consider that the principle of the subject development would be acceptable provided that the proposed development would provide an adequate standard of amenity for future occupants and would address any concerns in relation to impact on trees and impacts on established amenities.

### Condition 1(b)

Condition 1 (b) omits 11 houses from the proposed development and is primarily based on a independent Tree Survey and Arboricultural Impact Assessment (A.I.A) prepared by Mitchell & Associates and commissioned by the local authority.

These reports conclude that the proposed site layout, as submitted in the original application drawings, would directly impact on a number of mature trees deemed to be of significant value situated on the eastern and south-western section of the site. The Board will note that the appeal site is designated as having 'trees of special amenity value' in accordance with the provisions of the City Development Plan, 2007 – 2013, and that there is a Tree Preservation Order, in accordance with the provisions of the Planning and Development Act, 2000, on the appeal site.

I would note that there are some differences between the tree survey conducted by R & H Dool, Landscape Architects, on behalf of the applicants, and the tree survey prepared by Mitchell & Associates in terms of protection and management of trees. The applicant's tree survey concludes that 38 trees would be removed as part of the proposed development and in terms of management of existing trees it is considered that the mature trees of high value could be incorporated within private rear gardens.

However the AIA prepared by Mitchell & Associates contends that it would be much more appropriate for retained trees to be concentrated within open spaces which provide adequate room for trees rather than within private gardens. The report concludes that two groups of trees i.e. no. 1520, 1521, and 1525 and trees no. 1711, 1733, 1735 & 1735 (as identified in the accompanying tree survey) should be retained within areas of open space within the development.

Having regard to the established policy on the appeal site where there is a specific objective for the protection of trees of special amenity value and where there is also a TPO on the appeal site I would consider that Condition 1(b), as imposed by the local authority, would be reasonable in the interest of protecting mature trees on the subject site.

#### Condition 2 (a)

This condition relates to a revision to the eastern corner of the submitted site layout plan and omits four dwellings, namely house no.s 19 – 22 inclusive. The significant issue is the retention of tree no.s (as referred to in the Mitchell & Associates Tree Survey) 1520, 1521, 1525 and 1528.

The applicant, in their appeal submission, proposes a revised site layout plan (drawing no. PL111) which provides for the omission of two houses, i.e. no. 20 & 21, and the retention of the four trees referred to above. The revised site layout plan provides for public open space within this eastern corner of the appeal site and it is also noted that the four trees are to be protected with a 12 metre exclusion zone. The revised site layout plan would result in the loss of tree no. 1524 which is identified in the Mitchell & Associates tree survey as having moderate value and quality.

I would note from the Tree Survey carried out by Mitchell and Associates that there is a significant number of trees in eastern corner of the appeal site and that there are also a significant number of trees designated as having a moderate value and quality. These are in addition to the four trees referred to above which are identified as having a high value and quality.

I would consider that the applicant has made a reasonable proposal to revise the site layout plan whilst protecting the four trees which are identified as having a high value and quality in the Tree Survey prepared by Mitchell & Associates. Accordingly I would recommend to the Board to amend condition 2(a) to take account of the submitted revised site layout plan in the appeal submission.

#### Condition 2(b)

This condition relates to the omission of five dwellings, i.e. no. 5 – 9 inclusive, in the south-west corner of the appeal site. The tree survey prepared by Mitchell & Associates identified several trees that are a high value and quality in the south-west corner and these include, no.s 1711, 1737, 1735, 1733. The original site layout submitted with the application would impact directly on these mature trees.

I note that the appellant refers to the retention of these trees within the rear gardens of the private houses. However I would concur with the view expressed in the A.I.A. by Mitchell & Associates that it would be more appropriate for these trees to be protected within open spaces for maintenance and protection purposes. I acknowledge the observation by the residents of the property immediately south-west of the appeal site who have concerns that any public open space in this location (south-west) would result in anti-social behaviour and therefore adversely impact on established residential amenities.

I would consider that should the Board concur with the local authority on condition 2(b), that the public open space would be maintained similar to other public open spaces within housing developments and given that the site is zoned for residential development I would not consider that the reason expressed by the observer in relation to anti-social behaviour is a strong enough reason in itself to amend the local authority's condition 2 (b).

It is noted that the applicant has submitted revised site layout proposals for the south-west corner of the subject development. It is contended by the applicant that these trees, identified as having a high value, can be protected with a revised site layout which retains three of the five dwellings proposed to be omitted by the local authority condition 2(b). These three dwellings are reoriented to accommodate the protected trees.

I would consider that the 12 metre exclusion zones, as submitted in the revised site layout by the applicant, in the appeal submission, would encroach on proposed property lines and this would, in my view, endanger the future protection of these mature trees designated high value and quality. Additionally I would consider that the public open spaces created by the revised proposal, outlined in the appeal submission, would be akin to residual space and would be isolated from the development and therefore, in my opinion, it's amenity value would be low. I would concur with the local authority on condition 2(b) and I would not recommend to the Board that this condition is amended in accordance with the submitted revised site layout in the appeal submission.

### Condition no. 3

Condition no. 3 relates to the transfer of lands on the appeal site to the local authority in accordance with Section 47 of the Planning and Development Act, 2000. The applicant in their appeal submission outlines that they are agreeable to this however they would consider that the transfer would not extend to the maintenance and management of the subject lands.

I would concur with the applicant that while there is a provision within the Planning and Development Act, 2000, for the legal transfer of land there is no provision that this same land should be maintained and managed by the transferee. I would recommend to the Board that condition no. 3 should be amended accordingly.

#### Condition no. 4

I would consider that allowing for the above amendment to condition no. 3 that condition no. 4, as imposed by the local authority, would be acceptable.

#### Layout and Setting

I would consider concerns raised by the third party appellant in relation to, protection of boundary trees and isolated trees and a demolition method statement for the stables and the implications on trees could be addressed by condition.

The third party appellant refers to the loss of trees, which are of high value and quality, outside of the eastern and south-west corner of the appeal site. I would acknowledge that in order to accommodate a residential development of this scale it would be necessary to remove some of the trees which are of high value and quality and therefore, the A.I.A., submitted by Mitchell & Associates, focuses in on two areas within the site where there is a cluster of high quality trees.

The areas throughout the site where the loss of high value and quality trees will occur to facilitate the proposed housing which would be of particular concern, in my opinion, is the area around house no. 24. In this area there are three trees of high value and quality, namely 1582, 1583 and 1585, in the immediate area of the proposed house and I would consider that the construction of house no. 24 would directly impact on these trees. Given that there is a cluster of high value and quality trees in this area and that they are located on the edge of the woodland area I would consider that their protection would contribute to the character of the area. Accordingly I would recommend, by condition, that house no. 24 is omitted from the development in the interest of protecting trees of special amenity value.

Having regard to the remainder of the site layout I would consider that the proposed development would be acceptable and would not unduly impact on the special amenity value of the site.

#### Residential Amenities

In assessing the residential amenities for the future occupants of the proposed development I would consider that the significant issues would be the standard of accommodation been provided, open space provision and parking provision.

I would consider based on the submitted floor plans that the proposed dwellings would provide for acceptable floor areas that would provide an acceptable level of residential amenity.

In relation to open space both public and private space would be relevant considerations. In accordance with the provisions of the Waterford City Development Plan 2007 – 2013, the required amount of public open space for a residential development is 10% of the total site area. The national guidelines, Sustainable Residential Development in Urban Areas, 2009, state that in cases of greenfield sites the minimum public open space provision shall be a minimum of 15% of the site area.

The appeal site is within the city environs and I would consider that the site is largely a brownfield site.

The applicant's agent submits in the application documentation that the public open space provision is provided in the woodland to the north-west of the housing and extends to 33% of the total site area which is a total of 5 acres. I would consider that the proposal would provide for adequate public open space provision.

In addition the private open space provision which is mainly in the form of rear gardens is acceptable. I would note that neither the Guidelines on Sustainable Residential Development in Urban Areas, 2009, nor the Waterford City Development Plan advise on the minimum private open space required for a house. However generally I would consider that the minimum required would be 60 sq. metres for a three-bedroom house. Overall I would consider that the private open space provision would be acceptable.

I would consider that the car parking provision for the proposed development would be acceptable.

#### Development Contribution

The Board will note that the first party appeal submission relates partially to a financial contribution, i.e. condition no. 9.

The legislation in this case provides that the Board, in considering the type of appeal, has to decide whether or not the terms of the Development Contribution Scheme have been properly applied by the Planning Authority in this instance. It cannot enquire into, nor determine, any issue relating to the rights or wrongs of the Scheme itself.

The applicants contend that the financial contribution should be relaxed given that they are providing a significant piece of public infrastructure, i.e. the urban parkland. The applicant considers that the scheme makes provision for these relaxations in the exemptions of the scheme. I would consider that this exemption, as referred to by the appellant, which states "*the provision of facilities by organisations which are considered to be exempt from planning fees*" would not relate to private development. Therefore I would not consider that there is provision within the development contribution scheme for the relaxation of a development contribution and therefore I would concur with the local authority in relation to condition no. 9.

#### Built Heritage

The appellant contends that the demolition of the stable has not been established.

I noted from a visual observation of the area that the stables building was in a poor condition and vacant. I would also note that there is no objection to the proposed development from the City Architects Department of the City Council.

I would consider that the stables buildings would have some architectural merit however the subject buildings are not protected structures nor are they situated within a designated Architectural Conservation Area and therefore would not be afforded

any conservation status. The proposed development includes partial conversion of existing stables into five residential units and I would consider that this would adequately retain the established architectural character on the site.

### Bio-diversity

I would note that activities, plans and projects can only be permitted where it has been ascertained that there would be no adverse effect on the integrity of a Natura 2000 site, apart from in exceptional circumstances.

The Department of Environment, Heritage and Local Government Guidelines on 'Appropriate Assessment of Plans and Projects in Ireland' recommend that the first step in assessing the likely impact of a plan or project is to conduct an Appropriate Assessment Screening to determine, on the basis of a preliminary assessment and objective criteria, whether a plan or project, alone or in combination with other plans or projects, could have significant effects on a Natura 2000 site in view of the site's conservation objectives. The Guidelines recommend that if the effects of the screening process are 'significant, potentially significant, or uncertain' then an appropriate assessment must be undertaken.

I would consider based on the information on the file that the proposed development would not adversely impact on the adjoining designated site, i.e. Lower Suir cSAC. I would consider that it would be acceptable that the applicants carry out a bat survey prior to the commencement of development.

## **11.0 RECOMMENDATION**

I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

### **REASONS AND CONSIDERATIONS**

Having regard to the zoning objective for the area as set out in the Waterford City Development Plan 2007 – 2013 and the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009) and the overall scale, design and layout of the proposed development it is considered that, subject to compliance with the conditions set out below the proposed development would not seriously injure the amenities of property in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

1. The proposed development should be carried out in accordance with the plans and particulars lodged with the application as amended by drawings submitted to the Board on the 3<sup>rd</sup> day of December 2010, except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity and orderly development.

2. The proposed development shall be modified as follows:
  - (a) The following dwellings are expressly omitted by virtue of this condition; the five number dwellings situated in the southern section of the site identified as House nos. 5-9 on Dwg. Number PL-106 and House numbers 1, 24 and 25 as identified on Drg. Number PL-106 are expressly omitted by virtue of this condition, the associated areas shall be retained as open space. Prior to the commencement of development on site, revised plans making provision for the aforementioned shall be submitted and agreed in writing with the Planning Authority.

**Reason:** In order to protect trees of special amenity value and subject to a Tree Preservation Order and to clarify the nature and extent of the development hereby permitted in the interests of the proper planning and sustainable development of the area.

3. The design and layout of the proposed development shall be amended in the following respects;
  - (a) The area associated with the 5 no. dwellings situated in the southern section of the site identified as House nos. 5-9 on Dwg. Number PL-106 and the associated section of roadway, as omitted by condition 2(a) above, shall be retained as open space and the trees situated in this area retained unless otherwise agreed in writing with the Planning Authority. No roads, footpaths, service infrastructure etc. shall be situated within 12 metres of the trunk of tree numbers 518, 519,520,505,507,512 as indicated on Drg. Number SU-101. The layout of the remaining dwellings in this area, Houses Nos. 2-4 shall be revised in order to overlook this area of open space and the trees situated in this area retained unless otherwise agreed in writing with the Planning Authority. (b) The area associated with house numbers 1, 24 and 25 as identified on Drg. Number PL-106 as omitted by condition 2(a) above shall be incorporated into the area of open space adjoining same and the trees situated in this area retained unless otherwise agreed in writing with the Planning Authority. Prior to the commencement of development revised plans making provision for the aforementioned provisions shall be submitted and agreed in writing with the Planning Authority.

**Reason:** In order to protect trees of special amenity value and subject to a Tree Preservation Order and in the interests of the proper planning and sustainable development of the area.

4. Prior to the commencement of development the applicants, or their successors in title, shall enter into a legally binding agreement pursuant to section 47 of the Planning and Development Act 2000, in relation to the proposed woodland area. The agreement shall provide for the designation of the area as a publicly accessible open space and for appropriate management and maintenance mechanisms.

**Reason:** It is an objective of the Waterford City Development Plan to seek to develop the lands referred to as an urban park and it is considered appropriate.

5. Prior to the commencement of development the following details shall be submitted and agreed in writing with the Planning Authority.
  - (a) A detailed tree survey for the entire site indicating, location, species, height, stem diameter, branch spread, height of crown clearance, age class, physiological condition, structural condition, preliminary management recommendations, estimated remaining contribution (years) and category grading. This submission shall include an Arboricultural Impact Assessment and an Arboricultural Method Statement demonstrating how the tree areas are to be protected whilst construction/site works are in progress and whilst work is being undertaken to the pond and paths in the woodland areas. The above details shall be compiled by a qualified Arborist and shall be in accordance with British Standard 5837-2005 Trees in relation to construction.
  - (b) Following consultation with the City Horticulturist a scheme of tree felling and surgery works in accordance with the above condition shall be agreed in writing with the Planning Authority and shall be carried out prior to the commencement of any development works on site.
  - (c) An ecological assessment of the woodland area giving detailed listings of existing Flora and Fauna on the site and stating the impact of invasive species such as laurel and Bamboo on the site. The ecological assessment shall be carried out by a professional ecologist and shall include methodology and context in terms of local or EU protection. The assessment shall also detail mitigation measures proposed to minimise any potential negative impact on the ecology of the site and measures to be taken to enhance the biodiversity of the area.
  - (d) The handrail detail on the steps as specified in the submitted landscape plan shall be revised to a steel galvanised structure.
  - (e) The native woodland planting as specified in the submitted landscape plan shall be revised to include additional tree planting and to include the recommendations of the Ecological assessment required by condition 4(c) above, with a revised landscape plan submitted and agreed in writing with the Planning Authority prior to commencement of development on site.
  - (f) All landscape works proposed in the woodland area including the woodland walkway, walkway entrances and pond areas shall be completed prior to the commencement of any development works on site.
  - (g) No dumping shall take place on the areas of public open space for the duration of the construction works on site, nor shall the open space areas be used for the location of site compounds of the storage of top soil or other materials. The areas of open

space shall be fenced off prior to the commencement of any construction works on site with details to be agreed in writing with the Planning Department.

**Reason:** In the interests of protecting trees of special amenity value and subject to a Tree Preservation Order, the ecology of the site, recreational and visual amenities and the proper planning and sustainable development of the area.

6. Prior to the commencement of development the following details shall be submitted and agreed in writing with the Planning Authority;
  - (a) Detailed specifications of the treatment of the overall site boundaries, including the main entrance to the site and the boundaries surrounding the areas of open space.
  - (b) Details of the treatment of all individual plot boundaries, the rear plot boundary serving each individual dwelling shall be of a concrete block construction suitably treated, capped and plastered and shall be of 2 metres in height unless otherwise agreed in writing with the Planning Authority.
  - (c) Details of all boundary treatments shall be clearly referenced and identified on an accompanying site plan.
  - (d) Detailed specifications of all hard landscaping features to include brochure samples.
  - (e) A professionally certified energy efficiency audit in respect of the entire development demonstrating compliance with the City Development Plan Energy Standards shall be submitted prior to the commencement of development.

**Reason:** In interests of visual amenity and the proper planning and sustainable development of the area.

7. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to the planning authority for agreement.

**Reason:** In the interest of orderly development and the visual amenities of the area.

8. Prior to commencement of development, a management scheme providing adequate measures relating to the future maintenance of roads, footpaths, open spaces, and communal areas in a satisfactory manner shall be submitted to the planning authority for agreement.

**Reason:** To ensure the adequate future maintenance of this private development in the interest of residential amenity.

9. Prior to commencement of development, proposals for development name, unit numbering scheme and associated signage shall be submitted to the

planning authority for written agreement. The name(s) shall reflect the history or topography of the area.

**Reason:** In the interest of orderly development.

10. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

11. The internal road network, public footpaths within the proposed development site, public lighting, to service the proposed development shall comply with the requirements of the planning authority.

**Reason:** To ensure a satisfactory standard of development.

12. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

**Reason:** In the interest of orderly development and the visual amenities of the area.

13. Prior to the commencement of development the developer shall submit a full and detailed construction management plan which shall include a construction programme for the works, hours of operation, a traffic management plan, noise and dust mitigation measures(including details of truck wheel wash at the site entrances) and details of construction lighting. A Construction Manager shall be appointed to liaise directly with the council. Details to be agreed in writing with the Planning Authority.

**Reason:** In the interest proper planning and sustainable development of the area.

14. That all necessary measures be taken by the contractor to prevent spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

**Reason:** To protect the amenities of the area.

15. Prior to the commencement of development the developer shall submit, and obtain written agreement of the planning authority to, a plan containing details of the management of waste (and, in particular, recyclable materials) within the development including the provision of facilities for the separation and the collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

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

16. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

17. Within eight weeks of the date of this order, the developer shall enter into an agreement with the planning authority under Section 96 of the Planning and Development Act, 2000 (as amended) in relation to the provision of social and affordable housing, in accordance with the requirements of the planning authority's housing strategy, unless, before the expiry of that period, the said developer shall have applied for and been granted an Exemption Certificate under Section 97 of the Planning & Development Act 2000.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act, 2000 (as amended).

18. Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of [3] years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the fine trees on the site

19. Prior to the 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 of satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be determined by An Bord Pleanála.

**Reason:** To ensure satisfactory completion of development.

20. The developer shall pay to the planning authority a financial contribution of €188,792.00 (one hundred and eighty eight thousand seven hundred and ninety two euro) 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

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Kenneth Moloney  
Planning Inspector  
29<sup>th</sup> March 2011