



An
Bord
Pleanála

Inspector's Report ABP-302297-18.

Development	Construct a new two storey split level family dwelling, together with permission for site development works for 4 no. serviced sites including connection to public services, new entrance onto public road, boundary treatment, landscaping and all associated site works.
Location	Cheekpoint, Co. Waterford.
Planning Authority	Waterford City & County Council.
Planning Authority Reg. Ref.	17/761.
Applicant(s)	Thomas & Olesa Holden.
Type of Application	Permission.
Planning Authority Decision	Grant subject to conditions.
Type of Appeal	Multiple Third Party.
Appellant(s)	Cheekpoint & Faithlegg Comm. Assoc Pat Moran Noel & Brid Sullivan
Observer(s)	None.
Date of Site Inspection	22 nd October, 2018.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. Cheekpoint is a small village located to the north east of Co. Waterford, is set on the confluence of the Rivers Barrow and Suir and offers extensive views of Waterford Harbour. There are a number of settlements dotted along the coastline and development within Cheekpoint is concentrated at the Crossroads and in the vicinity of the harbour to the north and Cheek Point to the north east of the crossroads.
- 1.2. The subject site is located to the southern end of Cheekpoint, on lands located between the road and the estuary. In terms of the proposed development, the house to be constructed initially is to be located at the southern extent of the site, resulting in a significant gap between the closest houses to the north of the site. The topography of the site provides for a significant slope from the roadside towards the foreshore. There is an existing access to the site from the public road and an agricultural shed located at the lower levels of the site.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a new two storey split level family dwelling, together with permission for site development works for 4 no. serviced sites including connection to public services, new entrance onto public road, boundary treatment, landscaping and all associated site works all at Cheekpoint, Co. Waterford.
- 2.2. The Board will note, following a request for further information, the proposed development was reduced from five potential houses to three, including the applicants proposed home and two serviced sites.
- 2.3. The proposed development comprises the construction of a large two storey split level house with a stated floor area of 474m², on a site with a stated area of 0.348ha. At entry level, the development proposes a double garage, large entrance hall which includes a lift and 4 double bedrooms all ensuite. A plant room is proposed in the garage. At lower ground floor level, the house provide for a large hall with utility off it as well as a storage area, a large open plan living area off the kitchen, the eastern wall of which will be glazed to maximise the views over the water. A smaller sitting room is proposed at the southern end of this floor, with a large dining room, an

additional double bedroom with WC and playroom also provided on this floor. A pantry is proposed off the kitchen. The house will have an overall height of 8.165m and will be finished using a painted render, with select timber cladding as accents around windows. The front porch and front elevation will have a stone facing and the roof will have a natural slate finish. Windows will be double glazed.

- 2.4. In addition, the development proposes to create two additional serviced sites. The development, including the proposed house will be serviced via the public water mains and will connect to the public sewer in the vicinity of the site.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission for the proposed development, subject to 21 conditions, including condition 1 which advises permission is for the construction of 1 dwelling and the site development works for 2 serviced sites only.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Board will note that a pre-planning meeting was held with the Planning Department in relation to the proposed development. The initial planning report considered that the proposed development would be acceptable in principle given the zoning afforded to the site and its location within the designated settlement boundary of Cheekpoint. The report includes an Appropriate Assessment screening report. The initial report concluded that further information was required in relation to cross sections, roads issues including gradients and roadside boundary setback as well as water service issues. The FI request concludes that a NIS may be required if direct discharge of surface water is proposed to a watercourse or the adjacent river, being the River Barrow and River Nore SAC.

Following receipt of the response to the FI, the applicant reduced the number of serviced sites from 4 to 2, resulting in a proposed development comprising of the proposed house and 2 serviced sites. The applicant was requested to re-advertise the proposed development.

The final planning report on file concluded that the proposed development was acceptable and recommends that permission be granted.

3.2.2. Other Technical Reports:

Water Services: The Board will note that this report was received by the PA after the request for FI issued.

The report requests further information including agreements with Irish Water and an alternative stormwater design, to discharge directly to a local watercourse of river.

Heritage Officer: Considered the AA screening report submitted in response to the FI request. It is noted that the site lies outside the boundary of the SAC and the development will not incur habitat loss or cause disturbance to qualifying species. The Heritage Officer is satisfied that there is no potential for significant effects on the Natura 2000 network.

3.2.3. Prescribed Bodies;

Transport Infrastructure Ireland: No observations

3.2.4. Third Party Submissions:

There were 7 submissions from third parties in relation to the proposed development. The issues raised reflect those issues raised in the appeal and are summarised as follows:

- No planting should block views from the main public road.
- A layby should be built into the frontage to fully facilitate public viewing of the estuary
- Consider stipulating a right of way access to the coastline by condition.
- The proposed development adversely affects the residential amenity of the adjacent home.
- It is sought that the request to provide a right of way, walkway and viewing point be disregarded in order to protect existing residential amenity.
- Lack of information on the submitted plans to enable a full assessment.

- Planning history of the site include a number of refusals of permission for residential developments from An Bord Pleanála in terms of visual impact, protection of the underlying aquifer and housing need.
- The development cannot be considered as complying the policy as no details of the proposed houses have been provided to ensure appropriate visual impact assessment.
- The entrance to the site does not have the benefit of planning permission.
- No details of access to the existing shed on the site, or the intentions for the shed, have been submitted.
- The development will result in ribbon development.
- Should permission be granted, it is requested that the house be relocated to prevent impacts on residential amenity.
- Issues raised in relation to storm water run off and soakpits proposed, contrary to EU requirements.
- Issues raised in relation to the protection of the underlying aquifer and water supply, including public health issues around the norovirus and potential impact on SAC and mussel beds.
- The area has one of the best scenic views and is part of a vulnerable which should be protected for future generations. The CDP provides policies to protect such areas.
- Inadequate services including roads to accommodate the development.
- There is no specified need for the houses.
- Issues with the WWTP in Cheekpoint.

The First Party submitted a response to the above third party submissions, summarised as follows:

- No comments on the design of the proposed house is a positive reflection on the planning submission. The applicant is happy to move the house 2m as requested by neighbour.
- No observations noted from TII

- There is no proposal to block views of the river from the road and the applicant is happy that this is a condition of permission.
- Applicants are happy to meet and discuss access to the coastline, however given the site levels, there is no obvious access.
- No works are proposed to the south of the observers house.
- Planning history acknowledged. It is submitted that future house designs will have to be assessed on their merit and given the steep gradient, only a single storey will be visible from the road which will not impinge on views.
- The entrance to the site is long established.
- Given the zoning of the site, together with the proposed development, it is inappropriate to refer to the development as ribbon development.
- No foul water will go to soak pits. With regard to surface water run off, it is submitted that it will be clean rain water. Rainwater harvesting can be incorporated by condition if required.
- In relation to the question of need, it is submitted that the issue would be addressed by way of natural process.
- All foul water will be discharged to the public sewer by pumping station as approved by Irish Water.
- The 2005 development plan has been superseded.
- It is submitted that the road can accommodate the additional traffic from the proposed development.

Following the submission of the response to the FI request, two further submissions were made by original objectors. The issues raised are summarised as follows:

- The further information does not address the potential impact to the aquifer and surface water is to run off to the watercourse. The Sea Fisheries Protection Authority should be consulted.
- A tank on the road would create smells.
- Landscaping would block views of the estuary.

- The value of the site as a habitat is unquantifiable and during previous snow it was used by a variety of birds and fauna from the adjacent SAC also use the site.
- The FI did not include a visual impact assessment and the cumulative impact of proposed development adjacent has not been considered.
- The FI failed to relocate houses to address the existing residential amenity issues raised.
- There is Japanese Knotweed present on the site, contrary to the submission of the landscaper.

4.0 Planning History

The following is the planning history associated with the subject site:

ABP ref 223299 (PA ref 07/244): Permission refused on appeal to Kelly Fitzgerald for the construction of a bungalow with attached double garage and waste water treatment system. Reasons for refusal include settlement location policy, visual impacts and protection of groundwaters.

ABP ref 223298 (PA ref 07/226): Permission refused on appeal to Jason Fitzgerald for the construction of a bungalow with attached double garage and waste water treatment system. Reasons for refusal include settlement location policy, visual impacts and protection of groundwaters.

PA ref 06/9: Permission refused to Kelly Fitzgerald for the construction of a bungalow with waste water treatment system. Reasons for refusal relate to the proliferation of haphazard one-off development and visual impact of cutting and embankment works and the driveway.

PA ref 06/8: Permission sought by Jason Fitzgerald for the construction of a bungalow with waste water treatment system. The application was withdrawn prior to a decision issuing.

PA ref 04/1968: Permission sought by Patrick Fitzgerald for the construction of 2 bungalows with waste water treatment system. The application was withdrawn prior to a decision issuing.

PA ref 90/262: Permission granted to Patrick Fitzgerald to retain roadway excavation and fill.

PA ref 90/17: Permission granted to Patrick Fitzgerald for new entrance.

Neighbouring sites:

ABP ref PL24.222527 (PA ref PD06/1184): Permission refused on appeal for the construction of a house and all associated site works. Reasons for refusal relate to prematurity in terms of waste water provisions and lack of overall plan for site development works and services amounts to piecemeal fragmented development.

PA ref 03/1621: Permission refused to construct six no. dwelling houses in two types with biotech foul drainage waste treatment system group scheme, with new entrance walls and piers, widen existing public road and remove existing entrance walls and piers to existing property and relocate in proposed development. All with associated site works. Reasons for refusal relate to road access and waste water treatment.

ABP ref PL24.204950 (PA ref PD03/1097): Permission was granted for the retention and completion of a dormer dwelling and waste water treatment system. This permission related to a previous grant of permission for a dormer dwelling on the site under PA ref 96/700.

5.0 Policy Context

5.1. Development Plan

The subject site is located at the southern boundary of the village of Cheekpoint which is included as a District Service Centre in the Waterford County Development Plan, 2011-2017 and is zoned R2 in the settlement plan, contained in Volume 2 of the Plan. It is the stated objective of this zoning 'to protect amenity of existing residential development and provide new residential development – low density (clustered housing, serviced sites, large plot size).

Development Objective DO8 is identified on lands to the north of the subject site but are likely applicable in the context of the subject site. This objective states 'this site has the potential to accommodate low density residential development. Proposed

development shall have an appropriate/sympathetic approach to design which utilises the existing contours of the site. Development shall not detract from the visual setting of the River Suir and shall be sympathetic in design when viewed from the L4082 Road.'

Appendix D of the LAP provides for the Waterford County Development Plan, 2011-2017 Chapter 10 Development Standards.

5.2. Natural Heritage Designations

The site is not located within any designated site. The site is located within metres of the River Barrow and River Nore SAC, Site Code 002162, which is located to the east of the subject site.

The Barrow River Estuary pNHA, Site Code 000698, is located within 600m of the site to the east, and comprises the opposite bank of the river.

6.0 The Appeal

6.1. Grounds of Appeal

This is a multiple third party appeal against the decision of the Planning Authority to grant permission for the proposed development. The grounds of appeal are similar to those raised with the Planning Authority and are summarised as follows:

Pat Moran:

- The Council did not comply with EU law, High Court Ruling or the Habitats Directive when it zoned lands. An EIS should have been sought and plans for the full area drawn up to ensure no piecemeal development.
- Because a cumulative AA was not carried out, it is not known if there will be adverse effects on the Natura site and aquifer. A situation where Foreshore Licence will be required after the development is finished may arise with an NIS for the pipe as part of the discharge licence.
- Impacts on eel nursery

- No permission should have been granted until a plan for disposal of road runoff and storm water has been submitted. The condition of permission requires agreement with the Council with no right of appeal.
- Proposals for attenuation are unclear.
- The AA submitted was undertaken during a very short window and would not have taken into account the full yearly cycle of the habitat and the species it supports. The AA did not look at the aquifers relationship with the Natura Site.
- A large number of fauna and bird species use the habitat at all times during the year, many of which are protected.
- The impacts on water quality is raised as a concern.
- Impacts on visual amenity and landscape.
- The amenities of existing adjacent homes is not being protected.
- Issues raised with the assessment of the PA.
- Location of sewage tanks along the public road which will result in smells.
- Lack of consultations with statutory environmental agencies.
- The AA submitted includes lacunae and gaps.

Cheekpoint & Faithlegg Community Association:

Objects to the proposed development for the following reasons

- Visual impact.
- Potential risks to ground water which is extremely vulnerable and of significant regional importance.
- Planning history has refused permissions for development on this site.
- Issues in relation to sewerage services and proposed private pumping stations.
- Issues with conditions attached to the permission. Information requested should have been submitted prior to any grant.
- The development represents piecemeal development and does not meet local housing needs.

- In August of 2018, there were two instances of ruptured water mains which left residents without water. The proposed development will cause additional strain on the system.

Noel & Brid Sullivan:

- The development materially contravenes the County Development Plan, will adversely impact on the visually sensitive designated coastline, would set an undesirable precedent for other similar developments which cumulatively will be harmful to the amenities of the area, would militate against the preservation of the rural environment and would be contrary to the proper planning and development of the area.
- Appellants concerns have not been addressed by the applicant or the PA.
- The applicant has not demonstrated a local need or compliance with the urban generated housing policy requirement. Cheekpoint is located within an area under urban pressure.
- There is significant planning history of refusals pertaining to the site. Previous applicants who grew up in Cheekpoint have been refused on the site. It has been established that 2 houses on the site would have an adverse impact on the visual amenity of the sensitive coastline.
- Visual impact on the designated coastline has not been assessed appropriately. Zoning of land should not exclude the need for a visual impact assessment, including photomontages. The split level design is at odds with the established pattern of development of the area. The proposed development is contrary to a number of policies of the CDP.
- Consideration of environmental impacts has not been given.
- The request in terms of the relocation of the proposed house on the site has not been dealt with other than the applicant noting that a condition could be applied if required by the PA.
- Strongly object to third party requests for walkways/paths as well as the public right of way.

It is requested that permission for the proposed development be refused.

6.2. Applicant Response

The applicant submitted a response to the third party appeals. There are three reports submitted which are summarised as follows:

Agent Report:

- Following a request for further information, the site layout was amended to provide the proposed house and two serviced sites.
- The site is located in Cheekpoint on zoned lands and with a continuous footpath passing the site. There is no proposal to develop the lands outside those as currently proposed.
- Planning permission has been granted for houses closer to the river.
- Pre-planning meetings were positive and the applicant took into account the advice of the planning authority.
- The site is zoned 'Residential – Low' and while the area is 'visually vulnerable, it is located within the designated settlement limits and therefore, the designation restrictions do not apply.
- In relation to AA, it is submitted that the findings of the PAs screening report were reflected in the FI request. The revisions were also assessed where it was concluded that the revised proposal would have no significant effect on the adjoining, or any, Natura 2000 site or their conservation objectives and that in combination effects will not arise.
- The Ecologist Report submitted with the FI response considered the habitats, flora and fauna of the application site, which was found to contain no habitats, flora or fauna of particular note. There is no Japanese Knotweed, or any other invasive species, present on the site.
- There is no potential for cumulative impacts arising in relation to the adjacent application site, PA ref PD18/133 refers.
- The principle of development is acceptable on the zoned lands and the proposal complies with the specific objectives for the site. The house has been designed for the site, as has the road access. While a third party has suggested that the split level design is inappropriate, given the topography

and site levels, it is submitted that the design is the most appropriate and avoids the necessity for excessive cutting in the landscape.

- In terms of the protection of views over the site, the existing concrete boundary wall is to be replaced with a low plastered wall with open railings on top to open views over the estuary.
- The only practical approach to developing the overall DO8 lands is in parcels, each with their own access.
- There was no requirement to submit a visual impact assessment and no such study was requested by the PA. The level of detail submitted was sufficient for a decision to be made. The proposed house will be positioned below the level of the road and will not interfere with views down the estuary towards Passage. The roof of the proposed house will be 7m below the existing road level and a comprehensive landscaping plan has been submitted.
- With regard to infrastructure, it is submitted as follows:
 - Geological Engineers were employed who undertook a rigorous assessment of the potential impacts to surface water. Ground water monitoring is proposed to verify water quality. Storm water disposal proposals are therefore not unclear, but precise.
 - With regard to sewerage, the existing scheme was implemented in 2013/2014 and with the laying of the pipe along the route of the L4082, it was understood that pumping would be required from the lands the subject of Objective DO8. Each house will have its own independent pump and will be responsible for same.
 - In terms of the water supply incident raised, it is submitted that on occasions public infrastructure fails and services are temporarily unavailable. This is not a reason to refuse permission. IW has no objection to the proposed development.
- The design of future houses will be the subject of a planning application.
- With regards to proposed lighting, low key, low impact lighting, possibly low bollards, will be proposed.

- The proposed sites will be sold as permanent homes.
- In terms of precedent, it is submitted that there is a distinction between zoned and unzoned lands.

Frank Fox & Associates, Civil & Structural Engineers:

- The site does not lie within a designated Drinking Water Protection Area and the geotechnical assessment confirmed that there is no risk to the aquifer as a result of the planning permission.
- Irish Water have verified that there is adequate capacity in both water supply and foul drainage systems.
- In relation to the surface water design submitted as part of the FI request, the applicant met with the Sanitary Services Department of the County Council and agreed the principles of the design.

Mr. & Mrs. Holden:

- The Planning Authority advised that given the zoning of the site and the available services, a single house on the overall site would not be favourable. The land was purchased based on this advice.
- Full assessments were carried out on the site including input from an ecologist, hydrological engineer and geotechnical engineer.
- Mr. Holden has spent all his life living on the banks of the River Suir.
- There are far more visually imposing developments on the banks of the river than the proposed development.
- The applicant has no objections to the moving of the house by 2m as requested by the neighbour.

6.3. Planning Authority Response

The Planning Authority has not responded to this third party appeal.

6.4. Further Responses

6.4.1. The Cheekpoint & Faithlegg Community Association submitted responses to the other third party appeals as follows:

Pat Moran: Details of an incident report in relation to storm overflow occurrence on the 26/08/2018 due to a heavy rainfall event submitted. The report from Irish Water notes the incident as Category 1 Minor, recurring incident involving uncontrolled release. The report states that the impact of the incident on the environment was negligible as overflow occurred during a heavy rainfall event.

It is submitted that the incident report demonstrates the importance of a full and complete planning file prior to any grant or final decision on development.

Noel & Brid Sullivan: There appears to be some variance regarding the exact site boundary and the existence of Japanese Knotweed on the site.

7.0 Assessment

I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Planning History
3. Visual & Residential Amenity issues
4. Water Services & Other Third Party Issues
5. Roads & Traffic
6. Appropriate Assessment
7. Environmental Impact Assessment

7.1. Principle of the development:

7.1.1. The subject site is located at the southern boundary of the village of Cheekpoint which is included as a Local Service Centre in the Waterford County Development Plan, 2011-2017 and is zoned R2 in the settlement plan, contained in Volume 2 of the Plan. It is the stated objective of this zoning 'to protect amenity of existing residential development and provide new residential development – low density (clustered housing, serviced sites, large plot size). Development Objective DO8 is identified on lands to the north of the subject site but are likely applicable in the context of the subject site. This objective states 'this site has the potential to accommodate low density residential development. Proposed development shall have an appropriate/sympathetic approach to design which utilises the existing contours of the site. Development shall not detract from the visual setting of the River Suir and shall be sympathetic in design when viewed from the L4082 Road.'

7.1.2. Given the zoning afforded to the subject site, the principle of development at this location might reasonably be considered as acceptable. However, there is a long history of refusal of planning permission for residential uses on the site, which I will consider further below. I am, however, satisfied that the proposed development of the site is acceptable in principle.

7.1.3. The Board will note that the original proposal to construct a house and develop 4 serviced sites was altered following a request for further information. The planning authority decision relates to the construction of 1 house and the development works to provide 2 serviced sites. Given that the site is located within the settlement boundaries of the village of Cheekpoint, and is serviced by public water and sewers, it might be considered that this density is unsustainably low. The development will result in large house sites on serviced lands. However, the zoning objective for the site stipulates low density housing, and having regard to the nature of the subject site, particularly with regards to levels, I am satisfied that this can be considered acceptable.

7.2. Planning History

7.2.1. The Board will note the planning history of the site includes a number of refusals of permission for residential development. The reasons for refusal include

non compliance with policy, visual impact and water services. In terms of compliance with policy, the site has been included within the defined settlement boundaries of Cheekpoint and have been zoned for low density residential development since the previous refusal of planning permission on the site. In this regard, there is no requirement for the applicant to comply with the settlement location policy and the proposal to provide serviced sites is also considered acceptable.

7.2.2. I will deal with issues of visual impact and water services further below.

7.3. Visual & Residential Amenity Issues

7.3.1. The Board will note the third party objections to the proposed development at this site. It is considered that the development, if permitted, will have an impact on the visual amenity of the area and concern is raised as there are no plans for houses on the proposed serviced sites submitted. The lands along the rivers edge, to the east of the site, are identified as being visually vulnerable. The proposed house design submitted, being a two storey split level dwelling, seeks to utilise the existing site levels and it is noted that the building will be constructed below the level of the public road. As such, people on the footpath along the front of the site will look down on the roofs of the houses. I would accept that this will not impact on the wider views across the site to the river and the opposite shore.

7.3.2. In terms of the previous refusal on visual impact grounds, the Board will note that it was proposed to construct the houses along the river back (eastern) side of the site. In order to access this area, the proposed road required substantial works including cutting, filling and the creation of embankments. It was considered that the visual impacts associated with the excessive road surface and associated embankment work would dominate any view of the site from the estuary and would 'significantly alter the character of this sensitive lower coast line.' The current proposed layout locates the sites closer to the road, reducing the necessity for the extensive road surface previously refused.

7.3.3. It has been submitted that the zoning of the site should not negate the visual amenity of the area. I would agree. However, I am satisfied that the proposed development has been designed to address the specific site constraints. I am generally satisfied that the development will not impact on views and that subtle

landscaping along the internal road edges will minimise any visual impacts arising when viewed from the river. While the house designs for the two serviced sites are not included here, I am satisfied that the matter can be appropriately dealt with as part of a future planning application.

7.3.1. In terms of residential amenity, the Board will note the request to relocate the proposed house on the site to increase the separation distance between it and the existing residence adjacent, in order to maintain views. I am satisfied that this matter can be dealt with by way of condition.

7.4. Water Services & Other Third Party Issues

7.4.1. The third party appellants have raised a number of concerns in relation to water services, particularly with regard to the potential impacts on the groundwater. The development proposes to connect to the public sewer system which serves Cheekpoint. It is proposed that all foul effluent will be pumped off site to the public wastewater treatment plant. A precast tank, with a seven-day capacity to provide protective coverage in the event of a power outage or pump failure is also proposed. As the system is closed, it is submitted that there is negligible risk to groundwater. Individual pumping systems have been designed for each of the three proposed sites.

7.4.2. The Water Services section of Waterford City & County Council raised concerns with regard to the proposed development, advising that Irish Water should comment in relation to foul water. Further concerns in relation to surface water were also raised. The applicant submitted a connection enquiry request to Irish Water in this regard. Irish Water has not responded directly with regard to the proposed development, but it would appear that there is adequate capacity in the treatment plant to accommodate the development as proposed.

7.4.3. The Water Services section of the Planning Authority also raised concerns in terms of the proposed surface water design. It was requested that an alternative design be submitted which included the discharge of stormwater directly to a local watercourse or river. The proposal, as agreed with the Water Services Section of the Council, provides soakways which are to be set back from the river, as the most appropriate design for the subject site. Having regard to the location of the site

adjacent to the SAC, together with the acreage, the use of soakways will facilitate the dissipation of water through the soil before reaching the river. No direct discharge to the river or the SAC is proposed.

7.4.4. Overall, I am generally satisfied that the proposed development is acceptable in terms of water services. I will deal with matters relating to AA and EIA further below.

7.4.5. With regard to other issues raised by third parties, I would comment as follows:

- The site was zoned as part of the Development Plan process when preparing the Waterford County Development Plan, 2011-2017. The lifetime of the plan was extended in accordance with Section 11A of the Planning & Development Act, 2000 as amended.
- The development does not proposed to discharge to the river, and therefore, does not require a discharge licence.
- The proposed surface water management system has been submitted. The requirements of condition 4 of the PAs decision to grant is included to ensure compliance and is reasonable.
- In terms of issues raised in relation to conditions, I am satisfied that pre-development compliance conditions are acceptable.
- I note the issues raised in relation to two instances of ruptured water mains which resulted in residents being without water. There is no evidence to suggest that the proposed development will result in a strain on the existing public system, or will increase the number of instances as described.
- In relation to the suggested provision of a walkway / path and establishing a right of way, I would note that this proposal was not pursued in the third party appeal and is not a matter for this appeal.
- With regard to the opinion that the AA submitted includes lacunae and gaps, I consider that adequate information has been submitted in order to carry out AA.

- With regard to concerns raised in relation to the protection of the underlying aquifer, I am generally satisfied that the proposed development seeks to connect to the public services in the village and is unlikely to have any impact on the quality of the underlying aquifer.

7.5. Roads & Traffic:

7.5.1. The development proposes to use an existing entrance to service the site. There is an existing track through the site which provides access to the agricultural shed located towards the east of the site. Notwithstanding the presence of a solid white line in the road, sight distances are available in both directions and the subject site lies within a 50kph speed limit, within the settlement of Cheekpoint. I am satisfied that the development is acceptable

7.6. Appropriate Assessment

7.6.1. The obligation to undertake appropriate assessment derives from Article 6(3) and 6(4) of the Habitats Directive. Essentially it involves a case by case examination for Natura 2000 site and its conservation objectives. Appropriate Assessment involves consideration of whether the plan or project alone or in combination with other projects or plans will adversely affect the integrity of a European site in view of the site's conservation objectives and includes consideration of any mitigation measures to avoid reduce or offset negative effects. This determination must be carried out before a decision is made or consent given for the proposed plan or project. Consent can only be given after having determined that the proposed development would not adversely affect the integrity of a European Site in view of its conservation objectives.

7.6.2. The site is not located within any designated site. The site is located within metres of the River Barrow and River Nore SAC, Site Code 002162, which is located to the east of the subject site. The Barrow River Estuary pNHA, Site Code 000698, is located within 600m of the site to the east, and comprises the opposite bank of the river.

7.6.3. Arising from the requirements of Articles 6(3) and 6(4) of the Habitats Directive, the Board as the competent authority is required to carry out an

appropriate assessment using a 4 stage process where the outcome of each stage determines whether the next further stage is required. The site must be subject to AA regarding its implications for the Natura 2000 site in view of the site's conservation objectives *"if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects"* (EC, 2006). In other words, where doubt exists about the risk of a significant effect, an Appropriate Assessment must be carried out.

7.6.4. An Bord Pleanála, as the competent authority is responsible for obtaining the information necessary to enable an AA screening to be undertaken, and if required, obtain from the proponent, a Natura Impact Statement. Integral to the AA process, is the consideration of alternatives. The purposes of AA screening will determine whether appropriate assessment is necessary by examining:

- o whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of the site, and
- o the potential effects of a project or plan, either alone or in combination with other projects or plans, on a Natura 2000 site in view of its conservation objectives, and considering whether these effects will be significant.

The Board will note that a Stage 1 Appropriate Assessment Screening Report was submitted by the applicant in support of the proposed development following a request for further information. The Planning Authority also carried out AA.

7.6.5. AA Stage 1: Screening:

a. Description of the project and local site: This is an application for the construction of a dwelling house and development works for 2 further sites.

b. Is the proposed development directly connected with or necessary to the nature conservation management of a Natura 2000 site: No.

c. Identification of relevant Natura 2000 sites:

The site is located adjacent to the River Barrow and River Nore SAC, Site Code 002162, which is the relevant Natural 2000 site.

d. Existing expert reports, advice or guidance:

- Appropriate Assessment Screening Report

- Report from personnel of Waterford City & County Council

e. The potential for significant impacts on Natura 2000 sites, having regard to potential significance indicators and to qualifying interests and conservation objectives for the site. Where doubt exists, it should be assumed that effects could be significant. In terms of the relevant Natura 2000 sites in this instance, the Conservation Objectives are stated as follows:

- River Barrow and River Nore SAC, Site Code 002162: It is the objective for this site to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. The Board will note that no habitats or species associated with the River Barrow and River Nore SAC were present on the subject site. I note the third party submission in this regard. It is not anticipated that the development will result in the loss of any habitats for which the SAC is designated. In terms of the fauna supported by the SAC, it is submitted that it is unlikely that there will be direct impacts on the SAC which will impact on the Annex 1 species it supports.

f. Potential significance indicators¹:

- Causing interference with, reduction, erosion or fragmentation of the Natura 2000 site: Not likely
- Causing direct or indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the Natura 2000 site: Not likely
- Causing serious or ongoing disturbance to species or habitats for which the Natura 2000 site is selected (e.g. increased noise, illumination and human activity): Not likely
- Causing direct or indirect damage to the size, characteristics or reproductive ability of populations on the Natura 2000 site: Not likely
- Interfering with mitigation measures put in place for other plans or projects: Not likely

¹ Using the Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities, DoEHLG, 2009 I consider that the potential significant indicators should include as presented. There is no defined list of indicators, with each site potentially generating a different list.

- Causing a cumulative impact and other impacts: Not likely.

7.6.6. Assessment of likely effects - direct, indirect and cumulative – undertaken on the basis of available information as a desk study or field survey or primary research as necessary: The possible effects of the proposed development on the conservation status of the designated sites in the vicinity of the subject site include loss/reduction of habitat, disturbance of key species, habitat or species fragmentation, reduction in species density and decrease in water quality and quantity. The Board will note that the site is not within any designated sites and there is no significant uncontrolled discharge from the site proposed. Waste water arising from the development will be dealt with in the public wastewater treatment plant and surface water will be dealt with by way of soakpits. Soil conditions on the site are adequate for infiltration and therefore direct runoff into the river is unlikely to occur. In this regard, there are no direct pathways or links to the site including any hydrological link. Overall, the site works required to accommodate the proposed development will not result in any habitat loss or reduction in the quality of the habitat.

7.6.7. Screening Statement with conclusions: The safeguards set out in Article 6(3) and (4) of the Habitats Directive are triggered not by certainty but by the possibility of significant effects. Thus, in line with the precautionary principle, it is unacceptable to fail to undertake an appropriate assessment on the basis that it is not certain that there are significant effects. Given the nature and scale of the proposed development on an existing greenfield site, and having considered the above potential significance indicators I consider that the development, if permitted, is likely to have little or no impact, either alone or in conjunction with other plans or projects on any designated Natura 2000 sites.

7.6.8. It is reasonable, therefore, to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site River Barrow and River Nore SAC, Site Code 002162, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

7.7. Environmental Impact Assessment

7.7.1. Schedule 5 of the Planning and Development Regulations, 2001 (as amended), sets out Annex I and Annex II projects which mandatorily require an EIS. Part 1, Schedule 5 outlines classes of development that require EIS and Part 2, Schedule 5 outlines classes of developments that require EIS but are subject to thresholds. Class 10(b)(i) Part 2. Having regard to the scale of the proposed development, being 3 houses on zoned lands, I conclude that a mandatory EIA and the submission of an EIS is not required. The site has a stated area of 3.129ha, of which 0.913ha is to be developed. It is not located within the business district of a city and therefore, Class 10(b)(iv) is not relevant.

7.7.2. In accordance with the 'EIA Guidance for Consent Authorities regarding Sub-threshold Development', 2003, the following is stated "there is a requirement to carry EIA where competent/consent authority considers that a development would be likely to have significant effects on the environment". The guidelines advise the criteria to be considered for the need for sub-threshold E.I.S. and this includes (i) characteristics of the proposed development, (ii) location of the proposed development, and (iii) characteristics of potential impacts. Schedule 7 of the Planning and Development Regulations, 2001 (as amended), sets out criteria for determining whether a sub-threshold development is likely to have significant effects on the environment and therefore would require an EIS.

7.7.3. Article 92 of the Planning and Development Regulations, 2001, (as amended) defines sub-threshold development, as 'development of a type set out in Schedule 5 which does not exceed a quantity, area or other limit specified in that Schedule in respect of the relevant class of development'.

7.7.4. Having regard to the nature and scale of the proposed development, 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 at preliminary examination and a screening determination is not required.

8.0 Recommendation

It is recommended that planning permission be granted for the proposed development for the following reasons and considerations and subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the location of the subject site within the settlement boundary of the village of Cheekpoint, together with the pattern of development in the area, the zoning afforded to the site and the information submitted in relation to the proposed development, the Board is satisfied that, subject to compliance with the following conditions, a grant of permission for the proposed development, would be acceptable in terms of the policy requirements of the Waterford City & County Development Plan, 2011-2017, as extended, and subject to compliance with the following conditions, would not injure the existing visual and residential amenities of properties in the vicinity of the site. The development would be acceptable in terms the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application 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 proposed development shall be amended as follows:
 - (a) Permission is granted for the construction of 1 no. dwelling and the site development works for 2 no. residential serviced sites only.

- (b) The hereby permitted house shall be relocated 2m to the east.
- (c) The dwelling hereby permitted shall not be occupied until all works on the site have been completed, including roads, entrances, boundary treatments, landscaping and services

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity.

- 3. No development works shall commence on the site until Irish Water has issued a connection agreement for the full development. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. All foul sewage and soiled water shall be discharged to the public foul sewer and only clean, uncontaminated storm water shall be discharged to the surface water drainage or soakpits.

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

- 4. Prior to the commencement of any development on site, full details of the proposed boundary treatment for the site shall be submitted for the written agreement of the Planning Authority.

Reason: In the interests of pedestrian safety and visual amenity.

- 5. Prior to the commencement of any development on site, full details of a landscaping plan for the site shall be submitted for the written agreement of the Planning Authority.

Reason: In the interests of visual amenity.

6. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

7. 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.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays 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.

9. 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.

A. Considine
Planning Inspector
14th November, 2018