



An
Bord
Pleanála

Inspector's Report ABP-303081-18

Development

Retention Permission and Permission for the completion of the development at Mount Usher View, Main Street, Ashford, Co. Wicklow, as commenced under Planning Reg. Ref. No. 08/1704; retention is sought for: 9 no. 2 storey terraced residential units over 9 no. retail units in 3 storey blocks A & B as constructed and permission to complete same; retention for 11 no. 3 storey residential terraced units as constructed (Blocks C & D) and permission to complete same; retention of 4 no. semi-detached 3 storey 4 bedroom residential units in Blocks E as constructed and permission to complete same; together with retention and permission to complete all ancillary site works and services including landscaping and boundary treatments, all in line with the submitted documents and drawings as part of this retention and completion proposal.

Location	Mount Usher View, Main Street, Ashford, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	18603
Applicant(s)	Myles Kirby (Receiver of a specific asset of Copia Capital Partners Ltd.)
Type of Application	Permission & Permission for Retention
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party v. Decision
Appellant(s)	The Ashford Development Association Ltd. (ADAL) Mr. Brian Walsh
Observer(s)	None.
Date of Site Inspection	18 th April, 2019
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in the town of Ashford, Co. Wicklow, where it occupies a position within the town centre alongside the R772 Regional Road (Main Street) and Local Road No. L1096. It has a stated site area of 1.19 hectares, is irregularly shaped, and is presently dominated by an unfinished mixed-use development, the construction of which has necessitated considerable excavation into the hillside given that the lands in question rise steeply over the public road on travelling south-westwards. In this regard the difference in levels between the southernmost extent of the application site and Local Road No. L1096 relative to the lower (regional road) is notable, particularly as regards an existing dwelling house which is positioned downgradient of the existing site entrance onto the minor roadway above.
- 1.2. The partially completed scheme consists of the outer shells of 2 No. structures (Blocks 'A' & 'B') that have been constructed as far as ground level only alongside Main Street, Blocks 'C' & 'D' which front onto Local Road No. L1096 and comprise two series of near finished three-storey dwelling houses in a terraced format, and 4 No. semi-detached dwelling houses (Block 'E') located on the more elevated lands to the rear of the site which are accessed via a new entrance arrangement onto the local road.

2.0 Proposed Development

- 2.1. The proposed development consists of the retention and completion of a mixed-use development (total floor area: 3,621.7m²) comprising 5 No. three-storey blocks as follows:
 - Block 'A': A three-storey block positioned alongside Main Street which consists of 3 No. retail units (to be subdivided into 5 No. units) at ground floor level with 5 No. two-storey dwelling units overhead.
 - Block 'B': A three-storey block positioned alongside Main Street which consists of 4 No. retail units at ground floor level with 4 No. two-storey dwelling units overhead.

- Block 'C': A series of 6 No. three-storey terraced dwelling houses constructed in a stepped arrangement with a staggered building line alongside Local Road No. L1096.
- Block 'D': A series of 5 No. three-storey terraced dwelling houses constructed alongside Local Road No. L1096.
- Block 'E': A total of 4 No. three-storey, semi-detached dwelling houses positioned to the rear of Blocks 'C' & 'D'.

2.2. The proposal also includes for a new vehicular entrance onto Main Street to serve Blocks 'A' & 'B' and a second entrance onto Local Road No. L1096 which will provide access to Block 'E' and car parking serving the wider scheme. Associated site development works include site services, landscaping and boundary treatments. Water and sewerage services are available via connection to the public mains.

2.3. The revised proposals submitted in response to a request for further information include for the amendment of the elevational / fenestration treatment of Blocks 'A' & 'B' and the construction of a new surface water sewer discharging to the River Vartry.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Following the receipt of a response to a request for further information, on 9th November, 2018 the Planning Authority issued a notification of a decision to grant permission for the retention and completion of the proposed development subject to 27 No. conditions. These conditions are generally of a standardised format and relate to issues including external finishes, landscaping, boundary treatment, construction management, site services, infrastructural works, and development contributions, however, the following conditions are of note:

Condition No. 8: Requires the submission of revised plans for House Type 'E,' which include for the provision of 2 No. car parking spaces at lower ground floor level, for written agreement with the Planning Authority, prior to the commencement of development.

Condition No. 9: Requires full details of the surface water sewer to be submitted to the Planning Authority, for written agreement, prior to the commencement of development.

Condition No. 11: Requires final design details for all works on or adjacent to the public road and a Stage 3 Road Safety Audit to be submitted to the Planning Authority, for written agreement, prior to the occupation of the development.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

An initial report details the site context, planning history, and the applicable policy considerations and notes that whilst the development as constructed does not fully accord with the extant grant of permission on site, the subject application has been lodged in order to address outstanding compliance issues and to permit the scheme to be completed in a satisfactory manner. It is further stated that the overall layout, scale and design of the proposal is not significantly different to that previously permitted under PA Ref. No. 08/1704 and that the proposed development is acceptable in principle. With regard to the various alterations to the permitted design, including the changes to the elevational / fenestration treatments, these are considered to be acceptable. In terms of traffic safety, it is noted that additional works have been carried out at the site entrance in order to improve the available sight distance and that outstanding works at the junction of the R772 Regional Road with the Local Road No. L1096 will need to be completed. Furthermore, although the provision of a raised ramp on the public road at its junction with the southern site entrance is considered to be acceptable, further details are required as regards its impact on surface water drainage along the carriageway. In relation to the proposed servicing arrangements, it is indicated that the proposal to discharge surface water to the combined sewer is unacceptable and that alternative proposals to direct runoff to the nearby river should be submitted. The remainder of the report proceeds to analyse other aspects of the proposal, including the adequacy of the open space provision, public lighting and boundary treatment etc. It subsequently concludes by recommending that further information be sought in respect of a number of issues.

Following the receipt of a response to a request for further information, a final report was prepared which recommended a grant of permission, subject to conditions.

3.2.2. Other Technical Reports:

Area Engineer: Recommends a grant of permission, subject to conditions.

Transportation, Water & Emergency Services: States that the sightlines on exiting the development are acceptable, although further details will be required as regards possible interference with existing road drainage due to the installation of the proposed 'table ramp'. It is also noted that all other conditions should continue to apply in the event of a grant of permission.

3.3. **Prescribed Bodies**

3.3.1. *Irish Water:* Recommends that further information be sought to address the following matters:

- It is not possible to provide a water connection to the proposed development from a single source due to the site topography. Therefore, the design should be re-assessed as regards pressure management with higher level houses fed from the west and the lower units from the east.
- The proximity of the foul and surface water sewers to each other (and other services) would have a negative impact on the serviceability of same in the event of a leak / burst and may lead to contamination of the watermain.
- The subject proposal seeks to discharge surface water from the site to the main sewer whereas the development previously permitted under PA Ref. No. 08/1704 proposed a separate stormwater sewer discharging to a nearby river.

3.4. **Third Party Observations**

3.4.1. A total of 14 No. submissions were received from interested parties and the principle grounds of objection contained therein can be summarised as follows:

- The substandard nature (and construction) of the development.
- There is a need to ensure that outstanding issues with regard to the existing development are resolved in full by a developer and that the scheme is not simply disposed of by a receiver in its current condition.

- Concerns with regard to the omission of the office accommodation from within Blocks 'C' & 'D' and the conversion of the units into dwellings.
- The inaccessibility of the development for the mobility impaired.
- There is no demand for further retail development in the village.
- Inadequate car parking provision on site.
- Concerns as regards the adequacy of the sightlines available from the southernmost entrance onto the public road.
- The inadequacy and unsuitability of the public open space / amenity areas.
- The proposed development is out of character with the surrounding pattern of development, with particular reference to the fenestration arrangements.
- Concerns as regards the structural integrity etc. of the development as already constructed.
- The failure to comply with the terms and conditions of the grant of permission issued in respect of PA Ref. No. 08/1704.
- Traffic safety concerns, including the adequacy of the crash barrier opposite the southernmost site entrance.
- Detrimental impact on residential amenity by reason of overlooking and visual dominance.
- Concerns as regards the proposed surface water drainage arrangements and possible pollution of the River Vartry.
- The need for environmental impact assessment given the proposal to discharge surface water to the River Vartry.

4.0 Planning History

4.1. On Site:

PA Ref. No. 08/1704. Was granted on 18th May, 2009 permitting Chieftain Construction Ltd. permission for the demolition of existing site structures and construction of a new mixed use development comprising (a) 528m² retail space (b) 9 no. three bedroom terraced houses (1.5/2storey) over ground level retail (c) 11 no.

three bedroom terraced houses (2.5/3 storey) incorporating ground level home office unit (d) 8 no. four bedroom semi-detached houses (2.5 storey) and (e) all associated and ancillary access roads, parking facilities, footpaths, site enclosures, landscaping, boundary treatments and services infrastructure.

- PA Ref. No. 14/1188. Was granted on 25th April, 2014 permitting Chieftain Construction Limited an 'Extension of Duration' of PA Ref. No. 08/1704 until 15th August, 2019.

PA Ref. No. 15/860. Application by Copia Capital Partners Ltd. for permission for alterations to the development as granted permission under 08/1704. Permission will allow for: (1) replacing permitted 3 storey mixed use Block A with a 2 1/2 storey block affording 4 no. retail units & ATM on ground floor (totalling 240sqm) with office/commercial accommodation at first & mezzanine floor level totalling 300sqm (2) replacing permitted 3 storey mixed use Block B with new 3 storey Block providing 4 no. 3 bedroom terraced 2 storey townhouses over 2 no. 1 bedroom apartments and 1 no. 2 bedroom ground floor apartments. (3) 2 new 3 storey 4 bedroom semi-detached houses at upper ground level with alterations to permitted House Type E facades (4 no. units) to match new houses. (total number of all house types on site: 24). 4. realignment of upper level road hammerhead, relocation of playground, of parking pays and amenity lands. This application was withdrawn.

PA Ref. No. 16/105. Was refused on 31st March, 2017 refusing Copia Capital Partners Ltd. permission for the retention of 11 no. 3 storey residential terraced units as constructed (Blocks C & D) and permission to complete same. Permission for 9 no. 2 storey terraced residential units over 9 no. retail units in 3 storey Blocks A and B. Permission for 6 no. semi detached 3 storey 4 bedroom in Blocks E (4 No units permitted under 08/1704). Retention and completion of all ancillary site works and services including landscaping and boundary treatment.

- The proposed development would endanger public safety by reason of serious traffic hazard because it has not been demonstrated that a safe entrance, in terms of sightline distances and traffic turning movements, can be provide to serve this development.

4.2. On Adjacent Sites:

PA Ref. No. 15/861 / ABP Ref. No. PL27.247505. Was granted on appeal on 15th March, 2017 permitting Copia Capital Partners Limited permission for the construction of 4 No. two storey (maximum), four bedroom dwellings. The proposed dwellings will present two storey façades to the east and single storey entrance façades to the west. Permission will allow for foul, surface and storm water connections to adjacent development 08/1704 (duration extended), new entrance from the Mount Alto Road, internal service road with guest parking, landscaping, new boundary fencing, associated site works and services, all on a site of 0.52 hectares at Mount Alto Road, Ashford, Co. Wicklow, as amended by the further public notice received by the planning authority on the 17th day of October, 2016.

5.0 Policy and Context

5.1. National and Regional Policy

- 5.1.1. The ‘*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*’ acknowledge the importance of smaller towns and villages and their contribution towards Ireland’s identity and the distinctiveness and economy of its regions. It is accepted that many of these smaller towns and villages have experienced significant levels of development in recent years, particularly residential development, and that concerns have been expressed regarding the impact of such rapid development and expansion on the character of these towns and villages through poor urban design and particularly the impact of large housing estates with a standardised urban design approach. In order for small towns and villages to thrive and succeed, their development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past.
- 5.1.2. The ‘*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018*’ (which update the ‘*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2015*’) provide detailed guidance and policy requirements in respect of the design of new apartment developments. Where specific planning policy requirements are stated in the document, these are to take precedence over any conflicting policies and

objectives of development plans, local area plans and strategic development zone planning schemes. Furthermore, these Guidelines apply to all housing developments that include apartments that may be made available for sale, whether for owner occupation or for individual lease. They also apply to housing developments that include apartments that are built specifically for rental purposes, whether as 'build to rent' or as 'shared accommodation'. Unless stated otherwise, they apply to both private and public schemes. These updated guidelines aim to uphold proper standards for apartment design to meet the accommodation needs of a variety of household types. They also seek to ensure that, through the application of a nationally consistent approach, new apartment developments will be affordable to construct and that supply will be forthcoming to meet the housing needs of citizens.

5.2. Development Plan

5.2.1. Wicklow County Development Plan, 2016-2022:

Chapter 3: Settlement Strategy:

Section 3.2: *County Wicklow Settlement Strategy:*

Level 5 – Small Growth Towns: Ashford

Chapter 4: Housing:

Section 4.3: *Key Housing Principles:*

Section 4.3.2: *Zoning:*

New housing development shall be required to locate on suitably zoned / designated land in settlements.

The priority for new residential development shall be in the designated 'town' and 'village' / 'neighbourhood centres' or 'primary zone' in settlements with development plans, or in the historic centre of large and small villages, through densification of the existing built up area, re-use of derelict or brownfield sites, infill and backland development. In doing so, particular cognisance must be taken of respecting the existing built fabric and residential amenities enjoyed by existing residents, and maintaining existing parks and other open areas within settlements.

Section 4.3.3: *Phasing:*

The development of zoned / designated land should generally be phased in accordance with the sequential approach:

- Development shall extend outwards from centres with undeveloped land closest to the centres and public transport routes being given preference, i.e. 'leapfrogging' to peripheral areas shall be resisted;
- a strong emphasis shall be placed on encouraging infill opportunities and better use of underutilised lands; and
- areas to be developed shall be contiguous to existing developed areas

Section 4.3.4: *Densities:*

It is an objective of the Council to encourage higher residential densities at suitable locations, particularly close to existing or proposed major public transport corridors and nodes, and in proximity to major centres of activity such as town and neighbourhood centres.

Apartments generally will only be permitted within the designated centres in settlements (i.e. designated town, village or neighborhood centres), on mixed use designated lands (that are suitable for residential uses as part of the mix component) or within 10 minutes walking distance of a train or light rail station.

Section 4.3.6: *Design of New Developments*

Section 4.4: *Housing Objectives*

Chapter 6: Centres and Retailing:

Section 6.2: *County Wicklow Retail Strategy*

Section 6.2.6: *Strategy for the County's Centres: Strategy for Level 4 – Neighbourhood Centres and Small Towns (incl. Ashford)*

Section 6.3: *Objectives for Centres and Retail*

RT1: To ensure the continued vibrancy and life of centres, to direct new development and investment into towns and villages in the first instance and to particularly prioritise actions that enhance business,

retail, leisure, entertainment and cultural uses, as well as making town and villages centres an attractive place to live.

RT4: To promote and facilitate the development of retail developments in a sustainable manner. Retail related development shall be located on suitably zoned land within settlement boundaries. There shall be a general presumption against the development of retail uses within the rural area, except as otherwise provided for by a particular objective of this plan.

RT10: To vigorously protect and promote the vitality and viability of town centres. Development proposals not according with the fundamental objective to support the vitality and viability of town centre sites must demonstrate compliance with the 'sequential approach' before they can be approved. The 'sequential approach' shall be applied and assessed in accordance with the 'Retail Planning Guidelines, (DoECLG, 2012)'². The Planning Authority will discourage new retail development if they would either by themselves or cumulatively in conjunction with other developments seriously damage the vitality and viability of existing retail centres within the County. In the application of the 'sequential approach' due regard shall be paid to RT11 below which prioritises the 'core retail area' for new retail development.

RT11: To promote developments which reinforce the role and function of the 'core retail area' as the prime shopping area of town centres. The 'core retail area' shall be promoted as the area of first priority for new retail development. In settlements where no 'core retail area' is defined, regard shall be paid to the designated 'town centre' area, the location of the traditional/historical centre and the location of other retail units. Where an application is made for a new development with street frontage either in the defined retail core of a larger settlement or on the 'main street' of a smaller town, retail or commercial use will normally be required at street level.

RT12: New retail developments in town centres will be required to provide proximate and easily accessible car and cycle parking or to make a

financial contribution towards car parking where it has been or will be provided by the Local Authority.

RT13: To promote the revitalisation of vacant / derelict properties / shop units. Where no viable retail use can be sustained, alternative uses will be assessed on their own merits against the requirements of the proper planning and sustainable development of the areas within which they are located.

This objective will be used to ensure that all proposals for the reuse of existing retail floorspace can be evaluated against the proportion of overall vacancy and to reduce the possibility of dereliction.

RT14: To control the provision of non-retail uses at ground floor level in the principal shopping streets of centres, in order to protect the retail viability of centres and to maintain the visual character of streets. This objective aims to prevent the proliferation of 'dead frontages' on key streets. In particular, active use of corner sites, particularly within larger centres, is considered pivotal in creating a sense of vibrancy.

RT21: In certain circumstances, the Planning Authority may allow for a relaxation in certain development standards within centres, in the interest of achieving the best development possible, both visually and functionally.

RT28: Small scale retail development appropriate to the scale and needs of the settlement and its catchment will be positively considered subject to the following control criteria:

- there shall be a clear presumption in favour of central or edge of centre locations for new development, i.e. the traditional historical centre; out of centre locations will not be considered suitable for new retail;
- new development shall be designed with the utmost regard to the historical pattern of development in the centre and the prevailing character, with particular regard to building form,

height and materials and shall generally be required to incorporate a traditional shop front.

Appendix 1: Development and Design Standards

Section 1: Mixed Use and Housing Developments in Urban Areas

5.2.2. Ashford Town Plan, 2016-2022:

Land Use Zoning:

The proposed development site is primarily located on lands zoned as 'TC: Town Centre' although the southernmost part of the site is zoned as 'RE: Existing Residential'.

Other Relevant Sections / Policies:

Section 1.2: Overall Vision and Development Strategy

Section 1.3: Residential Development

Section 1.4: Economic Development and Employment

ASH3: To facilitate and support the growth of the Town Centre of Ashford in accordance with the provisions set out in Section 1.5 of this plan and to encourage the development of new retail / retail services and business support services (such as solicitors, accountants, architects etc) within the TC zone.

Section 1.5: Town Centre and Retail

5.3. Natural Heritage Designations

5.3.1. The following Natura 2000 sites are located in the vicinity of the proposed development site:

- The Murrough Wetlands Special Area of Conservation (Site Code: 002249), approximately 2.8km east of the site.
- The Murrough Special Protection Area (Site Code: 004186), approximately 3.0km east of the site.
- The Wicklow Head Special Protection Area (Site Code: 004127), approximately 7.0km southeast of the site.

- The Deputy's Pass Nature Reserve Special Area of Conservation (Site Code: 000717), approximately 6.9km southwest of the site.

N.B. This list is not intended to be exhaustive as there are a number of other Natura 2000 sites in excess of the aforementioned distances yet within a 15km radius of the application site.

- 5.3.2. The proposed development site is also located c. 2.8km east of The Murrrough Proposed Natural Heritage Area (Site Code: 000730).

5.4. **EIA Screening**

- 5.4.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. *The Ashford Development Association Ltd. (ADAL):*

- The proposal to discharge untreated and inadequately attenuated surface water from the proposed development to the River Vartry is unacceptable on the basis that any such runoff would be highly polluted and would likely result in irreparable damage to the river.
- Given the location of the surface water outfall upstream of the Mount Usher Gardens, there are serious concerns that the discharge of untreated waters could potentially have a detrimental impact on those gardens.
- The River Vartry is a protected salmonid river with a 'high' water quality status and it is a requirement of the EU Water Framework Directive that there should be no deterioration in this water quality.

- Inland Fisheries Ireland and other interested parties have not been afforded sufficient opportunity to consider the applicant's proposals as regards the discharge of surface waters to the River Vartry.
- An application for permission for retention cannot be accepted by a Planning Authority for any development which would have required:
 - Environmental impact assessment
 - A determination as to whether environmental impact assessment was required (i.e. screening for EIA); or
 - An appropriate assessment under the Habitats Directive (since such an assessment is also required prior to permission for a proposed development).

In the subject instance, an application for permission for retention is not permissible due to the inclusion of a significant change whereby surface water will be discharged directly to the River Vartry instead of being directed to a combined sewer. This revision gives rise to the potential for damage to a river which is subject to EU protection pursuant to the Water Framework Directive and the Habitats Directive and, therefore, the application should have been rejected outright.

- In light of the potential impact of the proposed development on water quality in the River Vartry, the proposal should be subjected to environmental impact assessment.
- It is unacceptable for the discharge of surface water to the River Vartry to be introduced in response to a request for further information given that any such revision is of a significant nature and should have been included in the initial planning application. Accordingly, it will be necessary for the applicant to submit a new planning application (accompanied by an Environmental Impact Assessment Report) in order to ensure that interested parties / stakeholders, such as Inland Fisheries Ireland, are afforded adequate opportunity to ensure the protection of both Ashford and the River Vartry.
- The alteration of the fenestration arrangements from those previously approved under PA Ref. No. 08/1704, including increased window sizes, the

construction of 'modern mono-pitched style dormers', and the inclusion of projecting 'box-bay' windows, is out of character with the surrounding area.

- The development as originally approved under PA Ref. No. 08/1704 included for the feature use of stone facing on the front facades of some of the buildings which would have served to break up the massing of same. Therefore, a condition should be imposed in any grant of permission requiring the completion of the stonework as originally specified.
- The sightlines on exiting the site are inadequate and do not comply with the requirements of the Design Manual for Roads and Bridges.
- Due to the limited width of the public road at the site entrance, larger vehicles exiting the site may have to edge over the opposite side of the carriageway thereby endangering the stability of the roadway and the safety of the adjacent property below.
- There are concerns as regards the significant number of conditions attached to the grant of permission which require various matters / specifications etc. to be agreed with the Planning Authority prior to the commencement of works.

6.1.2. Mr. Brian Walsh:

- A significant number of the recommendations and conditions pertinent to the original grant of permission issued in respect of PA Ref. No. 08/1704 have not been adhered to or were not implemented.
- The changes to the design, size, height and layout of the permitted housing are in direct breach of the conditions attached to PA Ref. No. 08/1704.
- Permission was previously refused for the retention and completion of the development in question under PA Ref. No. 16/105 and there has been no change in circumstances which would warrant a grant of permission for the subject proposal.
- Condition No. 11 of the notification of the decision to grant permission requires the final design details of the junction of the site entrance with the public road to the west of the appellant's property to be agreed in writing with the Planning Authority prior to the occupation of the development. Whilst the proposal to erect safety fencing and a crash barrier to the rear of the

appellant's property is welcomed, there is no mention of the inadequate turning space available at this junction and the potential for larger vehicles having to edge over the opposite side of the carriageway thereby endangering the stability of the roadway and the safety of the property below.

- Concerns remain as regards the adequacy of the sightlines available at the junction of the southernmost site entrance with the public road and the adequacy of the provisions made for satisfactory traffic turning movements at this location.
- The revised fenestration arrangements, including an increase in the size of some windows, are visually dominant and out of character with the surrounding area.
- The alteration of the fenestration arrangements from those previously approved under PA Ref. No. 08/1704, with particular reference to the omission of obscure glazing from those windows within the top floor of the proposed development (Block 'D'), will have a detrimental impact on the residential amenity of the appellant's property by reason of overlooking.
- There are concerns that the provision of a ramped area on the public road at its junction with the site entrance could result in surface water runoff entering the appellant's property with consequential flooding of same.
- The proposed ramped area could increase the risk of larger vehicles manoeuvring at the site entrance toppling into the appellant's property.

6.2. Applicant's Response

6.2.1. Response to the Third Party Appeal of Mr. Brian Walsh:

- All of the Planning Authority's concerns have been addressed through the planning process and in this regard the Board is referred to the grant of permission issued by Wicklow County Council, the information provided with the initial planning application, and the contents of the applicant's response to the request for further information.

- With regard to traffic safety considerations, all of the Council's concerns have been addressed whilst the proposed works will accord with the requirements of the National Roads Authority.
- The report of Molony Millar Consulting Engineers confirms that the available sightlines at this location are acceptable as per Volume 6, Section 2, Part 6 of NRA RD 41-42109.
- In response to the request for further information issued by the Planning Authority, it is proposed to continue usage of the existing mono-pitched style dormer windows within Blocks 'C' & 'D' through into Blocks 'A' & 'B' in the interests of consistency.
- The Planner's Report on file states that the mono-pitched dormer windows *'would not significantly detract from the character of the area'*.
- In respect of the appellant's concerns as regards the proposal to construct a 'table ramp' atop the roadway to the rear of his property, the Board is referred to the details set out in the drawings and reports prepared by Molony Millar Consulting Engineers as submitted with the initial planning application and in response to the request for further information.

More specifically, the Board is requested to note that the report of Molony Millar Consulting Engineers prepared in response to the request for further information states the following:

'It is our proposal to allow for an open drainage channel to run behind the table ramp. This will allow for surface water to continue to drain freely on the roadway'.

This proposal was deemed acceptable by the Planning Authority.

6.2.2. Response to the Third Party Appeal of The Ashford Development Association Ltd. (ADAL):

- It is reiterated that all of the Planning Authority's concerns have been addressed through the planning process and in this regard the Board is referred to the grant of permission issued by Wicklow County Council, the information provided with the initial planning application, and the contents of the applicant's response to the request for further information.

- In response to the request for further information issued by the Planning Authority, the applicant indicated that it was proposed to continue usage of the existing mono-pitched style of dormer windows within Blocks 'C' & 'D' through into Blocks 'A' & 'B'. In this respect it should be noted that although the Planning Authority had the opportunity to select its preferred style, as a choice was provided, the applicant opted for the modern mono-pitched style utilised in Blocks 'C' & 'D'.
- The Planner's Report on file states that the mono-pitched dormer windows *'would not significantly detract from the character of the area'*.
- With regard to the proposal to discharge surface water runoff to the River Vartry the Board is referred to the report prepared by Molony Millar Consulting Engineers in response to the request for further information which states the following:

'A 375mm combined sewer runs along the front of the site. This eventually discharges to a pumping station in Ashford. It is now proposed to run a 300mm separate pipe for surface water running along the site and main street of Ashford, discharging into the river as per previously submitted drainage drawing 064-177-102-PO prepared by Punch Consulting Engineers as part of planning No. 08/1704. Refer to enclosed marked up drawing 064-1771-102 PO by Molony Millar Consulting Engineers. We met Mr. William Halligan of Wicklow Co. Co. on site Thursday 6th of September, 2018 and it was agreed that this was the preferred solution'.

On the basis that the Council raised no further issues as regards the foregoing drainage proposals, it can be concluded that they were deemed to be acceptable.

- No changes have been made to the location or calculation of the attenuation tank from that previously permitted under PA Ref. No. 08/1704.
- The route for the discharge of surface water from the development to the River Vartry has been requested and approved both as part of the subject application and PA Ref. No. 08/1704.

- Whilst it is the applicant's preferred option to connect into the existing combined sewer, the Planning Authority sought the following by way of a request for further information:

It would appear that the current application includes proposals to discharge surface water to the existing 375mm combined sewer, which is not considered acceptable and which is at variance with the details permitted under PRR 08/1704. You are therefore requested to submit revised proposals for surface water discharge'.

Accordingly, it was agreed with the Local Authority that the applicant would revert to the previously permitted proposals with surface water to be discharged into the River Vartry.

- The Planning Authority has confirmed that there is no requirement for the proposed development to be subjected to Environmental Impact Assessment.
- In the original development permitted under PA Ref. No. 08/1704 stonework was only proposed on Blocks 'A' & 'B' (neither of which are fully constructed) as a delineation between the retail and residential elements of the scheme. The applicant has no objection to the completion of these blocks as per the finishes originally approved and as proposed in the subject application – by means of stone-clad shopfronts.
- By reference to the report of Molony Millar Consulting Engineers (and the grant of permission) it can be confirmed that the sightlines available at the site entrance are both adequate and acceptable.
- The inclusion of conditions requiring certain matters to be agreed 'prior to commencement' is welcomed by the applicant as a way of moving the development forward.
- The applicant has endeavoured to consolidate all issues of retention / enforcement within a single planning application.
- It can be confirmed that the applicant is in discussions with the appellants in an attempt to address, where possible, their concerns.

6.3. Planning Authority Response

None.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Overall design and layout
- Traffic implications
- Impact on residential amenity
- Infrastructural / servicing arrangements
- Appropriate assessment

These are assessed as follows:

7.2. **The Principle of the Proposed Development:**

7.2.1. The proposed development site is located within the defined '*settlement boundary*' for the town of Ashford as detailed in Map No. 1 of the Ashford Town Plan, 2016-2022 (Volume No. 2 of the Wicklow County Development Plan, 2016-2022) on lands that are primarily zoned as '*TC: Town Centre*', although the southernmost extent of the site is zoned '*RE: Existing Residential*'. In this regard, it is notable that the Plan aims to consolidate the existing built pattern in Ashford by maximising the potential of large sites within the town core in order to create a distinct streetscape capable of meeting Ashford's function as a town serving the needs of its immediate and wider

hinterland. I would also draw the Board's attention to the overall vision and development strategy for the town as outlined in Section 1.2 of the Plan which seeks to sustain a revitalised town centre with commercial, residential and community developments forming a new streetscape alongside the R772 Regional Road. More specifically, Section 1.5: *'Town Centre and Retail'* of the Plan states that the pattern of development within the town core, wherein the subject site is located (please refer to Figure 1.1 of the Plan) is quite disjointed with large sites remaining undeveloped or underutilised and, therefore, it is a strategic objective (ASH3) *'to facilitate and support the growth of the Town Centre of Ashford in accordance with the provisions set out in Section 1.5 of this plan and to encourage the development of new retail / retail services and business support services (such as solicitors, accountants, architects etc) within the TC zone'*.

7.2.2. Accordingly, having regard to the nature of the development proposed, the site location in a mixed-use area on lands primarily zoned for town centre purposes, and the broader policy objectives of the Town Plan which seek to consolidate and / or revitalise the town centre, such as through the creation of a more defined streetscape alongside the R772 Regional Road, I am satisfied that the overall principle of the proposed development is acceptable in this instance. In addition to the foregoing, I would suggest that further credence is lent to the subject proposal by reference to the fact that permission was previously granted on site under PA Ref. No. 08/1704 for a comparable scale of mixed-use development and that it would be in the interests of the proper planning and sustainable development of the area to ensure the completion of the unfinished works already undertaken on site which presently detract from its surrounds.

7.3. **Overall Design and Layout:**

7.3.1. In terms of assessing the overall design and layout of the subject proposal, in the first instance, and by way of background, I would advise the Board that permission was previously granted on site for a comparable design and scale of development under PA Ref. No. 081704 which was subsequently implemented, although the works were not carried out in accordance with the approved plans and particulars whilst the development itself was only partially completed and thus remains in an unfinished state which visually detracts from the area. Accordingly, whilst I would acknowledge the concerns raised in the grounds of appeal as regards the overall

design and visual impact of the proposed development, in my opinion, cognisance must be taken of the planning history of the site and the development as constructed pursuant to PA Ref. No. 081704. In this respect it should be noted that the overall design and layout of the subject proposal is broadly similar to that previously approved, save for a number of amendments which include the following:

7.3.2. Block 'A':

This block comprises a series of 3 No. retail units (to be subdivided into 5 No. units) at ground floor level with undercroft car parking to the rear of same and 5 No. two-storey dwelling units located overhead. The overall dimensions and built form of this block, including the varied ridge line, correspond with those previously permitted under PA Ref. No. 081704, however, the internal configuration of the construction has been amended with associated alterations to the elevational treatment. In this respect it should be noted that the proposal now includes for dedicated secure ground floor storage for Dwelling Unit Nos. 1-4 as well as shared rear access from the undercroft car parking area (in addition to the front access stairways). The overall fenestration treatment remains comparable to that previously approved, however, although it was initially proposed to maintain the conventional dormer features within the front elevation of the building, in response to a request for further information, and in order to provide for greater consistency within the scheme, the applicant has sought to replace these features with a mono-pitched dormer design in line with that presently used in Blocks 'C' & 'D'.

7.3.3. Block 'B':

This three-storey block alongside Main Street comprises 4 No. retail units at ground floor level with 4 No. two-storey dwelling units overhead. Similar to Block 'A', its overall dimensions and built form generally correspond with those approved under PA Ref. No. 081704, although its internal configuration has been amended which has necessitated certain alterations to the elevational treatment. In addition, the proposal to maintain the conventional dormer features to the front and rear of the building has been superseded by the need to provide for greater consistency in the scheme by replacing these features with a mono-pitched dormer design in line with that presently used in Blocks 'C' & 'D'.

7.3.4. Block 'C':

The overall design of this terrace of 6 No. three-storey dwelling houses varies from that previously approved under PA Ref. No. 081704 in a number of respects, including in terms of the internal configuration, dimensions and elevational treatment of the individual units, however, perhaps the most notable changes can be considered to comprise the more contemporary external appearance, which utilises an amended fenestration arrangement incorporating a box-bay window and mono-pitched dormer within the front / streetside elevation, and the extended ground floor level accommodation with the associated changes to the access arrangements to the split-level rear garden areas (including the provision of a first floor rear balcony / landing).

7.3.5. Block 'D':

The design changes to this terrace of 5 No. three-storey dwelling houses generally correspond to those as set out above in respect of Block 'C'.

7.3.6. Block 'E':

Although the external appearance and built form of these 2 No. blocks of 4 No. semi-detached dwellings is generally comparable to that previously approved under PA Ref. No. 081704 there have been a number of changes to the internal configuration of the structures. Most notably, the ground floor levels have been extended to provide for additional storage space whilst the integrated garage area now only provides for a single car parking bay due to the inclusion of an internal staircase between the ground and first floor levels. In addition, the single storey annex at first floor level to the rear of the main construction has been omitted and the respective floor levels of the proposed bedroom accommodation and kitchen / living areas have been reversed.

7.3.7. Having considered the foregoing, in my opinion, the alterations to the development proposed for retention and completion, when compared to the scheme previously approved on site pursuant to PA Ref. No. 081704, are relatively minor and whilst I would accept that the proposed streetside fenestration detailing (as amended in response to the request for further information in order to ensure consistency within the scheme) differs markedly from the earlier development through its use of more contemporary features, such as box-bay windows and mono-pitched dormers, I am

inclined to suggest that the visual impact of these changes, when taken in the wider context of the development, will not give rise to any significant loss of amenity to the area (*N.B.* In the event the Board does not agree with the foregoing conclusion, it may wish to consider the imposition of a condition in any grant of permission requiring the reinstatement of the more traditional / conventional dormer window treatment).

- 7.3.8. On balance, having regard to the site context, the planning history of the site, and the relevant provisions of the current Development Plan for the area, I am satisfied that the overall design and layout of the subject proposal adequately complies with the applicable development management standards.

7.4. **Traffic Implications:**

- 7.4.1. The proposed development includes for a new vehicular entrance onto Main Street to serve Blocks 'A' & 'B' and a second entrance onto Local Road No. L1096 which will provide access to Block 'E' and car parking serving the wider scheme. In this respect, particular concerns have been raised in the grounds of appeal as regards the adequacy of the sightlines available from the southernmost entrance onto Local Road No. L1096 given that permission was previously refused for PA Ref. No. 16/105 on the basis that the development then proposed for retention and completion would endanger public safety by reason of serious traffic hazard because it had not been demonstrated that a safe means of access could be provided to same.
- 7.4.2. From a review of the available information, it would appear that following the refusal of PA Ref. No. 16/105 the applicant undertook certain works, including the relocation of the retaining wall on the southern side of the entrance, with the agreement of the adjacent property owner, in order to improve the available sight distance onto Local Road No. L1096 in a southerly direction. In this regard I would refer the Board to Drg. No. 930-244 C01 as submitted with the initial planning application and accompanied by a report prepared by Molony Millar Consulting Engineers which asserts that a sight distance of 50m is available to the south from the revised entrance arrangement and that this is adequate in light of the site circumstances and the relaxation in sightlines permissible by reference to NRA TD 41-42109 (*N.B.* Sightlines of 70m are available in a northerly direction). Notably, both the Area

Engineer and the Transportation, Water & Emergency Services Dept. of the Local Authority would appear to be satisfied that the available sightlines as demonstrated by the applicant are adequate to provide for safe traffic turning movements at the entrance in question.

- 7.4.3. Having conducted a site inspection, it is clear that due to the vertical and horizontal alignment of Local Road No. L1096 at this location and the potential increased speed of traffic travelling downhill (south-north) past the site entrance in a northerly direction, there are legitimate concerns as regards the adequacy of the sightlines for traffic exiting the site onto the public road, however, given the site location along a section of roadway which is subject to a speed limit of 50kph, the need for traffic to slow on the approach to the junction of Local Road No. L1096 with the Regional Road, and the proposal to install a raised 'table-top' ramp at the junction of the site entrance with the public road as a traffic calming measure (as has already been undertaken by the Local Authority elsewhere along this roadway), I am amenable to the proposed access arrangements. Accordingly, I am satisfied that the proposed development, subject to conditions, will not give rise to a traffic hazard.
- 7.4.4. By way of further comment, I note that there would appear to be some outstanding works as regards the road improvements previously undertaken at the junction of Local Road No. L1096 with the Regional Road pursuant to PA Ref. No. 08/1704. Accordingly, I would suggest that a suitable condition should be attached to any grant of permission requiring the resolution of same prior to the occupation of any of the proposed units.
- 7.4.5. In terms of car parking, the proposed development provides for a combination of surface level and undercroft parking spaces with the allocation of same detailed on Drg. No. 3.2.200 (received by the Planning Authority on 19th October, 2018). These arrangements are satisfactory and comply with the requirements of the Development Plan.

7.5. **Impact on Residential Amenity:**

- 7.5.1. Concerns have been raised as regards the potential for the proposed development to have a detrimental impact on the residential amenity of the existing dwelling house located on those lands to the east of Block 'D' on the opposite side of the roadway by reason of overlooking and an excessively overbearing / visually dominant

appearance. In this respect it is of particular relevance to note the change in levels between the application site and neighbouring lands given that the dwelling house in question is located below Local Road No. L1096. Furthermore, due to the location of the dwelling house between two roadways and its positioning on site, its private garden space / amenity area is primarily located to the (northern) side of the property.

- 7.5.2. Whilst acknowledging the appellant's (Mr. Brian Walsh) concerns with regard to possible overlooking of his property with an associated loss of privacy, it should be noted in the first instance that his garden area is already visible in large part from the public roads to both the east and west. I also note that although this space was screened previously by mature vegetation the appellant undertook to remove same. Notwithstanding the foregoing, in my opinion, it is apparent from a comparison of Block 'D' as previously approved with that presently proposed for retention and completion that the subject proposal will not give rise to any significant additional overlooking. In this regard I note that the first-floor kitchen / dining area within Block 'D' will only be served by a single box window as opposed to 2 No. windows as previously approved whilst the second-floor front bedrooms will continue to be served by a single window (although this will admittedly be of a larger size) (*N.B.* Contrary to the grounds of appeal there was no requirement in the grant of permission issued in respect of PA Ref. No. 08/1704 for the top floor windows within Block 'D' to be finished in obscure glazing).
- 7.5.3. In relation to concerns that the provision of the raised 'table-top' ramp at the junction of the southernmost site entrance with Local Road No. L1096 could increase the risk of larger vehicles toppling into the appellant's property, I note that a crash barrier has already been erected alongside the roadway to the rear of his dwelling house. In addition, it would appear to be the intention of the applicant to erect a series of bollards at this location in order to avoid any encroachment of the roadside verge by larger vehicles at this location. Accordingly, in view of the foregoing, and noting that the ramp itself is intended to function as a traffic calming measure, I am satisfied that sufficient cognisance has been taken of the appellants concerns and the need to preserve traffic safety at the location in question.
- 7.5.4. By way of further clarity, I would draw the Board's attention to the proposal to install a drainage channel alongside the 'table-top' ramp in order to avoid surface water

runoff into the appellant's property. In my opinion, final details in this regard can be addressed by way of condition in the event of a grant of permission.

7.6. **Infrastructural / Servicing Arrangements:**

7.6.1. **Foul and Surface Water Drainage:**

With regard to foul water drainage, it is proposed to connect to the public mains sewerage network, subject to the agreement of Irish Water, and in this respect I note that direct parallels can be drawn between the subject proposal and the development previously permitted (and partially completed) on site pursuant to PA Ref. No. 081704. Whilst some concerns have been raised as regards the proximity of the foul and surface water sewers to each other (and other services), in my opinion, these matters can be satisfactorily addressed by way of condition in the event of a grant of permission.

In terms of surface water drainage, although it was initially proposed to dispose of stormwater runoff to the existing combined sewer, in response to a request for further information the applicant has submitted amended proposals which provide for the construction of a new dedicated surface water sewer along the public road in order to discharge surface waters from the development directly to the River Vartry. In my opinion, these revised proposals are consistent with the drainage arrangements previously permitted under PA Ref. No. 08/1704 and are acceptable in principle.

7.6.2. **Water Supply:**

Whilst a connection to the public mains water supply is available, it has been indicated by Irish Water that it will not be possible to service the proposed development from a single source due to the site topography and that it will be necessary to review the water servicing arrangements from a pressure management perspective so that the higher level houses are fed from the west with the lower units supplied from the east. In my opinion, these matters can be addressed by way of condition.

7.7. **Appropriate Assessment:**

7.7.1. From a review of the available mapping, including the data maps from the website of the National Parks and Wildlife Service, it is apparent that whilst the proposed

development site is not located within any Natura 2000 designation, there are a number of Natura 2000 sites within the wider area such as the Murrough Wetlands Special Area of Conservation (Site Code: 002249), approximately 2.8km east of the site. In this respect it is of relevance to note that it is the policy of the planning authority, as set out in Chapter 10 of the Wicklow County Development Plan, 2016, to avoid negative impacts upon the natural environment and to promote the appropriate enhancement of the natural environment as an integral part of any development. Furthermore, Objective NH2 of the Plan states that no projects which would give rise to any significant cumulative, direct, indirect or secondary impacts on Natura 2000 sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning, or from any other effects, will be permitted on the basis of the plan (either individually or in combination with other plans or projects). By way of further clarity, Objective NH4 also states that all projects and plans arising from the Development Plan (including any associated improvement works or associated infrastructure) will be screened for the need to undertake Appropriate Assessment pursuant to Article 6 of the Habitats Directive whilst any such plan or project will only be authorised after the competent authority has ascertained, based on scientific evidence, Screening for Appropriate Assessment, and a Stage 2 Appropriate Assessment, where necessary, that:

- 1) The Plan or project will not give rise to significant adverse direct, indirect or secondary effects on the integrity of any European site (either individually or in combination with other plans or projects); or
- 2) The Plan or project will have significant adverse effects on the integrity of any European site (that does not host a priority natural habitat type and / or a priority species) but there are no alternative solutions and the plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature. In this case, it will be a requirement to follow procedures set out in legislation and agree and undertake all compensatory measures necessary to ensure the protection of the overall coherence of Natura 2000; or
- 3) The Plan or project will have a significant adverse effect on the integrity of any European site (that hosts a natural habitat type and/or a priority species) but

there are no alternative solutions and the plan or project must nevertheless be carried out for imperative reasons for overriding public interest, restricted to reasons of human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest. In this case, it will be a requirement to follow procedures set out in legislation and agree and undertake all compensatory measures necessary to ensure the protection of the overall coherence of Natura 2000.

- 7.7.2. In effect, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive. Accordingly, it is necessary to screen the subject proposal for the purposes of ‘appropriate assessment’.
- 7.7.3. Having reviewed the available information, and following consideration of the ‘source-pathway-receptor’ model, I would draw the Board’s attention to the revised proposals submitted in response to the request for further information which seek to discharge surface water runoff from the proposed development to the River Vartry via a new surface water sewer. In this regard it should be noted that the River Vartry drains into the Murrough Wetlands Special Area of Conservation and the Murrough Special Protection Area, approximately 2.8km & 3.0km east of the site respectively, and, therefore, there is a hydrological connection between the proposed development and the aforementioned Natura 2000 sites. However, I would submit that the attenuation, treatment and disposal of surface waters leaving the application site would not result in any known deleterious impact on water quality or the qualifying interests of the foregoing distant coastal Natura 2000 sites. Moreover, it is my opinion that given the nature and scale of the development proposed, the site location outside of any protected site, the limited ecological value of the lands in question, the availability of public services (as detailed elsewhere in this report), adherence to common construction management practices, and the separation distances involved between the subject site and nearby Natura 2000 designations, the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of any Natura 2000 site. Furthermore, I know of no other developments in the vicinity of the subject site that

would give rise to any significant cumulative impacts. Therefore, I am inclined to conclude that the proposed development would not be likely to significantly affect the integrity of Natura 2000 sites and would not undermine or conflict with the Conservation Objectives applicable to same.

- 7.7.4. Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below:

9.0 Reasons and Considerations

- 9.1. Having regard to the location of the site in Ashford town centre, the provisions of the current Ashford Town Plan, 2016-2022 and the Wicklow County Development Plan, 2016-2022, the nature and scale of the development proposed to be retained and carried out, the pattern of development in the area, and the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out, retained and completed in accordance with the plans and particulars lodged with the application as amended by the

further plans and particulars submitted on the 19th day of October, 2018, 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. 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.

Reason: In the interest of public health

3. 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.

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

Reason: In the interest of visual amenity.

5. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

6. Prior to the commencement of development, final design details for the ramp at the junction of the southernmost site entrance with the public road, and for the completion of the upgrading works at the junction of Local Road No. L1096 with the R772 Regional Road, shall be submitted to, and agreed in writing with, the Planning Authority.

Reason: In the interest of amenity and of traffic and pedestrian safety.

7. 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.

8. The areas of open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority. When the estate is taken in charge, the open spaces shall be vested in the local authority, at no cost to the authority, as public open space.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

9. Full details of the proposed playground and play equipment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any work on site. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

10. Prior to commencement of development, the developer shall submit to the planning authority, for written agreement, complete details of all boundary treatment within and bounding the proposed development site.

Reason: In the interests of visual and residential amenity.

11. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance

with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

12. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the amenities of the area/visual amenity

13. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

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

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

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

development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

16. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1300 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.

17. The development, including all roads, footpaths, cycle paths, verges, public lighting, open spaces, surface water drains, attenuation infrastructure and all other services, as permitted under this order, and as amended by the conditions of this permission, shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority. The entire development, including all open spaces, with the exception of the communal areas directly associated with the retail units, shall be maintained by the developer until such time as it is taken in charge by the planning authority and shall not be operated or maintained by a private management company. The communal areas directly associated with the retail units shall be maintained by a private management company, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the making available by the developer of these parts of the development for occupation.

Reason: In order to comply with national policy in relation to the maintenance and management of residential estates, and to ensure that the housing part of the overall development, when completed, and all of the open spaces, can be taken in charge by the planning authority.

18. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section

96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

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

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

20. 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.

Robert Speer
Planning Inspector

30th April, 2019