



An  
Bord  
Pleanála

## Inspector's Report ABP-303797-19.

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<b>Development</b>	97 no. dwellings.
<b>Location</b>	Eniscorthy, County Wexford
<b>Planning Authority</b>	Wexford County Council.
<b>Planning Authority Reg. Ref.</b>	20180818.
<b>Applicants</b>	Torca Developments Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	James D. Joan & David Askins.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	15 <sup>th</sup> July 2019
<b>Inspector</b>	Philip Davis.

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## 1.0 Introduction

This appeal is by a local resident against the decision of the planning authority to grant permission for the demolition of agricultural buildings and the construction of a 97 no. unit residential scheme at the edge of Enniscorthy town in County Wexford. The application includes an NIS. The grounds of appeal relate primarily to road safety and amenity issues.

This appeal is concurrent with a similarly scaled proposed housing scheme (90 no. units) by the same applicant on an adjoining site – **ABP-303839-19**. As these two appeals are functionally connected, my assessment of both are broadly similar and should be read together. I note that there is some ambiguity regarding elements of the proposed development, most notably a road proposal within the site, and this impacts on the calculation of the overall proposed density of development, which the applicant claims to be 31 units per hectare (for both).

## 2.0 Site Location and Description

### 2.1. Enniscorthy

Enniscorthy is a small town with a population (including environs) of just over 11,000 (the inner town has a population of around 4,000) situated on a crossing point of the River Slaney in central Wexford. Most of the urban area has grown around the historic town core around Enniscorthy Castle on the western side of the river, with former warehouses and mills clustering by the riverside. The N11 runs parallel to the river through the town, crossing at the main bridge, with the N30 running west through the town centre to New Ross – a new bypass of the town is opening summer 2019. The historic town is at a local highpoint, just opposite Vinegar Hill on the eastern side. The urban area has grown mostly along the river and along flatter higher ground to the north-west, with the southern boundary of the town constrained by the valley of the east-flowing Urrin River, a tributary of the Slaney. The appeal site is located on the south-western corner of the town, some 1.2 km from the town centre and a 1.9 km walk from Enniscorthy Railway Station, which is on the opposite side of the Slaney. The area along the Urrin is rural with the remains of several old mills with associated mill races.

## 2.2. Appeal site

The appeal site, with a site area given as 6 hectares, is an irregularly shaped area of southward facing land on the southern edge of the town, on the north side of the Urrin River valley. The site is mostly grazing land and includes a small area of low rise stone agricultural buildings within a compound. A number of deep drains run across the lower levels of the site. It is accessed via a twisty rural country road (Carley's Bridge Road) on the north-western side, via a farmgate. The boundary to the west is mostly ditch and high hedge, with some low stone walling. It also bounds the rear of a series of bungalows which front the road, which leads to the Ross Road into the town centre. The northern boundary is at the rear gardens of further dwellings which are accessed via suburban link roads to the north. To the south the field is open to more grazing land at the base of the valley, approximately 70 metres from the river. To the east it bounds further lands (parts of application **ABP-313839-19**), also grazing fields with a number of fine mature trees within older hedgerows, with the St. John's Hospital complex beyond this.

## 3.0 Proposed Development

The proposed development is as described on the site notice, the key points I'd summarise as follows:

- Demolition of 422 square metres of existing agricultural structures.
- Construction of 97 dwelling units comprising 40 semi-detached houses, 17. No. terraced houses, 20 no. apartments and 20 no. duplexes.
- Single storey creche.
- All associated site works including parking, services, foul pumping station, drainage, new access, open space, etc.

In addition to plans and particulars, the application was submitted with a Landscape Masterplan; Landscape Construction & Maintenance Specifications; a Construction & Environmental Management Plan; and a Planning Report. Following a submission of further information, additional reports include a Storm Water Assessment (SUDS); a report on Water Services for the site; a Natura Impact Statement and an Archaeological Impact Assessment Report.

## 4.0 Planning Authority Decision

### 4.1. Decision

The planning authority decided to grant planning permission subject to 20 generally standard conditions.

### 4.2. Planning Authority Reports

#### 4.2.1. Planning Reports

There are two planning reports on file, the second followed an FI request.

##### **First report:**

- Noted a significant number of objections.
- Site is zoned for residential and open space 'Zone 5' in Enniscorthy Town and Environs Plan. Notes a link road requirement.
- Concludes that no EIA is required.
- Notes requirement for archaeological assessment.
- Density of 16 units per hectare proposed – 31 units per hectare for both applications – notes density set out in the current plan of 20-30 per hectares.
- States that due to proximity of the site to the Slaney a Stage 2 AA should be carried out.
- Request for FI, including NIS plus archaeological assessment.

##### **Second report**

- Notes the newly submitted information. States that 'the overall density of the site and adjoining site, when excluding the main additional open space, services areas and link road are removed reaches 31 units per hectare' which is considered to be in line with policy.
- The design and landscaping are considered to be of high quality.
- Notes that there is no public transport in the area.

- Notes that there is no footpath connection to the area – a special development contribution of €180,000 is considered necessary to ensure this connection is made.
- Notes ‘mitigation’ measures’ set out in the NIS to address any potential impact on the conservation objectives of the nearby Natura 2000 habitats.
- It is noted that there has been a moratorium on large developments in Enniscorthy since 2007 due to inadequate capacity at the town wastewater treatment plant, but the upgrades are almost completed.
- It is concluded that the proposed development is in accordance with the development plan (Master Plan Zone 5) and is in accordance with national policy – permission is recommended.

#### 4.2.2. Other Technical Reports

**Environment Section:** Recommended further information on the proposed pump station. Following the submission of further information, a subsequent report noted that there is existing public water mains and a connection to the foul sewer, with surface water to be discharged to the River Urrin. No objections subject to a number of stated conditions.

**Housing:** Confirmed Part V Agreement in Place.

**Disability Access Officer** – a Disabled Access Certificate would be required.

**Chief Fire Officer:** No objections subject to conditions.

#### 4.3. Prescribed Bodies

**An Taisce:** Raised issues regarding the AA Screening and the impact on flood risk.

**Department of Culture, Heritage & the Gaeltacht:** Recommended further archaeological information be sought.

#### 4.4. Third Party Observations

Seven submissions from local residents and one elected representative were received, all objecting for a number of reasons relating to traffic, amenity, and impact on a rural area.

## 5.0 Planning History

The planning report indicates a number of previous applications for the lands, including the refusal of permission for a halting site (97/0019); 142 dwellings refused (20000641); two other housing schemes withdrawn; 162 dwellings refused (20050697); 199 dwellings refused (20071545), and 52 no. dwellings with treatment plant granted (20080881); but a subsequent extension of duration refused on the basis of the Habitats Directive and Water Framework Directive.

The planning authority are proposing 17 no. dwellings on a site approximately 200 metres north, near the roundabout on Ross Road.

This appeal is concurrent with a similarly scaled proposed housing scheme (90 no. units) by the same applicant on an adjoining site – **ABP-303839-19**.

## 6.0 Policy Context

### 6.1. Development Plan

The appeal site is within a residentially zoned area indicated as 'Zone 5 – Cherryorchard, St. Johns' in the Enniscorthy Town Development Plan 2008 (extended and varied).

### 6.2. Natural Heritage Designations

The site is just under 2km to the west (and upstream) of two designated Natura 2000 habitats, both associated with the Slaney River and its estuary – The Slaney River Valley SAC site code 000781; and the Wexford Harbour and Slobbs SPA, site code 004076. Both are designated for a variety of habitats associated with riverine and estuarine water and bird species.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

James D Askins and Joan Askins of 'Hillgrange', Carleysbridge, Enniscorthy

- Notes that they are not objecting to the principle of development but to certain aspects.
- It is argued that the proposed development should only be permitted on a phased basis.
- It is submitted that the local road network is inadequate for the level of traffic and notes the lack of a footpath on the existing Carleys Bridge Road.
- It is argued that the application does not take full account of the historic drainage system of the lands, and their use as a conduit for surface drains for landholdings next to it. It is argued that the appellants have existing drains from their property running through the site to the river.
- Requests that the existing dividing ditch and trees between the properties be protected.
- Concerns expressed at anti-social activities at the boundary and where a gap between the appellants property and the development.
- Plans and other attachments are with the appeal to support and illustrate the submitted arguments, in particular with regard to the location of drains.

## 7.2. Applicant Response

- The appellants support for the principle of development is noted and that the site is zoned for residential development.
- It is noted that condition 7 of the permission sets out phasing requirements.
- It is outlined in some detail how the proposed development seeks to follow the natural pattern of the area and to form a distinct urban edge to this side of the town.
- The applicant additional details of the management of storm water through the site and argues that all submitted information addresses the issue of existing drains through and within the site.
- With regard to the space between the appellants property and the site, it is confirmed that the area will not be made available as public open space but will be sealed off and heavily planted to provide a natural buffer.



### 7.3. Planning Authority Response

- States that the development seeks to achieve a balance between the location at the edge of town and its lower end of the density requirements. The main design objective is to retain mature boundary trees where possible and create an open space parkland along the river's edge.
- It is noted that the redirection of services for a site such as this is normal and will be done by way of wayleaves.
- There is no objection of the Board wishes to add a condition in relation to relocating the services.
- The planning authority brings to the Boards attention the proposed development of 17 no. dwellings at Carley's Bridge (plan attached).

## 8.0 Assessment

8.1. Having inspected the site and reviewed the file documents, I consider that the proposed development can be assessed under the following headings:

- Preliminary comments
- EIA
- AA
- Principle of Development
- Density requirements
- Design and layout
- Residential amenity
- Traffic
- Flooding
- Archaeology
- Other issues

8.2. Preliminary comments

This application was submitted shortly before an application by the same applicant on the adjoining site, and the plans indicate that both are mutually dependent due to

the layout of the road system. So while this report focuses on the current appeal, I will assess the application as an entirety, in particular with regard to EIAR and AA issues. In total, they come to 187 housing units.

This application is complicated by the inclusion of elements of a bypass road indicated on the Enniscorthy & Environs Town Plan running through the site from Carleys Bridge Road to the west to Munster Hill to the east – this connects just south of St. Johns Hospital. The road indicated in the Town Plan also has a spur going north. The total length of this road appears to be around 1.8 to 2 km in length. Although indicated in the mapping with the town Plan, it is not mentioned in the SEA for this plan (it is in the most recent updated Town Plan, not the original version). No details are provided in the Town Plan as to the purpose or extent of this road – it is part of a series of link roads indicated through zoned lands along the south and north of the town. The applicant has included elements of this road with both applications, without describing them on the application description, but excluding them from consideration when calculating density.

### 8.3. EIA

The application is part of a larger landholding and I would consider it to be essentially the same project as the concurrent appeal.

The application was submitted to An Bord Pleanála after the 1<sup>st</sup> September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.

Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

The proposed developments involve 187 no residential units on an overall site of c. 10.2 ha. The site is located in an urban area that is not considered to come within

the above definition of a “business district”. It is therefore considered that the development does not fall within the above classes of development and hence does not require mandatory EIA.

I would note a certain ambiguity about the nature of the link road that is part of this proposed development. This road, which serves all the dwellings and associated structures, is intended as part of what is indicated in the Town Plan as a ‘parkside road’, link running through the zoned lands of the south and south-west of the town. This road is not specifically referred to in the SEA for the Town Plan and few details are given. The status for the road within the Town Plan is given by the applicant as part of the argument for excluding it from the density calculation (see relevant section below). The section within the overall zoned area is, I would estimate, approximately 1.8 to 2 km in length. Item 10(b)dd of Schedule 5 Part 2 of the 2001 Regulations provides that mandatory EIA is required for:

- *All private roads that would exceed 2000 metres in length.*

The link road is very obviously from its layout intended as part of a larger link road as provided for which would most likely exceed 2000 metres in length when fully completed. Therefore, if it is submitted that it is a link road in accordance with the Town Plan, there is certainly an argument that it should have been specifically subject to SEA in the Town Plan, or that EIA is mandatory on the basis that permitting it would represent project splitting. Alternatively, if it is not considered part of a larger road, then it should not be excluded from calculations for density. The applicants and planning authority has left this somewhat ambiguous.

On balance, I would consider it best not to address this element as part of a larger 2000 metre private road, so I do not consider that comes under 10(b)dd and so EIA for this element is not mandatory.

As per section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless.

With regard to the criteria, the greatest sensitivity of the site is its proximity to a tributary river which is approximately 2 km upstream of two designated EU habitats in the Slaney catchment. Notwithstanding this, I do not consider that having regard to the relatively modest scale of works and the robust local environment, there are elements to the works that would be considered likely to cause a significant impact on the environment.

I would therefore conclude that, based on the nature, size and location of the development, there is no real likelihood of significant effects on the environment. The need for EIA is therefore precluded and a screening determination is not required.

#### 8.4. Appropriate Assessment

The appeal site is located within a river valley, a tributary of the Slaney, just under 2 km west (and upstream) of two designated Natura 2000 habitats, both associated with the Slaney River and its estuary – The Slaney River Valley SAC site code 000781; and the Wexford Harbour and Slobs SPA, site code 004076. Both are designated for a variety of habitats associated with riverine and estuarine water and bird species. The screening assessment concluded that an NIS was required and this was submitted with the application and appeal.

Slaney River Valley SAC features of interest:

Estuaries [1130]

Mudflats and sandflats not covered by seawater at low tide [1140]

Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]

Mediterranean salt meadows (*Juncetalia maritimi*) [1410]

Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260]

Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]

Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]

*Margaritifera margaritifera* (Freshwater Pearl Mussel) [1029]

*Petromyzon marinus* (Sea Lamprey) [1095]

Lampetra planeri (Brook Lamprey) [1096]  
Lampetra fluviatilis (River Lamprey) [1099]  
Alosa fallax fallax (Twaite Shad) [1103]  
Salmo salar (Salmon) [1106]  
Lutra lutra (Otter) [1355]  
Phoca vitulina (Harbour Seal) [1365]

The Wexford Harbour and Slobs SPA features of interest:

Little Grebe (*Tachybaptus ruficollis*) [A004]  
Great Crested Grebe (*Podiceps cristatus*) [A005]  
Cormorant (*Phalacrocorax carbo*) [A017]  
Grey Heron (*Ardea cinerea*) [A028]  
Bewick's Swan (*Cygnus columbianus bewickii*) [A037]  
Whooper Swan (*Cygnus cygnus*) [A038]  
Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]  
Shelduck (*Tadorna tadorna*) [A048]  
Wigeon (*Anas penelope*) [A050]  
Teal (*Anas crecca*) [A052]  
Mallard (*Anas platyrhynchos*) [A053]  
Pintail (*Anas acuta*) [A054]  
Scaup (*Aythya marila*) [A062]  
Goldeneye (*Bucephala clangula*) [A067]  
Red-breasted Merganser (*Mergus serrator*) [A069]  
Hen Harrier (*Circus cyaneus*) [A082]  
Coot (*Fulica atra*) [A125]  
Oystercatcher (*Haematopus ostralegus*) [A130]  
Golden Plover (*Pluvialis apricaria*) [A140]  
Grey Plover (*Pluvialis squatarola*) [A141]  
Lapwing (*Vanellus vanellus*) [A142]

Knot (*Calidris canutus*) [A143]  
Sanderling (*Calidris alba*) [A144]  
Dunlin (*Calidris alpina*) [A149]  
Black-tailed Godwit (*Limosa limosa*) [A156]  
Bar-tailed Godwit (*Limosa lapponica*) [A157]  
Curlew (*Numenius arquata*) [A160]  
Redshank (*Tringa totanus*) [A162]  
Black-headed Gull (*Chroicocephalus ridibundus*) [A179]  
Lesser Black-backed Gull (*Larus fuscus*) [A183]  
Little Tern (*Sterna albifrons*) [A195]  
Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395]  
Wetland and Waterbirds [A999]

The conservation objective of the SPA and SAC is to protect and enhance the qualifying interest habitats.

The proposed development is on zoned land within the catchment of these designated habitats. The land itself is somewhat degraded grassland with a number of fine mature trees and hedgerow features. Although there are individual oak trees on the site it would not be considered 'old sessile oak woods of the British Isles'. There are no qualifying habitats on the site although it is reasonable to assume that some of the individual species identified such as otter may occasionally use the watercourse. I note that this watercourse had been intensively engineered in the 19<sup>th</sup> Century for mills and other uses, although now seems largely natural. There are a number of land drains running through the site which discharge to the river – part of the proposals is to incorporate them into the SUDS design for the overall development.

The proposed development includes an environmental and construction management plan, and the final development is to be carried out in accordance with SUDS criteria, so while the river is an obvious pathway for potential pollution to the designated habitats, I am satisfied that the proposed development as it is submitted would not cause pollution or other impacts that could impact on the conservation

objectives of these or other habitats. I would note that the planning authority added a condition for mitigation. I do not consider this to be necessary as the submitted documentation included management plans and proposals that are integral to the proposed development and do not require additional conditions or other requirements in order to reach a definitive conclusion in this appeal.

I therefore consider it reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to carry out a Stage II Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity European Site No. 000781, or any other European site, in view of the site's Conservation Objectives.

#### 8.5. Principle of development

The following list of section 28 Ministerial Guidelines of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual), with specific reference to density requirements.
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities
- Urban Development and Building Heights, Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets
- The Planning System and Flood Risk Management (including the associated Technical Appendices)
- Childcare Facilities – Guidelines for Planning Authorities

The appeal site is on residentially zoned land within the **Enniscorthy Town and Environs Development Plan 2008-2014 (as extended)**, which was adopted in 2008, and was subsequently amended and extended and is still the operable development plan. It is part of an extended area of such zoned land surrounding most of the town. I note that restrictions on the main town wastewater treatment system seems to have prevented significant amounts of residential development for the past decade or more. The town is identified as an 'urban strengthening

opportunity' in the **NSS**. It is identified as a 'larger town' in the **Regional Planning Guidelines for the South-East Region 2010-2022** (along with New Ross and Gorey). Within the Development Plan, those three towns are identified as the three major urban areas behind the 'hub' of Wexford Town, with District Towns in the hierarchy below this. I note that the planning report states that there is a backlog of residential developments for the town due to a lack of sewerage capacity, this is now being remedied with a new expanded system under construction.

With regard to density, the Sustainable Housing Guidelines states:

A gross density measure is best applied to estimating overall land areas required for mixed use developments or for Local Area Plans. A net site density measure is a more refined estimate than a gross site density measure and includes only those areas which will be developed for housing and directly associated uses. These will include:

- access roads within the site;
- private garden space;
- car parking areas;
- incidental open space and landscaping; and
- children's play areas where these are to be provided.

It therefore excludes:

- major and local distributor roads;
- primary schools, churches, local shopping etc.;
- open spaces serving a wider area; and
- significant landscape buffer strips.

A net density is the most commonly used approach in allocating housing land within Local Area Plans and is appropriate for development on infill sites where the boundaries of the site are clearly defined and where only residential uses are proposed. It is also appropriate where phased development is taking place in a major development area (perhaps spanning different plan periods) and individual housing areas have been identified.

All densities quoted in these guidelines are net densities.



The proposed development has a density given as 31 dwellings per hectare. With regard to density, the departmental guidelines state with regard to outer suburban sites in large towns:

Studies have indicated that whilst the land take of the ancillary facilities remains relatively constant, the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares.

The calculation of density is complicated by the complex nature of the site, which includes a link road bypass (although it is never called as such in the application) and is part of a wider landholding. It also includes an area of floodplain which is zoned for open space. There is therefore some ambiguity in how to precisely calculate the density.

The applicants have calculated the density based on the proposed 187 units in this application and the neighbouring site (also within its ownership, excluding the main open space, inaccessible open spaces designated for foul lines, and the main spine road. They calculate the housing area for both sites as 5.99 hectares (total site area is around 10.2 hectares). This gives a net density of 31 houses per hectare excluding the open space and link road.

While I consider it reasonable to exclude the large area of open space by the river as this is not zoned for development and intended as part of a green protective walkway which would be an amenity for more than just the future residents of this estate in addition to smaller areas of landscape bunding, it is somewhat more questionable that the main spine road is excluded as this is of ambiguous status – it follows the line of the 'Parkside Road' in the most recent updated Town Plan. Although it is indicated as part of the internal road access system, and as such should be counted as part of the site when assessing density, it also seems to be part of a by-pass for the southern side of Enniscorthy, and as such could be

considered a 'major or distributor road' as described in the Departments Guidelines, and as such should be included in the calculations. If it was included in the site calculations, the overall density would be well below the absolute minimum set out in the Guidelines – there is insufficient detail in the submitted application to calculate this exactly, but I would roughly calculate it as possibly less than 25 units per hectare.

It is therefore somewhat questionable as to whether the site achieves the absolute minimum density set out in the Guidelines – it is certainly less than the guideline level of 35 plus units per hectare. In this regard, I note that the site is not served by public transport, although it is within walking distance of the town centre (c. 1.2 km) and the main Iarnrod Eireann railway station (c. 1.9km).

I would therefore conclude that the question of whether the proposed development is consistent with national guidelines to be somewhat questionable. Given the very attractive nature of the site and its potential as a firm boundary to the southern growth of the town, I would consider that a high quality of design and layout is very important, and a relevant consideration when addressing whether it is consistent with national guidelines, including DMURs. Given its location so close to the town and railway station, I would consider the density to be too low, but this could be deemed acceptable if there were other merits to the design. On balance, having regard to the provisions of the Plan, which to a large degree pre-date the Guidelines and DMURS, I would give the benefit of the doubt to the applicants in this appeal and would not recommend a refusal for density reasons.

#### 8.6. Design and layout

I will assess both adjoining applications as a single integrated design.

The site is on a gentle but distinct south facing slope down to the river. There are a number of fine mature trees in and around the site. The overall setting is very attractive with significant potential for a high quality scheme. The basis of the layout is a riverside area of open space with a distributor road between the dwellings and the greenspace. The houses are laid out on a series of loops and minor cul-de-sac roads, with a variety of house types spread throughout. The applicants make reference to DMURS in their submission, although I would question whether the overall masterplan is really consistent with the overall objectives of DMURS, in particular Chapter 3. Section 3.4.4 of DMURs addresses 'relief roads', indicating

that a more boulevard type design would be more appropriate– i.e. one or more roads running through the developed area rather than dividing it from the open space.

I find little evidence that much more than lip-service has been given to the requirements of DMURS, the layout is very much a conventional suburban layout, with additional high density elements to reach the required levels. But I accept that the particular requirements of the LAP for a link road has severely limited the scope for the applicant to design a layout more in accordance with the objective of a denser network of links and a more urban identity. It is unfortunate, as this is a key site within the town and a higher quality design could take fuller advantage of the very attractive setting. In particular, a high requirement for parking (in line with the Town Plan) has limited the scope for a higher quality layout.

In other respects, the overall design generally follows Departmental Guidelines, albeit at a significantly more suburban layout and density than would be required to be in full compliance. In other circumstances I would consider the density and layout to be unacceptable, but to a large respect this appears to arise from the inadequacy of the Town Plan and its failure to incorporate the recommendations fully. As the proposed development is in line with general Plan requirements I would not recommend a refusal for reason of density or design.

#### 8.7. Residential amenity

The proposed development is set out in a conventional layout, and separation distances appear adequate to ensure all the units achieve minimum levels of amenity. The general orientation follows the slope down, which ensures most units have a frontal aspect to the south.

The north-west and north part of the site adjoins a number of dwellings – the former are detached dwellings facing the main road – the latter are a mix of dwellings on the estate to the north. The appellant has argued that the design of a bund separating the site from their property would result in anti-social behaviour – the applicants response is, I consider, satisfactory, in that it will be sealed off and planted in order to create an attractive visual barrier.

In other respects I consider that the separation distances and overall orientation of the proposed dwellings would not significantly impact upon the residential amenities of the adjoining properties.

## 8.8. Traffic

As I have outlined above, the two linked developments are linked to the main road via a new 'parkway' that seems intended to connect eventually to Munster Hill Road to the east. The proposal features a link from Carleys Bridge Road. The road layout is a conventional link and loop/cul de sac layout, which as I have stated above is arguably inconsistent with DMURS (Chapter 3) guidelines focusing on integrated and permeable street networks. In other respects, the internal design has taken some design cues from Chapter 4 on street design.

Carleys Bridge Road next to the site forms a curving narrow country lane which drops steeply in levels down to the river level at the hump backed bridge. There is very poor visibility at present and no footpath for most of its length – despite this, the traffic levels are far in excess of what would be usual for a country road. The very narrow Carleys Bridge is limited in capacity and extent and so prevents the road becoming a major route for heavier vehicles. I would consider the road to be very hazardous at present for any pedestrians or cyclists. The proposed development would result in a significant re-engineering of this section of road in addition to the provision of a footpath north to connect with the end of the existing (somewhat substandard) path. While this will be very visually damaging to quite an attractive lane, I do not see any alternative way of making this section safe for pedestrians. There would be alternative routes for pedestrians through the estate to the north which would most likely be shorter and safer for most future residents.

I note that the planning authority is satisfied with the safety design for upgrades to Carleys Bridge Road and while there is a limit to how safe this road can be made due to the significant levels drop and turns to meet the bridge, I would consider that it is acceptable having regard to the requirements of the Town Plan and the lack of a vehicular access to the estate road network to the north.

I note however that the steep rise and narrow alignment of the proposed road after alterations is not particularly friendly for cyclists, particularly as it can be anticipated that children would be cycling to school from the estate. The most appropriate route would be through the access to the estate to the north, which is why I would consider it very important to ensure full permeability through this estate for future residents – this is part of the proposal in ABP-303838-19.

In overall terms I would consider the proposed design to be generally acceptable and would not constitute a hazard subject to the construction of a footpath connection to the north, which requires a S.49 financial contribution over and above the required S.48 contribution.

#### 8.9. Flooding

The lower level of the lands are subject to flooding according to available records, but this element is zoned for open space. The 'parkway' road essentially follows the line of the highest predicted floods. The proposed development is designed according to SUDs principles which I would consider essential under the circumstances. There are a series of land drains running through the site – some serving the lands, others connected to other landholdings to the north. As the appellant notes, older OS maps indicate quite a complex network of drains through the site, reflecting the historic nature of the lands. I note that the river itself was in the past used as a mill race and so is engineered to some extent. Older OS plans also indicate a likely spring on the upper levels of the site – this seems to have been subsumed into the existing land drainage system.

I concur with the submission of the applicant that the issue of internal drainage is addressed by way of the submitted details on drainage and the SUDS proposals. I do not consider that it would have a significant impact on drainage from the adjoining landholdings, and otherwise the implementation of the proposals would not increase run-off to the river, and so would not have downstream flooding implications.

#### 8.10. Archaeology and heritage

The proposed development includes the demolition of a number of single-storey farm structures on the site. These are still in use. These structures are indicated in the oldest OS plans so are at least early 19<sup>th</sup> Century in date. They are not on the NIAH nor are they protected structures and from visual inspection I do not see any evidence that they have historic or architectural value – they mostly consist of quite crude rubble stone walls. I do not therefore consider that their removal is problematic.

The site is agricultural, but is within an area that has been intensively used for some time, with mill operations on the river. The eastern part of the site is indicated as

'brickfields' and may have been used for low level clay quarrying sometime in the 18<sup>th</sup> or 19<sup>th</sup> Centuries. There are no recorded monuments on or adjoining the site and no visual indications of any possible remains, although given the location it would seem possible that past remains have been removed in agricultural or other activities.

The Heritage Officer recommended additional information before permission is granted, and a detailed Archaeological Impact Assessment was submitted and is on file. This includes the results of a geophysical survey, which showed a complex pattern of drains and other unknown features. A number of trenches were carried out and found what may be the presence of some fulacht fiadh cooking sites, in addition to some indicators of past brick manufacture on the site. It was concluded that no features were considered particularly significant.

The planning authority set a requirement for archaeological recording during construction – I would consider this reasonable and I would recommend that this condition be repeated.

#### 8.11. Other issues

The appellant raised concerns about the phasing of the works – I would concur that given the complexities of two separate permission that a phasing condition similar to that set by the planning authority be repeated.

The site is subject to a standard S.48 Development Contribution and a requirement for a special contribution of €180,000 towards a public footpath on Carleys Bridge Road. In addition a bond was required, and a Part V agreement. I would recommend that all these financial requirements be repeated in any grant of permission.

A number of submissions on the file relate to internal access and potential anti-social behaviour. I am satisfied that the design as submitted addresses reasonably these issues, having regard to the requirement under DMURS to maximise permeability through new estates.

The proposed development includes significant landscaping and tree protection proposals. There are a number of fine mature trees, including oaks, on the site and I would consider that while the proposals are generally acceptable, specific

conditions are set to ensure adequate protection during works and to ensure that full landscaping is carried out at early phases of development.

## 9.0 Recommendation

I recommend that the proposed development be granted planning permission for the following reasons and considerations, and subject to the conditions set out in the schedule below.

## 10.0 Reasons and Considerations

Having regard to:

- (a) the provisions of the Enniscorthy Local Area Plan 2008 (extended and varied),
- (b) the Sustainable Urban Housing: Design Standards for New Apartments- Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March 2018,
- (c) the existing pattern of development at this location,
- (d) the design, scale and layout of the proposed development, and
- (e) the submissions and observations on file,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with development plan policy, would not detract from the visual amenities of the area, would be acceptable in the context of the amenities of adjoining properties and would be satisfactory in the context of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the, 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 development, in conjunction with the adjoining development (ABP-303839-19) shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

3. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be 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.

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

4. Details of materials, colours and textures of all 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. Appropriate childcare facilities, in accordance with “Childcare Facilities: Guidelines for Planning Authorities” issued by the Department of the Environment and Local Government in June 2001, shall be provided and shall be the subject of a separate application for planning permission to the planning authority.

**Reason:** To comply with the provisions of these Guidelines.



6. The streets and footpaths within the development shall comply with the requirements and specifications of the Design Manual for Urban Roads and Streets (DMURS) issued in 2013.

**Reason:** In order to comply with the guidance given in the Design Manual for Urban Road and Streets.

7. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces 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. 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:** To ensure adequate servicing of the development and to prevent pollution.

9. 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.

All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

10. Proposals for an estate name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the

planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility.

11. The landscaping scheme shown on the submitted plans shall be carried out within 12 months of the date of commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity

12. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 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 amenities of property in the vicinity.

13. 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 traffic management, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of public safety and the amenities of the area.

14. Construction and demolition waste shall be managed in accordance with a

construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

15. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:
  - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

16. 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.

17. 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 the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to 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.

18. The developer shall pay the sum of €180,000 (one hundred and eighty thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning

and Development Act 2000, in respect of a footpath connection on Carleys Bridge Road. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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 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 of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

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Philip Davis  
Planning Inspector

8<sup>th</sup> August 2019