



An
Bord
Pleanála

Inspector's Report ABP-303955-19

Development

A residential development. The development will consist of 23 No. fully serviced detached dwelling houses comprised of: 18 No. detached 2-storey 4-bedroom dwellings, 3 No. detached 1-storey 4-bedroom dwellings and 2 No. detached 1-storey 5-bedroom dwellings. Vehicular access, site development works and associated landscaping / communal public open spaces with connection to existing local public mains services and all associated site works. Previous related permission approved under planning registration no. W2013111.

Location

Mulgannon, (E.D. Wexford Rural),
Wexford, Co. Wexford.

Planning Authority

Wexford County Council

Planning Authority Reg. Ref.

20181793

Applicant(s)

Adamar Developments Ltd.

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party v. Decision

Appellant(s)

Adamar Developments Ltd.

Observer(s)

Adrian Doyle

Leonard & Catherine Doyle

Date of Site Inspection

17th June, 2019

Inspector

Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in the townland of Mulgannon, Co. Wexford, approximately 2.5km south of Wexford Bridge and c. 2km east of the N25 National Road, where it occupies a position to the south of Wexford town in an area characterised by the gradual transition between the built-up edge of the town proper and the more rural hinterland. The immediate site surrounds include Wexford Golf Club to the north whilst the approach along Mulgannon Road is dominated by conventional ribbon development comprising detached dwellings of varying designs on substantial individual plots. On travelling southwards along Mulgannon Road from its junction with 'The Fairways', the overall width and condition of the roadway gradually deteriorates with footpaths and street lighting becoming less evident. The road network in the immediate vicinity of the application site is noticeably substandard given its limited carriageway width, horizontal alignment, and a complete absence of any footpaths or street lighting, whilst the roadway itself ultimately terminates in a cul-de-sac with a barrier located at its south-western end.
- 1.2. The site itself has a stated site area of 4.75 hectares, is irregularly shaped, and comprises two parcels of land located on either side of the roadway. The more southerly extent of the site forms part of a larger agricultural field set as pasture / grassland which is accessible via an existing field gate situated in the northernmost corner of same. The northern part of the site is overgrown and more linear in shape with Wexford Golf Club to the immediate north / northwest.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of 23 No. dwelling houses as follows:
- 18 No. detached, two-storey, 4-bedroom dwellings
 - 3 No. detached, single-storey, 4-bedroom dwellings
 - 2 No. detached, single-storey, 5-bedroom dwellings
- 2.2. The overall design and layout of the scheme is typical of a suburban format of development with each unit having been provided with front and rear garden areas and dedicated off-street car parking. A notable aspect of the scheme is that it

includes for a new 'developer-led' roadway which will serve to bypass a section of Mulgannon Road with the individual dwelling houses accessed either directly from the aforementioned new service road or Mulgannon Road, or via a series of cul-de-sacs. The individual house designs (House Types 'A', 'B', 'B1', 'C' & 'D') are of a contemporary nature with an asymmetrical composition, varying combinations of conventional 'A'-frame and mono-pitched roof construction, and external finishes including selected colour render / cladding, uPVC windows, and a roof finish to comprise either a standing seam roof system or plain roof slates / tiles.

- 2.3. Access to the site will be obtained via a series of new entrance points onto Mulgannon Road (in addition to the new 'developer-led' roadway). Water and sewerage services are available via connection to the public mains.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 20th February, 2019 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following reason:

- The access road serving the site is substandard in terms of its width and alignment with restricted sightlines. Given the extent of works required to deliver the infrastructure upgrade, it is not possible to quantify the cost associated with the road widening, installation of footpath and drainage. Until such time as the road network is upgraded or proposals included within the application further development in this area is premature. It is therefore considered that the proposed development is premature pending these upgrade works and the development as proposed, would endanger public safety by reason of traffic hazard and obstruction of road users, which would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. *Planning Reports:*

Details the site context, planning history, and the applicable policy considerations before stating that the proposal accords with the applicable land use zoning and is

acceptable in principle. Whilst it is acknowledged that the density of the proposed development will be low given the zoned and serviced nature of the lands, the subject proposal is considered appropriate on the basis that it will more than double the number of units previously permitted on site and is reflective of the type of development in the immediate site surrounds. The remainder of the assessment considers issues such as the overall design and layout of the development, however, it ultimately adopts a recommendation by the Area Engineer that permission be refused on the grounds that it is not possible to quantify the costs associated with the delivery of the necessary road improvement works and thus the proposal should be deemed premature until such time as the road network is upgraded or proposals for same included with the application (a copy of this report is missing from the documentation forwarded to the Board).

3.2.2. **Other Technical Reports:**

Chief Fire Officer: Advises of the fire safety requirements.

Housing: States that an agreement in principle has been reached for the applicant to transfer 2 No. housing units off site at Ard Uisce, Wexford, to the Local Authority or an approved housing body in order to satisfy the requirements of Part V of the Planning and Development Act, 2000, as amended.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

3.4.1. A total of 3 No. submissions were received from interested third parties and the principle grounds of objection contained therein can be summarised as follows:

- The substandard nature of the surrounding road network, including the restricted carriageway width, the inadequate provision of pedestrian footpaths, and a lack of street lighting.
- The proposal to utilise a 'shared-surface' would be inadequate to safely accommodate the levels of traffic emanating from existing, permitted and proposed developments along this section of roadway.
- The proposed dwelling houses should be of a single storey construction in keeping with the surrounding area and in the interests of visual amenity.

- Concerns with regard to the wastewater infrastructure serving the proposed development.
- The preservation of existing mature trees on site.
- The need to ensure the complete eradication of Japanese Knotweed on site prior to the commencement of any development.
- The potential infringement of third-party property rights on site.
- The excessive density of development proposed.
- Concerns as regards the potential for the exacerbation of flooding within neighbouring property.
- Detrimental impact on the residential amenity of neighbouring property by reason of overlooking.

4.0 Planning History

4.1. On Site:

PA Ref. No. W2012007 / ABP Ref. No. PL85.241247. Was refused on appeal on 12th April, 2013 refusing Adamar Properties Limited (a) permission for the installation of road, footpaths and services and associated site works, and (b) outline permission for the erection of 10 No. fully serviced dwelling houses (as revised by further public notice received by the planning authority on the 11th day of September, 2012 to include use of the existing public roadway to provide access to the development lands and the omission of the proposed new access road).

- The access road serving the site is substandard in terms of its width and alignment with restricted sightlines. It is therefore considered that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users, which would be contrary to the proper planning and sustainable development of the area.

PA Ref. No. W2013111 / ABP Ref. No. PL26.243875. Was granted on appeal on 27th January, 2015 permitting Adamar Properties Limited (a) Permission for the proposed installation of new road, footpaths and services and associated site works, together with the proposed alterations to existing road to improve traffic safety and

(b) outline permission for the proposed erection of 10 No. fully serviced dwelling houses together with all associated site works and ancillary services on site. The proposed development was revised by further public notices received by the planning authority on the 23rd day of July, 2014.

4.2. On Adjacent Sites:

PA Ref. No. 20150655. Was granted on 21st August, 2015 permitting William Kelly permission for the erection of 2 No. fully serviced dwelling houses together with all ancillary services and associated site works at Mulgannon, Wexford Rural, Wexford, Co. Wexford.

PA Ref. No. 20161324. Was granted on 26th January, 2017 permitting Kate & Colin Lynch permission for the erection of a fully serviced dwelling house together with all associated site works and ancillary services at Mulgannon, Wexford Rural, Wexford, Co. Wexford.

PA Ref. No. 20180530. Was refused on 13th June, 2018 refusing Tom O'Leary outline permission for the erection of 8 No. domestic dwelling houses, internal estate road, internal sewage pumping / dosing station and storage tank, extension of public access road, connection to public mains along the public road and associated site works, all at Mulgannon, Wexford Rural, Wexford, Co. Wexford.

- The access road serving the site is substandard in terms of its width and alignment. It is therefore considered that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users, which would be contrary to the proper planning and sustainable development of the area.
- The proposed development is premature pending the full development of adequate road, footpath and public lighting facilities to provide linkage from the proposed development to the existing road infrastructure. It is not clear how the wastewater connection will be made. Irish Water refer to a private sewer to connect to the public system, no route is identified. Even though this is outline, wastewater connection should be determined at this stage (if the developer is to provide the sewer, this should be included in the site edged in red).

- Insufficient information has been submitted to allow an assessment of the wastewater infrastructure to serve the development. The proposed development would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

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, 2009*' generally encourage more sustainable urban development through the avoidance of excessive suburbanisation and the promotion of higher densities in appropriate locations. In general, appropriate locations for such increased densities include city and town centres, 'brownfield' sites (within city or town centres), sites within public transport corridors (with particular reference to those identified in the Transport 21 programme), inner suburban / infill sites, institutional lands and outer suburban / 'greenfield' sites. The proposed development site is located on lands that can be categorised as 'greenfield' and the Guidelines define such areas as open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers, and ancillary social and commercial facilities such as schools, shops, employment and community facilities. 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.

5.1.2. The '*Urban Development and Building Heights, Guidelines for Planning Authorities, 2018*' are intended to set out national planning policy guidance on building heights in relation to urban areas, as defined by the census, building from the strategic policy framework set out in Project Ireland 2040 and the National Planning Framework. They aim to put into practice key National Policy Objectives contained in the NPF in order to move away from unsustainable "business as usual" development patterns

and towards a more compact and sustainable model of urban development. Greatly increased levels of residential development in urban centres and significant increases in the building heights and overall density of development are not only to be facilitated, but are to be actively sought out and brought forward by the planning processes and particularly so at local authority and An Bord Pleanála levels. In this regard, the Guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels. Moreover, Specific Planning Policy Requirement 4 states the following:

'It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:

- 1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled "Sustainable Residential Development in Urban Areas (2007)" or any amending or replacement Guidelines;*
- 2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and*
- 3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more'.*

5.2. Development Plan

5.2.1. Wexford Town & Environs Development Plan, 2009-2015:

Pursuant to the provisions of Part 8 of the Electoral, Local Government and Planning and Development Act, 2013, the lifetime of the Wexford Town and Environs Development Plan, 2009-2015 has been extended and, therefore, the Plan will continue to have effect until 2019, or such time as a new County Development Plan is made. It should be read together with the Wexford County Development Plan, 2013-2019).

Land Use Zoning:

The proposed development site is located in an area zoned as '*Residential Medium*'. (For the purposes of clarity, I would advise the Board that there would appear to be a degree of confusion as regards the relevant land use zoning applicable to the subject site. In this respect it should be noted that although the land use zoning maps identify the site as having been zoned for '*Residential Medium*', Chapter 11: '*Development Management Standards*' of the written statement makes no reference to any such zoning and instead refers to a wider land use zoning seemingly encompassing a number of 'residential' zonings i.e. '*Residential & Infill (R)*' with the stated objective '*To protect and enhance the residential amenity of existing and developed communities*'. However, from a review of the wider information available, I am satisfied that the subject site is clearly intended to accommodate new residential development).

Other Relevant Sections / Policies:

Chapter 3: Development Strategy:

Section 3.2: *Development Strategy*

Section 3.3: *Masterplan Development Strategy*

Section 3.4: *Masterplan Zones*

The proposed development site is located within '*Zone 15: Mulgannon*'. This masterplan further identifies the indicative routes of a number of 'developer-led roads' which are intended to open up the wider area for development. Notably, one of these 'developer-led' roadways extends through the proposed development site.

Chapter 5: Housing Strategy

Section 5.2: *Housing Policy*

Section 5.6: *Implementation of the Housing Strategy*

Chapter 9: Infrastructure

Section 9.5: *Roads:*

R1: To implement in conjunction with development the road objectives set out in this Plan.

R3: To improve the existing roads where necessary by the setting back of building or frontage lines and by setting back of proposed new structures at road junctions to improve sight lines in the interests of traffic improvement and safety.

R4: To reserve lands for road improvement proposals by means of acquisition and development management.

Chapter 10: Design Guidance

Chapter 11: Development Management Standards:

Section 11.08: Residential Development

Section 11.08.01: Residential Density:

'Medium Density Residential': A maximum of 17-25 No. dwelling units per hectare.

5.3. Natural Heritage Designations

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

- The Slaney River Valley Special Area of Conservation (Site Code: 000781), approximately 600m east of the site.
- The Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076), approximately 1.1km east of the site.

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

- The proposed development accords with the applicable land use zoning ('R: Residential & Infill') as set out in the masterplan for Zone 15: 'Mulgannon' of the Wexford Town & Environs Development Plan, 2009 and is consistent with the Core Strategy of the County Development Plan.
- It is an objective of the Development Plan to require a 'developer-led road' at this location in order to provide for new linkages and to reduce dependency on the Mulgannon Road. The access and internal road arrangements for the subject proposal accord with the indicative location for this new roadway. The proposed development includes for a new internal roadway from the Mulgannon Road to the north which will extend through the site before reconnecting with Mulgannon Road further south thereby reducing reliance on the narrow stretch of public road.
- By providing for a sustainable density of development and a 'developer-led' roadway through the site, the subject proposal will be able to integrate with future road improvements and other developable areas.
- The additional road improvement measures proposed for the Mulgannon Road as part of the subject application (including the introduction of speed management measures and shared surfacing) accord with Policy GT2 of the Development Plan which aims to '*ensure a safe and comprehensive roads system capable of satisfying the requirements of both vehicular traffic, cycle and pedestrian traffic within the town*'. In this respect, it is submitted that the Planning Authority has not assessed the mitigation and enhancement measures proposed to upgrade Mulgannon Road.
- In its decision to grant permission & outline permission for PA Ref. No. W2013111 / ABP Ref. No. PL26.243875, the Board attached two conditions which required the developer to pay financial contributions towards the provision of infrastructure, footpaths and lighting outside of the site on the Mulgannon Road. In this respect Condition No. 7 imposed a requirement to pay a special development contribution under Section 48(2)(c) of the Planning

and Development Act, 2000, as amended, in respect of *'the provision of footpaths and lighting to link with existing facilities on Mulgannon Road'*. In seeking to discharge this condition, consultations were held with the Local Authority and the developer was advised to submit proposals demonstrating how the public road could be upgraded in accordance with the Board's requirements and to provide a costing for same. A compliance submission was then lodged (setting out a series of road upgrading works similar to those proposed in the subject application), however, the Local Authority subsequently deemed these proposals to be unsatisfactory and required the following road widening measures:

- The acquisition of lands from adjacent properties along both sides of the roadway to provide for a minimum road width of 5.5m with footpaths at least 1.5m wide along both sides in addition to associated works & services.
- The construction of new boundaries or payment in lieu of works.
- The alteration of services.
- The progression of CPOs etc. if the necessary lands could not be acquired by agreement.

With regard to the issue of Compulsory Purchase Orders, the Council considered that the use of such procedures to widen Mulgannon Road was not the optimal approach given the various buildings, walls, electricity poles and other structures which would require purchase for demolition.

The applicant's sole responsibility with regard to the discharging of Condition No. 7 relates to the payment of a financial contribution which will allow the Council to complete the necessary works. In this respect the Local Authority has been unwilling to comply with the Board's requirements as set out in Condition No. 7 of ABP Ref. No. PL26.243875.

- The grant of permission issued in respect of ABP Ref. No. PL26.243875 (which includes for the upgrading of the roadway and associated works) remains valid until January, 2020 and sets a significant precedent for the subject proposal.

- The overall principle and density of the proposed development has been accepted by the Planning Authority, however, it was refused permission solely on the grounds of access along the existing Mulgannon Road based on the recommendations of the Area Engineer who stated the following:

‘Given the extent of works required to deliver the infrastructure upgrade, it is not possible to quantify the cost associated with the road widening, installation of footpath, drainage etc. until such time as the road network is upgraded or proposals included within the application, further development in this area is premature’.

No indication has been given that the road improvement measures proposed (as set out in the Traffic & Transport Assessment and the Planning Statement) were assessed by either the Area Engineer or the case planner.

- The proposed development seeks to provide 2 No. access points onto Mulgannon Road. A new main site access (north-eastern entrance) will be constructed off Mulgannon Road through the estate before re-joining the public road to the southwest. A new junction on Mulgannon Road (southern entrance) will also be created within the development to serve House Nos. 9-19. The internal service road includes for a 2m wide footpath to cater for pedestrian movement and accords with the Design Manual for Urban Roads and Streets.
- The sightlines available from each of the proposed access points exceed the minimum requirements in all but one instance. In that case (viewing right on exiting the main site entrance), the available sight distance is only 4m below the minimum 70m requirement whilst the mean traffic speed (i.e. 40.4kph) along Mulgannon Road is less than the 50kph speed limit (the Traffic & Transport Assessment provides further detail of the actual traffic speeds along Mulgannon Road which is based on an 85th percentile survey). Furthermore, if the proposed road improvement measures are implemented, vehicle speeds along the roadway will be reduced further thereby improving safety for all road users.
- In response to the Planning Authority’s concerns, an indicative costing for the upgrading of Mulgannon Road is attached as Appendix ‘C’ of the grounds of

appeal. Further details of the proposed mitigation and upgrading measures are set out in the Technical Note enclosed as Appendix 'B'.

- The proposals to upgrade Mulgannon Road can be implemented by the developer through the imposition of a Section 49 condition or by means of a special development contribution (as was previously determined by the Board). Therefore, the subject proposal cannot be considered to be premature pending the upgrading of Mulgannon Road.
- The introduction of a shared surface along a 400m section of Mulgannon Road will improve traffic safety and reliance on the private car. Further improvements to pedestrian safety can be facilitated as follows:
 - The installation of a raised table adjacent to the farmhouse to form a gateway to the shared use area with a further raised table to be located approximately halfway along the 400m section of roadway thereby aiding in the reduction of traffic speeds.
 - The provision of cycle symbols in accordance with the Traffic Sign Manual in both directions at intervals of 100m.
 - The installation of public lighting along one side of the roadway at 30m intervals.
- The proposed road improvement measures will address the concerns of the Planning Authority as regards the use of Compulsory Purchase Orders and are also in keeping with the intent of Condition No. 7 of ABP Ref. No. PL26.243875.
- The applicant is not in a position to provide a new footpath between the site entrance and the nearest public footpath to the north (c. 400m distant) as the intervening lands adjoining the public road are in private ownership. Any requirement for the applicant to provide footpaths on third party lands would be *ultra vires* and the Planning Authority can only impose a condition / contribution if it has the legal power to do so (please refer to *O'Malley Construction Company Ltd. v. Galway County Council [2011] IEHC 440*). Moreover, the Local Authority is empowered to acquire third party lands by way of CPO and to provide footpaths pursuant to Part VIII of the Planning and

Development Act, 2000, as amended. In any event, the road improvement / mitigation measures proposed as part of this appeal negate the need for a footpath by providing for a shared road surface.

- By virtue of the provision of the main site entrance and the new internal service road bypassing the poorly aligned section of Mulgannon Road, the existing roadway can accommodate two cars for its entire length. When taken in combination with the available sightlines, this will ensure that the proposed development will not have a detrimental impact on the safety of road users.
- The existing road network has sufficient capacity to accommodate the proposed development and the increased traffic volumes consequent on same will not be of significance (having regard to traffic growth forecasts).

6.2. Planning Authority Response

No further comments.

6.3. Observations

6.3.1. Adrian Doyle:

- The Board is requested to take cognisance of the contents of the observer's initial submission to the Planning Authority as regards the proposed development.
- The accompanying photographs show the proposed 'shared' area and the existing roadway at its narrowest point. In this regard it should be noted that the Area Engineer recommended that permission be refused as *'the development would be considered to create a traffic hazard due to the intensification of traffic generated on a substandard section of road linking the development'*.
- The Board is requested to take cognisance of the recent decision to refuse permission for 8 No. houses on neighbouring lands under PA Ref. No. 20180530. In the event the Board were to grant permission for the subject proposal, it seems likely that permission for the aforementioned 8 No. houses

would also be forthcoming thereby giving rise to even more additional traffic along the proposed 'shared' road.

- Having reviewed the planning history of the site, it is unclear as to why the Board chose to grant permission in 2015 for ABP Ref. No. PL26.243875 given that it previously refused permission for a similar development in 2013 under ABP Ref. No. PL85.241247, particularly as no works were carried out to the substandard section of roadway common to both applications.

- The report of the Area Engineer states the following:

'Given the extent of works required to deliver the infrastructure upgrade, it is not possible to quantify the costs associated with the road widening, installation of footpath, drainage etc. until such time as the road network is upgraded or proposals included within the application, further development in this area is premature'.

However, no reference has been made to need to acquire third party lands in order to upgrade the roadway, specifically parts of the front garden areas of neighbouring properties.

- The presumption by the applicant that a special development contribution will somehow eliminate the serious traffic safety concerns attributable to the proposed development is overly simplistic in light of the resources available to the Local Authority to carry out such schemes.
- The Direction of the Board in its decision to grant permission for ABP Ref. No. PL26.243875 (contrary to the recommendation of the reporting inspector) states that the deficiencies in the road infrastructure could be addressed by way of condition. It is considered that this clearly demonstrates that the persons responsible for that direction had never visited the application site and were not aware of the issues involved in rectifying the road deficit.
- The Board has previously granted a number of permissions in Mulgannon without due regard to the traffic problems generated at the junction of The Fairways with Distillery Road. This has become a very busy and dangerous junction which effectively serves as the only exit from Mulgannon to the western part of Wexford town and, therefore, no further development should

be permitted until such time as the Council has introduced a traffic management plan for the area which prioritises traffic safety at the junction. In this regard it should also be noted that a large housing development in Mulgannon previously permitted by the Board is now nearing completion which will generate a very significant increase in the volumes of traffic using the aforementioned junction.

- The applicant and the Local Authority have been unable to satisfy the requirements of Condition No. 7 of ABP Ref. No. PL26.243875 and, therefore, the matter of the substandard road remains (as was the reason for the refusal of ABP Ref. No. PL85.241247).

6.3.2. *Leonard & Catherine Doyle:*

- The suitability of land for development does not automatically bestow a right to a grant of planning permission unless, amongst other matters, all services can be provided i.e. water supply, mains sewerage, electricity and, in this case, footpaths & lighting.
- Public safety is a key consideration in the assessment of the subject proposal given the inadequate provision of footpaths and public lighting along Mulgannon Road. This is supported by the report of the Area Engineer prepared in respect of a previous application on site made under PA Ref. No. W2013111 (ABP Ref. No. PL26.243875).
- In their assessment of ABP Ref. No. PL26.243875, the reporting inspector raised public safety concerns. It is considered that this report was not given sufficient consideration by the Board in its decision to grant permission for that development.
- The accompanying newspaper extracts serve to highlight public safety concerns. Furthermore, it is now a matter of public record that there is an unresolved problem as to who will accept responsibility if there is a serious injury or fatality as a result of perhaps wilful neglect in the provision of adequate footpaths and lighting.
- There are a number of serious 'bottlenecks' along the Mulgannon Road with no immediate remedy in sight. When taken in conjunction with existing and

permitted development in the area, the additional traffic consequent on the subject proposal will serve to exacerbate traffic problems / congestion in the area.

6.4. 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 pertinent to this appeal are:

- The principle of the proposed development
- The density of the proposed development
- Traffic considerations
- Appropriate assessment

These are assessed as follows:

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

7.2.1. From a review of Map No. 15 (*Zone 15: Mulgannon*) of the Wexford Town & Environs Development Plan, 2009-2015, it is apparent that the proposed development site is zoned as '*Residential Medium*', however, I would advise the Board that there is a discrepancy between this mapping and the written statement in that Chapter 11: '*Development Management Standards*' of the Development Plan makes no reference to the aforementioned zoning and instead refers to a wider land use zoning which seemingly encompasses a number of 'residential' zonings i.e. '*Residential & Infill (R)*' with the stated objective '*To protect and enhance the residential amenity of existing and developed communities*'. Whilst this discrepancy is regrettable and perhaps gives rise to a degree of confusion, having considered the wider information available, I am satisfied that the subject site is clearly intended to accommodate new residential development, although it should be noted that the written statement takes precedence.

- 7.2.2. In addition to the foregoing, it is of relevance to note that outline planning permission was previously granted for 10 No. dwelling houses on this site under PA Ref. No. W2013111 / ABP Ref. No. PL26.243875 and that this decision was made in the context of the same Development Plan, although there have been some notable changes in national planning policy in the intervening period.
- 7.2.3. Therefore, having considered the available information, including the site context, planning history, and land use zoning, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues, including any traffic implications.

7.3. ***The Density of the Proposed Development:***

- 7.3.1. By way of context, I would advise the Board that Wexford Town is the largest town in the county and forms the centrepiece of the County's Settlement Strategy (as detailed in the Core Strategy of the County Development Plan) given its designation as a 'hub' in the previous National Spatial Strategy and in the current South-East Regional Planning Guidelines, 2010-2022. It has also been identified as a 'Key town' in the Draft Regional Spatial & Economic Strategy for the Southern Region wherein it forms part of the strategically important Wexford-Rosslare Europort Change Location.
- 7.3.2. The proposed development site is located in a developing residential area on the periphery of Wexford town (which is characterised by increasing pressure for development arising from its role as a strategic urban centre that supports the Gateway of Waterford City and the wider rural area) on lands which are zoned for residential purposes and where public services and other local amenities are readily available. In this respect it is of relevance to note that the application site is zoned specifically for 'medium density' residential development which is defined in Section 11.08.01: '*Residential Density*' of the Development Plan as equating to an indicative maximum of 17-25 No. dwelling units per hectare (although densities in excess of this 'upper' limit may be considered on their merits). However, I would also draw the Board's attention to Objective HP08 of the County Development Plan and Section 11.08.01 of the Town & Environs Development Plan wherein it is stated that the Council will have regard to the '*Sustainable Residential Development in Urban*

Areas, Guidelines for Planning Authorities’ and the accompanying Design Manual when considering the appropriate density for residential schemes.

- 7.3.3. The ‘*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*’ generally encourage more sustainable urban development through the avoidance of excessive suburbanisation and the promotion of higher densities in appropriate locations. In this regard, it is clear that the subject lands can be categorised as outer suburban / ‘greenfield’ as defined by the Guidelines where the greatest efficiency in land usage is to be achieved by providing net residential densities in the general range of 35-50 No. dwellings per hectare and that such densities (involving a variety of housing types where possible) are to be encouraged generally. Moreover, within such areas development at net densities of less than 30 No. dwellings per hectare is generally to be discouraged in the interest of land efficiency.
- 7.3.4. At this point, I would also refer the Board to Specific Planning Policy Requirement 4 of the ‘*Urban Development and Building Heights, Guidelines for Planning Authorities, 2018*’ which expressly states that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure *‘the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines’*.
- 7.3.5. The subject proposal comprises the development of 23 No. dwelling houses on a site of 4.75 hectares which equates to a net density of less than 5 No. units per hectare. In this respect whilst I would accept that the proposed development site is located in a transitional area between the built-up edge of the town proper and the more rural hinterland which is characterised by a particularly low-density pattern of housing, in my opinion, the density of development proposed is unacceptably low and cannot be considered to represent an efficient or economic use of land or services. Notably, not only is the density of the proposed development significantly below that recommended by the guidelines, it also falls far short of the indicative ‘maximum’ density of 17-25 No. dwelling units per hectare set out in Section 11.08.01 of the Development Plan (which in itself is out-dated and fails to accord with current ministerial guidance). Furthermore, although the immediate site surrounds are

somewhat rural in character at present, it is clear from Map No. 15 (Zone 15: Mulgannon) of the Development Plan that not only has the wider area been zoned for residential development, but that the 'developer-led' roadways, which are to be provided in tandem with the development of surrounding lands, will serve to link those housing schemes currently under construction to the northeast and southwest (Ard Uisce) of the application site by way of Mulgannon Road thereby fundamentally altering the character of the area and its development potential.

7.3.6. Notwithstanding that outline permission was granted in 2015 for only 10 No. dwelling houses on site, I would suggest that there have fundamental changes in national planning policy since that grant of permission by reference to the publication of the *National Planning Framework: 'Project Ireland 2040'* and the *'Urban Development and Building Heights, Guidelines for Planning Authorities, 2018'*. The NPF is a long-term framework that sets out how Ireland can move away from the current 'business as usual' pattern of development and places a considerable emphasis on the need for more compact and sustainable urban growth. Furthermore, the inclusion of Specific Planning Policy Requirement 4 in the aforementioned Ministerial Guidelines issued under Section 28 the Planning and Development Act, 2000, as amended, is of particular note by reference to subsection 28(1C) of the Act which states that *'Without prejudice to the generality of subsection (1), guidelines under that subsection may contain specific planning policy requirements with which planning authorities, regional assemblies and the Board shall, in the performance of their functions, comply'*.

7.3.7. Therefore, on the basis of the foregoing, it is my opinion that the density of the development proposed is unacceptably low and represents an efficient use of zoned and serviced lands. The proposal would, therefore, be contrary to national policy as well as the proper planning and sustainable development of the area.

(The Board is advised that this would constitute a new issue in the determination of this appeal).

7.3.8. By way of further comment, I would reiterate the concerns of the previous reporting inspector in their assessment of ABP Ref. No. PL26.243875 that the subject site is detached from the existing urban pattern of development with the public roads lacking in adequate footpaths, cycleways and public lighting. Moreover, I would also

accept that the extremely low-density approach to the development of these lands makes it difficult to provide or improve existing infrastructure.

7.4. Traffic Considerations:

- 7.4.1. The proposed development is reliant on access via Mulgannon Road and the sole reason for refusal issued by the Planning Authority relates to the substandard width and alignment of that roadway. In this respect I would advise the Board that the proposed access arrangements, including the location of the site entrance and the provision of a new 'developer-led' road through the scheme, are directly comparable to those previously approved on appeal under ABP Ref. No. PL26.243875. Moreover, in its decision to grant permission for ABP Ref. No. PL26.243875, the Board was satisfied that any deficiencies in the road infrastructure could be addressed by means of condition and thus imposed a requirement to pay an unspecified special development contribution under Section 48(2)(c) of the Planning and Development Act, 2000, as amended, in respect of the provision of new footpaths and lighting to link the development then proposed with existing facilities on Mulgannon Road.
- 7.4.2. In light of the foregoing, and following a review of the submitted information, in my opinion, there are two key issues which require consideration in assessing the traffic implications of the proposed development. Firstly, it is necessary to consider whether or not the imposition of a special development contribution similar to that sought in respect of ABP Ref. No. PL26.243875 would be appropriate in this instance and, secondly, in the event that a contribution under Section 48(2)(c) of the Act is not appropriate, would the various mitigation and road improvement / enhancement measures proposed as part of the subject application satisfactorily address the deficiencies in the existing road infrastructure and ensure traffic safety (including that of pedestrians).
- 7.4.3. With regard to the option of seeking a special contribution towards specified road improvements between the application site and existing facilities on Mulgannon Road, it would seem that the applicant / developer has previously encountered difficulties in reaching agreement with the Local Authority as regards compliance with Condition No. 7 of ABP Ref. No. PL26.243875. In this respect it would appear that an earlier compliance submission, which set out a series of road improvement /

enhancement works similar to those proposed in the subject application (please refer to the Technical Note included as Appendix 'B' of the grounds of appeal), was rejected by the Local Authority on the basis that the measures proposed were inadequate to comply with the intent of the Board's condition. Notably, the Local Authority District Engineer was of the opinion that in order to comply with the Board's condition it would be necessary to implement more significant road widening and footpath improvement measures along the upper section of Mulgannon Road to include the following:

- The acquisition of lands from adjacent properties along both sides of the roadway to provide for a minimum road width of 5.5m with footpaths at least 1.5m wide along both sides in addition to associated works & services;
- The construction of new boundaries or payment in lieu of works;
- The alteration of services; and
- The progression of CPOs etc. if the necessary lands could not be acquired by agreement.

7.4.4. The applicant has further indicated that the Local Authority has taken the view that the use of its powers of compulsory purchase to widen Mulgannon Road would not be the 'optimal' approach in this instance by reference to the various buildings, walls, electricity poles and other structures which would require acquisition in order to provide for their removal / relocation. It would also seem that given the extent of works required to deliver the required road upgrading works, the Local Authority was not in a position to quantify the costs associated with same.

7.4.5. In response, the applicant has emphasised that its sole responsibility with regard to the discharging of Condition No. 7 of ABP Ref. No. PL26.243875 relates to the payment of a financial contribution which will allow the Council to complete the necessary works. Furthermore, it has been stressed that the applicant is not in a position to provide a new footpath between the site entrance and the nearest public footpath to the north (c. 400m distant) as the intervening lands adjoining the public road are in private ownership.

7.4.6. In effect, the case has been put forward that the impasse to the implementation of the ABP Ref. No. PL26.243875 deriving from the applicant's inability to comply with the requirements of Condition No. 7 attached to that grant of permission is directly

attributable to the unwillingness of the Local Authority to undertake the necessary road improvement works. Accordingly, the applicant has concerns that a similar scenario will arise in the event of the subject proposal being granted permission on condition that a special development contribution be paid towards road improvement works to be undertaken by the Local Authority along Mulgannon Road.

- 7.4.7. Having considered the available information, it is clear that the Board has already determined that the section of roadway in question can be satisfactorily upgraded in order to facilitate the development of the subject lands through the provision of new footpaths and lighting to link the site with the existing facilities on Mulgannon Road. The cost of these works was to be part funded by way of a special development contribution payable to the Planning Authority pursuant to Section 48(2)(c) of the Act (i.e. specific exceptional costs not covered by the general contribution scheme which would be incurred by the local authority in respect of public infrastructure and facilities that benefit the proposed development) and in this respect I would suggest that the provisions of Section 48(2)(c) are purposively intended to provide for a mechanism whereby, in certain circumstances, a specific (and yet surmountable) obstacle to a particular development may be addressed by works undertaken by the Local Authority, the costs of which are to be borne by the developer.
- 7.4.8. Furthermore, it is my opinion that the residential zoning of the subject lands (and beyond) in the first instance would seem to suggest that the Planning Authority is satisfied that the lands in question are suitable for development purposes and thus there would seem to be some degree of onus on the Council to accommodate the satisfactory servicing of same, particularly as the development of same is not expressly linked to any phased delivery of those 'developer-led' roadways which could potentially provide an alternative means of access to the site thereby bypassing the substandard section of Mulgannon Road.
- 7.4.9. In my opinion, the resolution of any disagreement between the Planning Authority and the applicant as regards the precise costings and mechanics by which the road improvement measures along the upper section of Mulgannon Road are to be achieved through the payment of a special development contribution is not an issue pertinent to the subject appeal. Instead, it is clear that the Board has previously determined that the infrastructural barrier to the development of the site in question can be overcome by way of a condition imposed under Section 48(2)(c) of the Act

and thus I would suggest that there is an onus on the Planning Authority to work towards achieving compliance with same. Accordingly, in the event of a grant of permission I would recommend the imposition of a special development contribution as per Condition No. 7 of the Board's earlier determination of ABP Ref. No. PL26.243875.

7.4.10. With regard to the applicant's proposals to carry out certain mitigation and road improvement / enhancement measures as part of the subject development in order to address the deficiencies in the existing road infrastructure thereby obviating any requirement for a special contribution towards more expansive road widening works etc., I would refer the Board to the Traffic & Transport Assessment provided with the initial application, as supplemented by the Technical Note included at Appendix 'B' of the grounds of appeal, which details the works in question. In summary, it is proposed to develop a 'shared-surface' regime along an approximately 400m stretch of Mulgannon Road to the north of the main site entrance which will entail the following:

- The introduction of speed management measures comprising raised tables along the roadway (situated adjacent to an existing farmhouse and approximately halfway along the section of roadway in question) in order to aid speed reduction.
- The provision of bicycle signage / road markings along the carriageway in both directions at intervals of 100m.
- The installation of street lighting at a spacing of c. 30m along one side of the roadway.

7.4.11. It has also been suggested that upon the completion of the aforementioned measures that the Local Authority could consider the establishment of a 30kph 'Slow Zone' as per the 'Guidelines for Setting and Managing Speed Limits' for self-contained areas that consist of local roads.

7.4.12. Whilst I would acknowledge the merits of the applicant's proposed road improvement measures, I am not convinced that they represent an appropriate response to the deficiencies in the existing roadway. In this respect, consideration must be given to the wider site context and the likelihood that Mulgannon Road will function as a key linkage between existing development, the subject proposal, and those lands yet to

be developed. This is of particular relevance in the absence of any alternative access routes pending the ultimate completion of the 'developer-led' roads identified in the Mulgannon masterplan (Zone 15). Furthermore, it is my opinion that the carriageway along the upper section of Mulgannon Road serving the application site necessitates upgrading in order to accommodate the additional traffic volumes consequent on the scale of development proposed whilst the provision of dedicated footpaths and street lighting would also be necessary in the interest of public safety. Therefore, I would concur with the assessment by the Planning Authority that the road enhancement measures proposed by the applicant in this instance would not be sufficient to address the deficiencies in the existing substandard road network serving the site and that the proposal would be contrary to traffic safety considerations.

7.5. *Appropriate Assessment:*

- 7.5.1. Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

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 refused for the proposed development for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. The site of the proposed development is located on zoned and serviceable lands, within the development boundary of Wexford Town, in close proximity to social and community services. It is a requirement, under Section 11.08.01 of the Wexford Town & Environs Development Plan, 2009-2015, that the Council has regard to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, issued by the Department of the Environment, Heritage and Local Government in May, 2009, and the

accompanying Design Manual when considering the appropriate density for residential schemes. In addition, it is an objective of the planning authority (Objective HP08), as set out in the Wexford County Development Plan, 2013-2019, to ensure the density of residential developments is appropriate to the location of the proposed development to ensure that land is efficiently used. Having regard to the proposed density of the development, at 5 dwelling houses per hectare, it is considered that the proposed development would not be developed at a sufficiently high density to provide for an acceptable efficiency in serviceable land usage given the proximity of the site to the built-up area of Wexford Town and to established social and community services in the immediate vicinity. It is considered that such a low density would be contrary to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas as they relate to cities and towns, which indicate that net densities less than 30 dwellings per hectare should generally be discouraged in the interest of land efficiency. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

3rd July, 2019