



An  
Bord  
Pleanála

## Inspector's Report ABP-308060-20

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<b>Development</b>	Permission for the proposed construction of 56 no. dwellings.
<b>Location</b>	Upton, Ford, Co. Wexford
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20200617
<b>Applicant(s)</b>	Green DCBM.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party V. Refusal
<b>Appellant(s)</b>	Green DCBM.
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Kilmuckridge Development Group</li><li>2. Kilmuckridge Tidy Towns Association</li><li>3. Kilmuckridge Memorial Hall Community Enterprise</li><li>4. Pearse and Mary Colbert Terry and Maura Madigan</li><li>5. David White</li></ol>

**Date of Site Inspection**

22<sup>nd</sup> January 2021.

**Inspector**

Susan McHugh

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## 1.0 Site Location and Description

- 1.1. The appeal site is located within the village of Kilmuckridge, approx. 18km south of Gorey, and 20km east of Enniscorthy.
- 1.2. Kilmuckridge is located on the Regional Road R742 the main north Wexford coast Courtown Gorey road. The R742 is intersected by Morriscastle Road connecting to Morriscastle village and beach to the east, which serves as a tourist destination during the summer months. To the west the Kilmuckridge road, a county road links to the R741 towards Enniscorthy.
- 1.3. The rural village comprises a range of community services including schools, post office, local shops, church and football club, along with a number of small residential estates.
- 1.4. The appeal site is bounded to the north by a residential estate known as Chestnut Walk, to the east by open agricultural land, to the south by the Morriscastle Road and to the west by the R742. The appeal site is located within the 50km per hour speed zone. There is a footpath along the southern side of the Morriscastle Road and along the Western side of the R742.
- 1.5. The site as outlined in red has a stated area of 1.46ha. It forms part of a larger landholding in the ownership of the applicant which is outlined in blue. This area which is located along the western side of the appeal site has a stated area of 0.45ha.
- 1.6. The overall site is rectangular in shape slopes from north 55mOD to south 44mOD and is at a higher level to the adjoining roads to the south and west. The site is bounded by mature trees. The site is defined along the western and southern boundary by a retaining wall, also known as the famine wall. The area to the west of the retaining wall is in use as an area for on street parking and municipal recycling bin area.
- 1.7. The site has a stated area of 1.46ha.

## 2.0 Proposed Development

- 2.1. Permission is sought for the following;

- Construction of **56** no. residential units comprising;
  - 41 no. 2 storey dwellings and
  - 2 no. 3 storey apartment blocks with 15 no. apartments

The 3 and 4 bedroom houses (House type 1 and 2) are located in a row along the north and eastern site boundaries, with the 2 and 3 bedroom houses (House type 3 and 4) located in two cells in the centre and south western part of the site.

The ground floor apartment units and duplex units over, are three storeys in height and located in two Blocks.

Block A is located in the northern corner of the site and comprises;

- 3 no. ground floor units no. 37-39, and
- 6 no. duplex units at upper ground floor and first floor unit no.s 40-46.

Block B comprises is located along the north eastern side of the site and comprises;

- 2 no. ground floor units no. 46 and 47, and
- 4 no. duplex units at upper ground floor and first floor unit no.s 48-51.

2.2. The following tables set out some of the key elements of the proposed scheme:

Table 1: Unit Mix

Unit Type	No. of units proposed	As % of units
2 bed	12+5+10	48%
3 bed	8 + 16	43%
4 bed	5	9%
<b>Total</b>	<b>56</b>	<b>100%</b>

Table 2: Unit Sizes

	No. of units proposed	Floor Area sq.ft
House Type 1	8	1,100
House Type 2	5	1,250

House Type 3	12	950
House Type 4	16	1,100
Duplex Type 5	10	950
Apart Type 6	5	850
<b>Total</b>	<b>56</b>	

- 2.2.1. The proposed density of **38** units/hectare (56 units on 1.46ha).
- 2.2.2. It is proposed to provide vehicular access to the site is via the existing access road to the residential development to the north known as Chestnut Walk.
- 2.2.3. Three no. pedestrian links are proposed. Two provide a connection to the adjoining residential estate to the north and one to the Morriscastle Road to the south.
- 2.2.4. Public open space is provided in the form of a linear park located along the southern boundary of the site, with a stated area of 0.18ha. An area to the west outlined in blue is identified as a 'future community development site' and has an area of 0.45ha.
- 2.2.5. Proposed boundaries comprise new boundary treatments to the eastern site boundary, with the existing roadside stone wall boundary to be retained along the southern boundary.
- 2.2.6. A total of 91 no. parking spaces are proposed within the development.
- 2.2.7. In terms of site services, a new water connection to the public mains is proposed together with a new connection to the public sewer. A surface water attenuation tank each is located within the lower southern end of the site beneath the internal road hammerhead and has a capacity of 295.4m<sup>3</sup>.
- 2.3. The application was accompanied by the following;
- Cover Letter                      O'Driscoll Lynn Architects
  - Design Statement                O'Driscoll Lynn Architects
  - Storm Water Report            John Creed and Associates, Civil Structural Engineers
  - Irish Water                        Pre-Connection Enquiry

- Outdoor Lighting Report      Astrotek Ltd.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority **refused** permission 4<sup>th</sup> August 2020 for 4 no. reasons, as follows;

1. *'The layout of the proposed development is considered to present overlooking concerns namely to the north-western units no's 42 and 43 with only 7 m between opposing bedroom windows.'*
2. *'Inadequate information has been provided with regard to demonstrating the agreement from Irish Water to allow the connection of the proposed 56 units into the public sewer and water network.'*
3. *'The proposed development by reason of design and layout is considered deficient as it fails to provide the necessary bicycle parking, and communal bin storage for the apartment and duplex units.'*
4. *'The orientation of the House Type 4 units presents overlooking between opposing first floor windows and the adjoining private garden spaces associated with these units so as to render their gardens deficient of privacy.'*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Report (dated 31<sup>st</sup> July 2020)

Basis for planning authority decision. Executive Planners Report includes;

- *Site location* - Within village core of Kilmuckridge.
- *Density* - Approx. 38.4 units per hectare.
- *Overlooking* – Serious overlooking concerns to the north western units of no's. 42 and 43. Orientation of House Type 4 units present serious overlooking between opposing first floor windows and adjoining private garden spaces associated with units 1,2,5-8,11 and 12.

- *Open space* - Inadequate provision of useable public open space. Minimum of 61sqm private open space provided.
- *Parking/Bin Storage* – Car parking meets CDP standards, no bicycle parking or electric charging points provided. No shared bin storage.
- *Site section drawings* – Inaccurate, labelled incorrectly and misleading.

Senior Executive Planner includes;

- Principle of development on village centre site acceptable.
- Issues of overlooking and lack of provision of services must be addressed.
- Applicant should have a definite use at adjacent site to the west marked as future community development site.

### 3.2.2. Other Technical Reports

- **Road Design Engineer:** No objection subject to detailed requirements.
- **Environment Section:** Recommends further information.
- **CFO:** No objection subject to detailed requirements.

### 3.3. Prescribed Bodies

- None.

### 3.4. Third Party Observations

A number of submissions were lodged with the planning authority from the following parties;

- Kilmuckridge Development Group C/o Johnny Dempsey, Chairman. This included submissions from
  - Kilmuckridge Community and Family Resource Centre C/o Tony Brady
  - St. Joseph's Primary School, Kilmuckridge C/o Con Hourihane – Principal
  - St. Joseph's Soccer Club, Kilmuckridge C/o Kieran Dunne
- O'Neill Town Planning, on behalf of

- Pearse and Mary Colbert, Walshfield, Kilmuckridge
- Terry and Maura Madigan, The Barrack, Kilmuckridge
- Downey Planning, on behalf of David White, 19 Chestnut Walk, Kilmuckridge.

Objections to the proposed development received by the PA have been forwarded to the Board and are on file for its information. The issues raised are comparable to those raised in the third party observations to the First Party appeal summarised in section 6.4 below.

## 4.0 Planning History

**PA Reg.Ref.2009/1250:** Permission **granted** May 2010 to erect 48 no. dwellings with connection to existing public services and provision of entrance previously granted under PA Reg.Ref.2004/0665 for S and B Partnership.

**PA Reg.Ref.2006/4869:** Permission **refused** May 2007 to alter the proposed access road and parking layout previously granted under PA Reg.Ref.2004/0665 and erect 9 no. dwellings with connection to existing public services for S and B Partnership.

### *Concurrent Applications*

**PA Reg.Ref.2004/0665:** Permission **granted** March 2005 to erect a two storey building with basement consisting of 5 no. three bedroom apartments and 22 no. two bedroom apartments and 5 no. one bedroom apartments and associated car parking, open space and connection to existing public services for Eamon and Carol Sinnott.

**PA Reg.Ref.2004/0664:** Permission **granted** March 2005 to erect a two storey building with dormer floor consisting of the following (1) 23 no. bedroom hotel with lounge/bar, restaurant, leisure centre, function room and ancillary areas. (2) 7 no. ground floor retail units.(3) 3 no. apartments with associated car parking, open space to the front and rear of the building, services yards to the rear and connection to existing public services Eamon and Carol Sinnott.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The operative Development Plan is the Wexford County Development Plan 2013 - 2019.

5.1.2. **Chapter 2** refers to Demographic and Socio-Economic Profile

**Map No. 3** identifies Percentage Population Change by Electoral Division 2006-2011.

5.1.3. **Chapter 3** Core Strategy

**Map No.5** identifies the settlement strategy with Kilmuckridge identified as one of 9 no. Strong Villages within the settlement hierarchy

#### **Section 3.4.8** – Strong Villages

*‘..villages are included at this level for reasons including their location on, or good access to transport routes, including public transport, existing service provision and/or their role in achieving balanced settlement patterns across the county.’.....*

*‘..villages have identifiable settlement structures and established populations and have potential to support additional growth. The wastewater treatment facilities in some of these villages require investment and it is considered that their inclusion at this level in the hierarchy will provide a plan-led approach to securing this investment.*

*It is proposed to consolidate these villages by concentrating new growth in the village centres. The Council will apply the sequential approach to the development of land, focusing on the development of lands closest to the village centre first. ‘Leap-frogging’ of undeveloped lands will not be considered, unless it can be justified that there are sound planning reasons for doing so.’....*

*‘The Council proposes to prepare alternative non-statutory local development frameworks, such as Village Design Statements,’ which ‘will be prepared in conjunction with the local communities and other key stakeholders.’*

**Objective SS20:** *‘To ensure the Strong Villages maintain and enhance their roles as important service centres.’*

**Objective SS21:** *‘To prepare Village Design Statements for Kiltealy, Rosslare Strand, Bridgetown, Coolgreany, Kilmuckridge and Campile.’*

**Objective SS22:** *‘To encourage new residential development in the Strong Villages is in accordance with the Core Strategy and Settlement Strategy and subject to compliance with normal planning and environmental criteria including the availability of adequate waste water treatment capacity and drinking water capacity and the development management standards contained in Chapter 18.’*

**Objective SS23:** *‘To ensure that new residential development complies with the sequential approach to the development of land which is focused on developing lands closest to the village centre first.’*

**Objective SS24:** *‘To promote and facilitate the provision of serviced residential sites within Strong Villages subject to complying with normal planning and environmental criteria and the development management standards contained in Chapter 18.’*

#### 5.1.4. **Chapter 4** Housing

**Map No.6** identifies the Rural Area Types, and the site is located in area of ‘Strong Urban Influence’. (See map attached).

##### **Section 4.3.3.2:** Rural Areas under Strong Urban Influence

**Objective RH02:** *‘To facilitate individual houses, other than those referred to in ‘Areas under Strong Urban Influence’ in Table No. 12, in the existing settlements including those settlements defined in the settlement hierarchy as Strong Villages, Smaller Villages and Rural Settlements, subject to complying with normal planning and environmental criteria and the development management standards laid down in Chapter 18.’*

##### **Section 4.2:** Sustainable Housing:

**Objective HP02:** *‘To ensure that all new housing developments represent ‘Sustainable Neighbourhoods’ which are inclusive and responsive to the physical or cultural needs of those who use them, are well located relative to the social, community, commercial and administrative services which sustain them and are integrated with the community within which it will be located.’*

**Objective HP04:** *‘To ensure that new housing development minimises the use of natural resources and impacts on natural assets. Locations selected for residential*

*developments should maximise the potential for the use of sustainable modes of transport such as walking, cycling and the use of public transport to reduce dependence on fossil fuels. The design of the individual dwellings and associated services should minimise the use of natural energy and water.'*

**Objective HP07:** *'To require all developments over 10 houses to be accompanied by an Urban Design Statement showing how the matters detailed in Chapter 17 have been taken into account in the design of the development.'*

**Objective HP08:** *'To ensure the density of residential developments is appropriate to the location of the proposed development to ensure that land is efficiently used. In deciding on the appropriate density for a particular location the Council will have regard to the existing grain and density of the settlement, the proximity of the site to the town or village centre or public transport nodes, the availability of existing services, the Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual-A Best Practice Guide (DEHLG, 2009) and subject to normal planning and environmental criteria and the development management standards contained in Chapter 18.'*

**Objective HP15:** *'To require all applications for residential development of 10 houses or more to contain a mix of house types. The mix of house types shall be appropriate to the needs identified where the scheme will be located. This will not apply where it can be demonstrated that there is a need for a particular type of unit and the proposed development meets this need.'*

**Objective HP21:** *'To require an Access Statement to be carried out for significant developments in accordance with Appendix 6 of Buildings for Everyone: A Universal Design Approach (National Disability Authority, 2012).'*

#### 5.1.5. **Chapter 9** Infrastructure

**Table No.22** refers to Wastewater Treatment Facilities

#### **Section 9.2.6** Strong Villages, Smaller Villages and Rural Settlements

*'The county's Strong Villages, Smaller Villages and Rural Settlements play an important role in sustaining rural communities. These settlements also offer a sustainable alternative to one-off rural housing and allow people the opportunity to design and build their own homes. However, many of these villages and settlements are not serviced. In order to further strengthen and consolidate these villages and*

*rural settlements, the Council will consider development subject to complying with the environmental standards of the Environmental Protection Agency (EPA) and the Planning Authority, the provisions and objectives of the EU Water Framework Directive and the relevant River Basin Management Plan and subject to complying with all normal planning and environmental criteria.'*

5.1.6. **Chapter 17** Design

**Section 17.6** Urban Design Guide

5.1.7. **Chapter 18** Development Management Standards

**Table 39** refers to Car Parking Standards.

5.2. **National Policy**

5.2.1. **Project Ireland 2040 - National Planning Framework The National Planning Framework (NPF)** includes a specific Chapter, No. 4 entitled Making Stronger Urban Places. In relation to achieving urban infill/brownfield development Objective 11 seeks to encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

Chapter, No. 6, refers to 'People Homes and Communities'. It includes 12 objectives among which include;

Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.

Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.2.2. **National Guidelines**

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant S.28 Ministerial Guidelines are:

- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’) 2009
- Sustainable Rural Housing Guidelines for Planning Authorities 2005.
- Circular PL2/2017 – Sustainable Rural Housing Guidelines for Planning Authorities 2005 – Local Needs Criteria in Development Plans
- Urban Development and Building Heights, Guidelines for Planning Authorities • Design Manual for Urban Roads and Streets

Other relevant national guidelines include:

- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

### 5.2.3. **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009**

**Section 2.14** refers to Small Towns: ‘Planning authorities shall not consider extensive proposals for new development, including residential development, in smaller towns (in the 2,000 – 5,000 population range) in the absence of an adopted local area plan. An adopted plan is the only effective policy framework within which to consider new development proposals and one that fits within an overall strategic framework at county and regional levels. In addition, where planning permission for residential development is granted on unzoned land, the provisions of Part V of the Planning and Development Act 2000 cannot operate, thereby militating against the implementation of the Housing Strategy and the effective integration of housing needs.’

**Chapter 6** refers to Small Towns and Villages

**Section 6.9** recommends density standards for centrally located sites of 30-40+ dwellings per hectare for mainly residential schemes may be appropriate.

### 5.3. Regional Planning Guidelines

- Regional Spatial and Economic Strategy for the Southern Region (RSES) 2020

### 5.4. Natural Heritage Designations

Site Name	Designation	Site Code	Distance
Kilmuckridge-Tinnaberna Sandhills	SAC	001741	2.3km SE
Cahore Polders and Dunes	SAC	000700	4.1km NE
Cahore Marshes	SPA	004143	4.1km NE
Blackwater Bank	SAC	002953	7km E

### 5.5. EIA Screening

Having regard to the nature and scale of the proposed development, the separation of the site from European and other designated sites, the proposed connection of the development to public water and foul drainage connections, it is considered that 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 First Party appeal against the decision to refuse permission by the planning authority has been lodged by Ian Doyle Planning Consultant on behalf of Green DCBM Ltd. – Martin Sinnott (Managing Director).

Revised drawings for Block A and B showing revised refuse and cycle storage proposals, along with a copy of a sketch layout proposal for the scheme were submitted with the appeal.

The appeal was accompanied by a pre-connection enquiry from Irish Water, and correspondence from the Architects section of the PA and concept site layout plan.

The main grounds can be summarised as follows:

#### Open Space Provision

- Applicant encouraged at preplanning stage to provide land to the PA at the most central point of the site relative to the village core for use as a playground. Refers to lands located to the west being used for community development and identified on the concept site plan. This was indicated on the understanding that that there would be an offset regarding active open space provision on the subject site.
- Despite a lack of open space provision being identified by PA, this is not reflected in the reasons for refusal. Submit that PA comments regarding open space are disingenuous, and note absence of a report from the County Architect of the PA.
- Request the Board to consider the 0.5acre site the applicant is providing to the PA for the provision of a play area in lieu of active open space provision on the site. Suggest a condition making the subject development conditional on the provision of the adjoining site to the PA to facilitate the community play area.

#### Overlooking

- *Reason for Refusal no. 1-* Refers to CDP standards for separation distances from opposing rear bedroom windows which are normally 'back to back'. Windows associated with bedroom no. 1 of unit 42 and bedroom 2 of unit 43 are not opposing or back to back. Views are limited and have no impact on privacy due to orientation relative to each other and the angle of the view from window to window. Suggest that the bottom panel of the bedroom 2 window of unit 43 can be finished in opaque glass by way of a condition.
- *Reason for Refusal no.4* – House type 4 is a design solution forming corners of the proposed two central blocks within the scheme. Ground floor street elevations are defined by two large windows from the living room and the kitchen/dining room which facilitate natural surveillance with active facades transitioning all corners.
- Contend that views between adjoining first floor bedroom 1 windows are limited and have no impact on privacy due to the angle of the windows relative to each other and the angle of the views from window to window. Suggest that the rear elevation

first floor bedroom 1 window of house type 4 can be finished in opaque glass or a one way privacy window by way of a condition.

#### Irish Water

- *Reason for Refusal no. 2* - Assert that item could have been dealt with by way of condition for agreement with the PA or by way of further information.
- Applicant provided a pre connection enquiry response letter from Irish Water as part of the application, which states that 50 dwellings can be accommodated in terms of water and waste water. Contend that this should be sufficient for the PA to permit the development subject to the assumption that an additional 6 units can be accommodated by IW at 'Connection Agreement' stage of IW process post planning.
- Disputes that information submitted by the applicant with regards IW was inadequate.
- Contend that the number of units stipulated in the Irish Water pre-connection enquiry should not have formed the bases for a reason for refusal.

#### Bicycle Parking and Communal Bin Storage

- *Reason for Refusal no. 3* - Assert that reason for refusal could have been dealt with by way of condition for agreement with the PA or by way of further information.
- Refer to attached drawings A2.9 and A2.10 indicating proposed locations of the bicycle parking and communal bin storage for the apartment and duplex units.

### **6.2. Planning Authority Response**

None.

### **6.3. Observations**

Five no. observations were submitted from the following parties;

- Kilmuckridge Development Group C/o John Dempsey, Chairman
  - Accompanied by a letter from the Kilmuckridge Playground Committee
- Kilmuckridge Tidy Towns Association C/o John Hearne, Chairman
- Kilmuckridge Memorial Hall Community Enterprise C/o Dorothy Patel, Director

- O'Neill Town Planning, on behalf of;
  - Pearse and Mary Colbert, Walshfield, Kilmuckridge
  - Terry and Maura Madigan, The Barrack, Kilmuckridge
- Downey Planning on behalf of;
  - David White, 19 Chestnut Walk, Kilmuckridge

To avoid unnecessary repetition, I have grouped similar issues raised in observations to the First Party appeal, which can be summarised as follows;

#### Planning Framework

- Premature pending adoption of the Wexford CDP 2020
- Premature pending completion of a LAP or Village Framework Plan
- Village Design Statement - community presented to PA in 2005
- Kilmuckridge/Morriscastle Plan 2000
- Uncoordinated developer-led proposal on unzoned lands
- More strategic reasons on which proposal could have been refused
- Reasons for refusal have not been addressed in the appeal by the applicant
- Loss of a centrally located key opportunity site with potential to contribute positively towards strengthening the Village Core

#### Housing

- Overdevelopment
- Excessive residential density
- Density and scale contrary to the Core Strategy of the CDP
- Lower density would appeal to those with local need
- Insufficient housing demand, given no indigenous employment in the village other than seasonal work.
- Inappropriate housing mix
- Management Company

### Social Housing

- Affordability
- Part V
- Clarity required as to those involved in the purchase of houses for social housing

### Residential Amenity

- Poor standard of accommodation for future occupants
- No provision for storage
- Overlooking and loss of privacy
- Overshadowing of existing and proposed dwellings, need for shadow analysis
- Bin storage – revised location along northern boundary will negatively impact on residential amenity on residential properties to the north

### Visual Impact

- Site has been derelict for approx.13 years
- Visual impact of 3 storey duplex units
- Design not in keeping with small village
- Site layout and landscape design out of character with rural setting
- Undesirable precedent

### Open Space

- Loss of amenity
- Insufficient useable open space to serve future occupants
- Previous application set aside a significant area for local amenity and playground

### Services/ Contribution to the community

- Inadequate contribution to the community
- Insufficient capacity of services in the community, including schools

### Traffic

- Traffic safety at proposed junction

- Increased traffic along R742 and at village junction
- Pedestrian safety
- Limited public transport
- Traffic hazard for construction traffic

#### Parking

- Insufficient no of car parking spaces
- Bicycle parking substandard

#### Water Supply and Drainage

- Kilmuckridge wastewater treatment plant at capacity
- Development premature pending upgrade of treatment plant
- Water supply shortages in dry weather and during holiday periods
- Flooding issues in centre of village
- Absence of a Flood Risk Assessment
- Surface water drainage

#### Heritage

- Degradation of local heritage
- Site formerly part of a local demesne with trees forming backdrop to the village
- Damage to Old Famine Wall

#### Procedural Issues

- Letter of consent from Chestnut Walk estate
- Site notice locations
- Excluding lands onto the R742 from the overall plan, to be given to the PA runs contrary to the way a planning application should be processed.

#### Other

- Concern development will be completed to a satisfactory standard
- Unfinished housing estate to the south of the village

- Antisocial behaviour
- Removal/relocation of bottle bank

## **7.0 Assessment**

7.1.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Compliance with Planning Policy
- Density
- Housing Mix
- Design and Layout
- Residential Amenity
- Open Space
- Access and Permeability
- Parking and Bin Storage
- Infrastructural/Servicing Issues
- Surface Water Drainage and Flooding
- Other Matters
- Appropriate Assessment

## **7.2. Compliance with Planning Policy**

7.2.1. The Wexford County Development Plan 2013 -2019 is the statutory plan for the area. The current settlement strategy is clearly set out and summarised in section 5.1 above.

7.2.2. Map No. 3 of the county development plan indicates that the appeal site is located within an area of population increase (between 5% to 15%) in the period between 2006-2011. The 2016 Census indicates a population decrease (between 5 to 0%) for the electoral division, and a population of 722 no. persons for the village of Kilmuckridge. This compares to a population of 654 no. persons in 2011.

- 7.2.3. The Core Strategy Map No.5 and Rural Area Types, Map No.6 of the plan indicate that the appeal site is located in one of 9 no. Strong Villages within the County and within a rural area designated as a 'Under Strong Urban Influence'.
- 7.2.4. The plan notes that Strong Villages which have established populations have potential to support additional growth. It is also recognised that wastewater treatment facilities in some villages require investment, that a plan-led approach to securing investment is intended, while consolidating growth in the village centres.
- 7.2.5. The PA proposes to prepare non-statutory local development frameworks, such as Village Design Statements, for a number of Strong Villages including Kilmuckridge. These are to be prepared in conjunction with the local communities and other key stakeholders.
- 7.2.6. Clear policy is set out at both a national and local level regarding rural housing need. The 'Sustainable Rural Housing Guidelines for Planning Authorities' actively seeks to direct pressure for new residential development to the nearby established settlements. National Policy Objective 11 of the National Planning Framework (NPF) seeks to encourage more people and generate more jobs and activity within existing cities, towns and villages. National Policy Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- 7.2.7. Section 3.4.8 of the Wexford County Council Development Plan sets out policy and objectives in relation to 'Strong Villages'.
- 7.2.8. Objective SS22 of the CDP seeks 'to encourage new residential development in the Strong Villages in accordance with the Core Strategy and Settlement Strategy'. Objective SS23 seeks 'to ensure that new residential development ... is focused on developing lands closest to the village centre first.'
- 7.2.9. The appeal site is centrally located within the village core, it has however no zoning and it is not serviced. There is no Local Area Plan or Village Design Statement/Framework Plan for the village, the application is therefore assessed in accordance with National Planning Framework Policy, Sustainable Rural Housing Guidelines for Planning Authorities' and CDP objectives as they relate to Strong Villages. I do not therefore, consider the current application premature pending the preparation of a Village Design Statement or pending the adoption of the new CDP.

The Board should be aware the Wexford County Draft Development Plan 2021-2027, was on public display with closing date for submission 9<sup>th</sup> December 2020.

7.2.10. I am satisfied, therefore, that the current proposal complies with Objectives 11 and 33 of the NPF, guidance set out in the Sustainable Rural Housing Guidelines, and Section 3.4.8 of the CPD.

7.2.11. I recommend, therefore, that planning permission not be refused on this basis.

### **7.3. Density**

7.3.1. Permission was previously granted in 2010 to erect 48 no. dwellings on the site under PA Reg.Ref.2009/1250. In 2005 permission was granted for 32 no. apartments under PA Reg.Ref.2004/0665.

7.3.2. The current proposal seeks permission for the construction of 56 no. residential units comprising two storey houses and duplex and ground floor apartments. This results in a density of 38 units per hectare.

7.3.3. Since the previous permissions on the overall site the policy context has changed in terms of the adoption of the Wexford County Development Plan 2013-2019, and the National Planning Framework, to which regard must be had.

7.3.4. The site is recognised as a core site within the village by all parties. Housing policy in relation to density is set out under objective HP08 of the CDP. This seeks to ensure that density of residential developments is appropriate to the location and that land is efficiently used, while having regard to existing density and proximity to the town or village centre.

7.3.5. I am of the view that the site has the characteristics of a centrally located infill site. In such a location section 6.9 of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, while recognising that it can be difficult to be prescriptive about the level of density recommend densities of in the range of 30-40+ dwellings per hectare within small towns and villages.

7.4. Having regard to the developable area of this serviced site which is 1.46ha, whilst cognisant of the need to protect the amenities of future occupants and property in the vicinity, I consider the proposed density of 38 units per hectare to be of an appropriate scale relative to its location and therefore, in keeping with the objectives of the National Planning Framework and the Guidelines. On this basis I consider the

proposal to be an efficient and sustainable use of this site in proximity to the village centre.

7.5. I am satisfied therefore, that the proposed development does not give rise to an excessive density and does not constitute overdevelopment of the site.

#### 7.6. **Housing Mix**

7.6.1. The housing mix as outlined in section 2.2 above comprises 48% 2 bedroom units, and 43% 3 bedroom units. The remaining 9% comprise 4 bedroom units.

7.6.2. Housing Policy Objective 15 of the CDP requires a mix of house types for residential development of 10 houses or more. Concern has been raised in relation to the housing mix which is considered inappropriate particularly in relation to the large no. of 2 bedroom units.

7.6.3. I consider that the proposed mix of units will cater for smaller households and solo living in the general housing mix. It would lead to a good population mix within the scheme, catering to persons at various stages of the lifecycle, in accordance with the Urban Design Manual.

7.6.4. Given the established nature of the area, the proposed development could aid those wishing to downsize but remain in the general area, thereby freeing up some existing housing stock in the locality.

7.6.5. I note the assertion in the Architects Design Statement that as the site is not zoned there is no requirement for compliance with Part V. I also note the reference to discussions with social housing providers with a view to providing a number of residential units for this purpose. The applicant also emphasises that the apartment units have been designed with universal accessibility in mind.

7.6.6. While I note that the PA assessment is silent on the matter, it is open to the developer and the local authority to come to an arrangement for the purchase of units.

7.6.7. I am of the view that the provision of Part V social housing within the scheme is appropriate particularly given the location, number and mix of unit types, and consider it appropriate for an agreement to be reached between the developer and the planning authority.

7.6.8. I am satisfied, therefore, that the proposed housing mix is acceptable.

## 7.7. Design and Layout

- 7.7.1. There are section 28 Ministerial guidelines which should be considered in conjunction with the provisions of the Wexford County Development Plan with regard to the overall design and layout of the proposed scheme. The most relevant of these are 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) 2009'. These Ministerial Guidelines advocate high quality sustainable development that are well designed and built so as to integrate with the existing or new communities. The principle of universal design is also advocated so as to ensure that the environment can be accessed, understood and used to the greatest extent possible by all people regardless of their age, size, ability or disability. The Design Manual which accompanies the Sustainable Residential Development Guidelines provide best practice design manual criteria such as context, connections, inclusivity, variety, efficiency, layout etc.
- 7.7.2. A design statement was submitted with the application. It states that the proposed layout responds to physical and natural boundaries, which includes existing mature trees and stone walling to the southern part of the site, and residential development to the north.
- 7.7.3. It notes that a key feature in the design approach is to maintain a strong connection between the private dwellings and the public street. This is achieved by creating open threshold zones between the private and public domains and bringing the public footpaths closer to the entrance doors. This is most prevalent within the blocks containing house no's 01-28, where house type 4 has also been created to address street corner, maintaining a continuity of this concept with active street elevations and avoiding surveillance blank spots.
- 7.7.4. In relation to the duplex/apartments these are accommodated within two no, 3 storey blocks. It notes that the ground floor units have been designed as single aspect apartments facing on to the principal access route within the development. It notes that the rear section of these apartments are excavated into the steep topography of the site, which enables the 2 storey duplexes above to match the height and scale of the neighbouring houses in Chestnut Walk to the north.
- 7.7.5. It is further noted that the duplex/apartment Blocks A and B will appear as 2 storey houses from the Chestnut Walk approach from the north, while addressing the step

in level and framing the transition between both new existing housing schemes. All apartments and duplexes are provided with private 'own door' access, eliminating the need for communal stairwells and lobbies.

- 7.7.6. I consider the proposed design and layout is such that it generally accords with the principles set out in the CDP. Using the 12 indicators in the companion document to the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas', it is considered that the proposed design is such that it would positively contribute to the character and identity of the neighbourhood. The development will serve to consolidate and connect an underutilised core area in the centre of this rural settlement.
- 7.7.7. This scheme will serve to enhance and contribute to the vitality and viability of the village centre by helping to enhance critical mass.
- 7.7.8. With regard to the individual houses themselves, which are two storey in height, they have been designed to a high standard and all exceed the minimum floor areas. Private open space is provided by way of rear gardens.
- 7.7.9. With regard to the duplex/apartments, they also have been designed to a high standard and are provided with private terraces. Terraces proposed to serve the single aspect ground floor units in Block A benefit from a south facing orientation, while those in Block B have a west facing elevation.
- 7.7.10. Public open space is provided within the scheme and meets development plan standards in terms of quantum. The usability of this public open space is discussed further below. In general, I am satisfied that adequate public and private open space has been provided within the overall scheme.
- 7.7.11. The observers to the appeal have raised concern in relation to the 3 storey element of the proposal and contend that this would be out of character with the village.
- 7.7.12. I have had regard to the location of the proposed 3 storey blocks of the scheme, which are located in the north eastern corner of the site, and relationship with the adjoining site levels and two storey houses within Chestnut Walk estate, which are located at a higher level to the appeal site. I am of the opinion that the subject site has the capacity to absorb limited 3 storey development particularly in the location proposed.

- 7.7.13. I am of the opinion, that given the overall area of the site, the delivery of residential development on this prime, infill, underutilised site, in a compact form comprising well-designed, medium density units would be consistent with policies and intended outcomes of the National Planning Framework and Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness. The site is in a central and accessible location, and within easy walking distance of adjoining amenities, albeit on an existing unserviced site. The proposal serves to widen the housing mix within the general area and would improve the extent to which it meets the various housing needs of the community.
- 7.7.14. I am satisfied, therefore, that the proposed development provides an appropriate design, layout and is acceptable.

## **7.8. Residential Amenity**

- 7.8.1. Reasons for Refusal No. 1 and 4 refer to overlooking from proposed development of adjoining development within the scheme. Concern has also been raised in observations to the appeal with respect to the impact of the duplex/apartment units on existing residential amenity of adjoining properties.
- 7.8.2. Specifically overlooking is identified as an issue in the north-western units no’s 42 and 43 where a separation of 7m between opposing bedroom windows is provided. Similarly overlooking between opposing first floor windows and of adjoining private garden areas associated with House Type 4 units is also cited as a concern given the orientation of the units.
- 7.8.3. The applicant contends that this element of the proposal could have been dealt with by way of further information or by way of condition. In the grounds of appeal, it is asserted that bedroom windows of unit no’s. 42 and 43 are not opposing ‘back to back’. It is suggested that the bottom panel of bedroom no. 2 window of unit no. 43 be fitted with opaque glazing.
- 7.8.4. I have examined the floor plans, elevations of both duplex units, and have had regard to the separation distance between both units and angle of windows relative to each other. I accept that the bedroom windows in these units are not directly opposing. I am, therefore, satisfied subject to the lower panel of bedroom no. 2 of unit no. 43 being fitted with opaque glazing, that this arrangement in this single unit is acceptable.

- 7.8.5. Concern raised in observations in relation to overshadowing in my opinion are without basis. The proposed development is located to the south of and at a lower level to existing residential development. Block A is set back from existing rear boundaries within Chestnut Walk by approx. 12m and includes a separation between upper floor units 42 and 45 providing a relief in terms of massing and reduces overshadowing of unit 43. Block B is in line with existing houses to the north.
- 7.8.6. In relation to House Type 4 units, the design rationale for the house type is presented and similarly the use of opaque glazing at first floor to bedroom 1 windows along the rear elevations is proposed as a mitigation measure. In my opinion, the overall design and layout of these units (albeit relating to 16 no. houses in total) are integral to the overall design of the scheme and contribute positively to the public realm. These bedrooms benefit from a second and larger window on the opposite elevation. On this basis I am satisfied that the use of opaque glazing to the smaller rear elevation bedroom window only to be acceptable in this instance.
- 7.8.7. If the Board are minded to grant permission these items can be dealt with by way of a suitably worded condition.
- 7.8.8. I am satisfied, therefore, that overlooking issues raised in both reasons for refusal have been addressed and does not warrant a refusal in this instance.

## 7.9. **Open Space**

- 7.9.1. The applicant while acknowledging that permission was not refused on the basis of open space provision, nonetheless, raises a number of issues in the grounds of appeal.
- 7.9.2. Public open space is provided in the form of linear area along the southern boundary of the site around existing mature trees and stone walling, and in the vicinity of the north south access route from the Chestnut Drive cul-de-sac to the Morriscastle Road. The total area of public open space measures 0.18ha which accounts for 12% of the total site area.
- 7.9.3. Concern has been raised with regard to the useability of the public open space to provide meaningful amenity to future occupants of the proposal given its scale and configuration. I would also have concerns regarding the usability of the open space

particularly with respect to its narrow configuration along the southern boundary and change in gradient to the north east corner.

- 7.9.4. The area of open space to the north eastern corner accommodates and is severed by the proposed stepped pedestrian link from the development to the adjoining cul-de-sac within Chestnut Drive. Revised proposals submitted with the appeal also propose bicycle parking be located within this area. Bicycle and bin storage proposals to serve Block A and B are discussed in more detail below. I would also note that cross section drawings submitted (and incorrectly labelled) do not adequately detail development proposals and site levels for this part of the site.
- 7.9.5. The applicant has suggested in the grounds of appeal that the Board consider the 0.5acre site the applicant is providing to the PA for the provision of a play area in lieu of active open space provision on the site. The applicant has further indicated a willingness to accept a condition making the subject development conditional on the provision of the adjoining site to the PA to facilitate the community play area.
- 7.9.6. This site which is in the ownership of the applicant and outlined in blue as part of the application is located to the west of the appeal site. This area is clearly identified on application drawings as an area for 'future community development site'. The Design Statement lodged with the application indicates that the local authority in conjunction with local community groups intend to provide playground facilities.
- 7.9.7. Concern has been raised by a no. of observers to the appeal in relation to the impact of the proposed development on existing trees and the local heritage of the area.
- 7.9.8. I note the Tree survey submitted with the application indicates a number of trees to be removed along the south eastern boundary and at the proposed entrance to the north west. The Landscape Master Plan indicates the provision of semi mature trees throughout the scheme and along the south eastern boundary along with additional planting.
- 7.9.9. I accept that existing mature deciduous trees on site do form an attractive backdrop to the village but am satisfied that the number of trees to be removed is not significant and with the provision of semi mature trees will enhance the visual amenity of the area into the future.

- 7.9.10. It is noted that the boundary wall along the western boundary of the overall site in the ownership of the applicant forms part of an old famine wall on which a commemorative plaque has been erected. I would note that no works are proposed to this boundary wall as part of the proposed development.
- 7.9.11. There are a range of issues raised in observations in relation to the function and layout of this 'future community development site'. Issues raised refer to community gain, deliverability, parking, traffic safety etc. Issues raised relate to an area which is outside the scope of assessment of the current application. In my opinion, the design and layout of this site are more appropriately dealt with separately by the PA, with input from the relevant PA sections, including those with responsibility for traffic safety, public realm, and landscaping, and including local community stakeholders.
- 7.9.12. Concern has also been raised in relation to antisocial behaviour including vandalism, damage to trees and shrubs, graffiti, litter and dumping. The proposed development in my opinion would serve to alleviate these concerns in providing more active surveillance street lighting etc.
- 7.9.13. On balance therefore, having considered the shortfall of useable open space and overall layout of the proposed scheme, the location of the 'future community development site' relative to existing and proposed development within the village and willingness of the applicant to cede this area to the PA, the use of this area for community use is reasonable planning approach. In my opinion this represents an overall community gain in an ideal location.
- 7.9.14. If the Board are minded to grant permission this can be addressed by a suitably worded condition.
- 7.9.15. I am satisfied, therefore, that the proposed development is acceptable in terms of public open space provision and amenity.

#### **7.10. Access and Permeability**

- 7.10.1. The appeal site is located to the north east of a staggered road junction into the village for traffic travelling north south, and east west. It is proposed to provide a vehicular access to the site from the R742 coast road via the existing vehicular access road serving the adjoining residential estate Chestnut Walk to the north of the appeal site.

- 7.10.2. Concern is raised in relation to the proximity of the site to this road junction, which serves commuters and school traffic. Concern is raised in relation to the dearth of public transport in the area, and therefore by necessity the potential increase in traffic volumes generated by the proposal.
- 7.10.3. Concern has been raised in relation to traffic safety on the basis of existing adjoining development. It is asserted by third parties that this entrance road which would accommodate approx. 110 residential units taking account of existing and proposed residential development. The junction between the existing vehicular access road with the R742 is located opposite the Silverdale housing estate, which itself comprises 50 residential units. It is submitted that this arrangement in combination with the adjoining community hall would give rise to a traffic hazard.
- 7.10.4. The Road Design section of the PA note in their report existing visibility sightlines to the north and south along the R742 are acceptable within the 50km/hr speed limit. I can confirm from my site visit midweek albeit in the month of January that traffic volumes were light and not travelling at speed on approach to the junction. I would also note that existing schools within the village are located at the southern/opposite end of the village.
- 7.10.5. In relation to public transport, I would argue that by increasing the population of the village an improved public transport service is potentially more viable, if even on a seasonal basis.
- 7.10.6. Concern has been raised in relation to traffic management during the construction phase. These issues are typically dealt with by way of an agreed Construction Management Plan with the PA by way of condition prior to the commencement of development. If the Board are minded to grant permission an appropriate condition can be attached.
- 7.10.7. In relation to pedestrian footpaths within the scheme, as described above a particular feature of the design layout provides for footpaths which are closer to the entrance doors of houses which address the public realm.
- 7.10.8. In terms of connectivity with adjoining residential development and the village a number of other linkages are proposed. These include pedestrian linkages; north of the proposed entrance connecting to the existing footpath along the entrance road

leading to the Chestnut Walk estate, and from the north east corner of the site via steps to the Chestnut Drive.

7.10.9. A third pedestrian link is indicated to the south connecting to Morriscastle Road. I would note that there is currently no footpath along the southern boundary of the site with the Morriscastle Road. There is however an existing footpath along the southern side of the Road.

7.10.10. I have had regard to existing site contour levels, proposed site levels and finished floor levels as indicated on drawings submitted. I would have some concerns in relation to the design and layout of the proposed pedestrian route connecting to Chestnut Drive to the north east. In this regard if the Board are minded to grant permission, details in relation to the construction of this pedestrian path demonstrating that it can be delivered to the satisfaction of the Road Design section of the PA.

7.10.11. The Roads Design section of the PA raised no objection to the proposal subject to a no. of requirements. It has recommended a levy be included for the provision of a footpath from the proposed access to the proposed development onto the public road to run adjacent to the R742. This would result in a footpath extending beyond the area of the site but within an area within the applicants ownership. I note a footpath is already indicated on drawings submitted.

7.10.12. The Roads Design section also require provision of a new 2m footpath to be constructed for the full length of the site adjoining the Morriscastle public road along with public lighting for the proposed footpath. However, I have concerns in relation to the practical implementation of this requirement, as the public road is quite narrow in sections and in the interests of maintaining the existing boundary wall along the southern boundary of the site, it may be necessary to reduce the width of the footpath where necessary.

7.10.13. If the Board are minded to grant permission I consider the inclusion of an appropriately worded condition which allows for the future delivery of these three no. links would represent a long term planning gain in terms of permeability and is in the interests of the proper planning and sustainable development of the area.

7.10.14. I have reviewed the sketch proposal entitled 'Public Realm' prepared by the County Architect of the PA dated 7<sup>th</sup> February 2020 submitted on appeal. The

residential scheme as outlined on the sketch drawing does not correspond with the scheme subject of the proposed development. While a number of alternative pedestrian linkages are outlined I do not see any merit in assessing these as part of the current appeal.

7.10.15. I am satisfied, therefore, that the proposed vehicular access to the development, internal road layout, and proposed pedestrian links are acceptable in terms of traffic safety, and convenience and the proposed development would not give rise to a traffic hazard.

### **7.11. Parking and Bin Storage**

7.11.1. It is proposed to provide a total of 91 no. surface car parking spaces within the scheme. This includes provision of 31 no. spaces to serve the 27 no. 2 bed units, and 58 no. spaces to serve the 29 no. 3/4 units, in addition to 2 no. accessible spaces.

7.11.2. The parking layout comprises parallel parking to the front of the row of houses located to the north and east. A combination of grouped parking is proposed to serve the houses in the centre and to the west of the scheme. I also note 4 no. car parking spaces proposed to serve duplex units in Block A are accessed from the adjoining cul de sac within Chestnut Drive.

7.11.3. Concern is raised in observations to the appeal that insufficient parking has been provided to serve the proposed development. Having regard to car parking standards as set out in Table 39 of the CDP, I am satisfied that the quantum of car parking spaces provided is in accordance with the relevant standards.

7.11.4. While I note there is no specific provision for visitor parking within the scheme regard must also be had to the location of appeal site within the village core and proximity to a range of services within the village. I also note no concerns were raised by the Road Design section of the PA with respect to the provision of parking. If the Board are minded to grant permission provision of electric charging points can be addressed by way of a suitably worded condition.

7.11.5. Existing street parking to the west of the overall site is identified on drawings submitted with the application, along with parking within the area outlined in blue which is within the ownership of the applicant. Concern has been raised in

observations that houses within the scheme which face onto this area are likely to use this area of public parking. In my opinion there is no basis to this concern.

- 7.11.6. The PA raised concerns in relation to specific design elements, which formed the basis for Reason for Refusal No. 3. These included the absence of bicycle parking and communal bin storage areas. The applicant contends that these items could have been dealt with by way of further information and have provided revised drawing details as part of the appeal to address these specific design elements.
- 7.11.7. In relation to bicycle parking, I have reviewed the revised proposals submitted which provide for a 10 no. space bicycle rack, located in the north eastern corner of the site. These are in the vicinity of the proposed ground floor and duplex units, and pedestrian link to the adjoining housing estate. Revised proposals also indicate that the terrace areas provided for each of the ground floor and duplex units can serve as cycle storage areas.
- 7.11.8. While the bicycle rack proposed is welcomed, a sheltered and secure bicycle storage area is more appropriate for use by residents. This would discourage the use of terrace areas for bicycles which has the potential to detract from the residential and visual amenity of the units. If the Board are minded to grant permission, this can be dealt with by way of an appropriately worded condition.
- 7.11.9. In relation to bin storage, I have reviewed the revised proposals submitted on appeal which I consider to be problematic. Drawings submitted indicate bin storage within individual external terraces at lower ground floor. Three of the external terraces at lower ground floor serving unit no.'s 37, 46 and 47, are indicated as providing bin storage for 2 of the duplex units above. These are to be housed within timber clad steel framed structures. A bin enclosure area, serving upper ground floor unit no's 42-45 is indicated located along the northern gable of unit no. 43.
- 7.11.10. In my opinion the use of external terrace areas for bin storage, is entirely unsatisfactory, would seriously detract from the residential amenity of these units and significantly detract visually from the scheme. I would also have serious concerns regarding the proximity of the communal bin storage area which immediately abuts the rear garden boundaries to the residential properties to the north. I suggest therefore that this communal bin storage area be relocated within the scheme.

7.11.11. I also suggest that bin storage for all of the units be accommodated in standalone fully enclosed bin storage area. I am mindful however that there is limited space in the vicinity of the apartment and duplex units for such provision. If the Board are minded to grant permission details in relation to design and location can be agreed by way of a suitably worded condition.

7.11.12. In summary, I have reviewed the original proposals as lodged, the report of the Road Design section of the PA, and the revised layout and sketch plans submitted with the appeal in response to the reason for refusal. On balance, I do not consider modifications as proposed in my assessment above to be material such as to warrant a refusal of permission.

7.11.13. I am satisfied, therefore, that car parking proposals are acceptable, and subject to detailed proposals for bicycle storage, and communal bin storage arrangements, the proposed development is acceptable.

## **7.12. Infrastructural / Servicing Issues**

7.12.1. Reason for Refusal No. 2 refers to an agreement from Irish Water to allow a connection for the proposed development into the public sewer and water network. The PA consider that the applicant has not adequately demonstrated that a connection to serve the proposed 56 no. residential units can be provided.

7.12.2. Table No.22 of the CDP 2013 – 2019 sets out current and planned facilities for wastewater treatment facilities for existing settlements including Strong Villages. Kilmuckridge, is identified as having an existing wastewater treatment facility, a current design capacity for a population of '2,000', with no available capacity and refers to an upgrade to the facility as non-applicable. I note IW took over responsibility for the operation of public water services in January 2014, a year after the CDP was adopted.

7.12.3. The applicant refers to correspondence from IW submitted with the application and contend that the issue of a pre connection agreement could have been dealt with by way of further information.

7.12.4. Correspondence from IW dated 14<sup>th</sup> January 2019, addressed to the applicant states that based on details provided with the pre-connection enquiry and on the capacity currently available in the networks, subject to a connection agreement being put in

place the proposed connection can be facilitated. The pre-connection enquiry refers to a housing development of 50 no. units.

7.12.5. IW also state that in order to accommodate the proposed connection upgrade works are required to upsize the existing IW wastewater network from the connection point to the Wastewater treatment plant (approx.. 500m). The applicant is required to provide a contribution of a relevant portion of the costs for the required upgrades.

7.12.6. The applicant as part of the appeal has submitted further correspondence from Irish Water dated 31<sup>st</sup> January 2020 which refers to a pre-connection enquiry for a housing development of 65 no. units. IW reiterate their requirements as previously.

7.12.7. Third party submissions lodged with the PA and observers to the appeal assert that the proposed development is premature pending upgrade works to the local waste water network. It is submitted that the sewerage treatment plant in Kilmuckridge is at capacity, and that there are serious problems in dry weather which causes water supply shortages with the increase in demand during the holiday/tourist periods.

7.12.8. I note the Environment Section of the PA did not raise concerns in relation to capacity issues, and that the PA have not provided any further response to the first party appeal and observations to the appeal. On the basis of information on file, I can only reasonably conclude that as Irish Water have no objection to the proposal that subject to requirements for upgrading of the existing network that the proposal is acceptable.

7.12.9. I am satisfied therefore, that reason for refusal no. 2 has been adequately addressed and is not therefore a basis for refusal.

### **7.13. Surface Water Drainage and Flooding**

7.13.1. Concern has been raised in submissions and observations to the appeal that there is an issue with flooding in the centre of Kilmuckridge. The report on storm water management and recommendations for the development are noted. Concern is raised that there are no specific request by the PA or proposals as to the practical implementation of the recommendations.

7.13.2. Concern is also raised by the observers to the appeal that a Flood Risk Assessment demonstrating compliance with the Planning System and Flood Risk Management Guidelines for Planning Authorities did not accompany the application.

- 7.13.3. In this regard I note that the proposed development provides for on-site surface water storage in the form of an attenuation tank, which is located beneath a hammerhead and parking area on the lower southern section of the overall site. This underground tank has a storage capacity of 295.4m<sup>3</sup>.
- 7.13.4. Proposed Layout Drawing No. JCA-001P submitted with the application indicates a separate surface water drainage system which drains to an existing gully to the south west of the development. It is fitted with two hydro brakes to limit the flow to 6.3 L/s at high level for 1 in 100 year storm and 8.6 L/s at low level for 1 in 30 year storm. This will connect to the existing 225mm storm water drainage pipe across the width of the road to a larger 300mm storm water drainage pipe.
- 7.13.5. In relation to Sustainable Drainage Systems (SuDS) measures on site I note from the report on the disposal of storm water by John Creed and Associates the surface water design calculations factor in 47% permeable areas, with an equivalent hardstanding area of 8,715m<sup>2</sup>. I note from the drawings submitted however the use of non permeable materials on road and parking surfaces.
- 7.13.6. I note the Environment section of the planning authority required only the submission of a construction and environmental management plan and details in relation to silt traps or petrol/oil interceptors, with manufacturers specifications.
- 7.13.7. I have reviewed the proposed surface water drainage proposals and calculations provided, and which are separate to the foul sewer. I am reasonably satisfied that with the incorporation of appropriate SuDS measures, which should include the use of permeable and semi-permeable materials to hard surfaces that the proposed development can deal adequately with surface water, and thereby limit the risk of flooding problems in the village. Any proposals should also satisfy the requirements of the Environment section of the PA.
- 7.13.8. The site is located outside any area identified in the OPW Draft Flood Mapping. The catchments.ie website containing water framework directive flood risk data does not identify Kilmuckridge as being at risk of river flooding from the stream 100m to the south. There are no recorded flood events on the site or in the immediate vicinity and the planning application form does not identify any flood history relating to the site. On the basis of the available information, it is not considered that there is any

substantive flood risk on the site, and subject to the requirements of the Environment section of the PA the risk of potential flooding within the village can be addressed.

7.13.9. I am satisfied, therefore, that the proposed development is acceptable in terms of drainage.

#### **7.14. Other Matters**

7.14.1. *Procedural Issues* – It has been noted that a letter of consent from the owners of the Chestnut Walk estate has not been provided by the applicant for use of the estate road for access, turning and parking. In this regard I would draw attention to Section 34(13) of the Planning and Development Act 2000 (as amended) which reads ‘A person shall not be entitled solely by reason of a permission under this section to carry out development’.

7.14.2. *Site Notice* – It has been suggested that a site notice should have been erected at the end of Chestnut Walk at the entrance to the proposed development. I note the PA validated the application and consider that the notices were adequately placed on the site frontage to inform the public.

7.14.3. *Inaccurate Drawings* – The PA note that site section drawings submitted with the application are inaccurate, labelled incorrectly and misleading. I have examined Site Section Drawing A1.3 and can confirm that Street section B-B should be labelled C-C, Street section C-C should be labelled D-D, and Street section labelled D-D should be labelled B-B. This inaccuracy is not considered material to the assessment of the application.

7.14.4. *Management Company* - It has been noted in observations to the appeal that no information on a management structure for the apartments has been provided. It is appropriate for details of a management company to be provided by way of condition for agreement with the PA.

#### **7.15. Appropriate Assessment**

7.15.1. The appeal site is not located within any European site. The closest such site is the Kilmuckridge-Tinnaberna Sandhills SAC (site code 001741) which is located c.2.3km to the southeast of the appeal site at its closest point. The development is proposed to be connected to the public water supply and drainage system.

7.15.2. Having regard to these factors, to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

8.1. I recommend that permission be **granted** for the proposed development for the following reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to the provisions of the Wexford County Development Plan 2013-2019, to the pattern of development in the area, to the nature, scale, design and density of the proposed development, to the location of the site within the village core of Kilmuckridge, it is considered that, subject to compliance with conditions set out below, the proposed development would be acceptable in terms of pedestrian and traffic safety (being within the 50 kilometres per hour speed zone), would not seriously injure the residential or visual amenities of the area or property in the vicinity, or the character or distinctiveness of the village. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 31st day of August, 2020, 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. Details of the materials, colours, and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only. The brick colour to be used shall be the same as that used in the adjoining residential area.

**Reason:** In the interest of visual amenity.

3.
  - (a) Each first floor rear bedroom window for House Type 4 shall be finished in obscure glazing and be non openable.
  - (b) The lower panel of rear bedroom window of duplex unit no. 43 shall be finished in obscure glazing.

Revised drawings illustrating these amendments shall be submitted to and agreed with the planning authority prior to the commencement of development.

**Reason:** In the interest of residential amenity and to avoid overlooking.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping and boundary treatment, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
  - (a) A plan to scale of not less than 1:500 showing –
    - (i) The species, variety, number, size and locations of all proposed trees and shrubs, which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech, or alder and which shall not include prunus species,
    - (ii) Details of screen planting which shall not include cupressocyparis x leylandii,

- (iii) Details of roadside/street planting which shall not include prunus species,
- (iv) Hard landscaping works, specifying surfacing materials, furniture, and finished levels.
- (b) Details of additional planting to the front of each dwelling and apartment/duplex unit, in the vicinity of carparking spaces, and bin storage areas.
- (c) Specifications for mounding, levelling, cultivation, and other operations associated with plant and grass establishment.
- (d) A timescale for implementation including details of phasing.

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.

5. All rear gardens of houses shall be bounded with brick or concrete block walls, which shall be a minimum of 1.8 metres high, except where bounding public open spaces or roads, when the walls shall be 2 metres in height, or by concrete post and concrete panel fences, 1.8 metres high. The proposed boundary treatment, using concrete post and timber panel fences, or any other form of timber fencing, shall not be used for any rear garden boundaries.

**Reason:** To ensure the provision of durable boundary treatment in the interest of the residential amenity of future occupiers of the development.

6. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

7. The applicant or developer shall enter into water and/or wastewater connection agreements with Irish Water prior to commencement of development.

**Reason:** In the interest of public health.

8. The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the development shall be provided with electrical connections, to allow for the provision of future charging points and in the case of all visitor spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** in the interest of sustainable transportation.

9. 10 no. bicycle parking spaces shall be provided within the site. Details of the layout, design and shelter of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transport.

10. (a) The internal road network serving the proposed development, including turning bays, junctions, sight distances, footpaths and kerbs shall be in accordance with the detailed requirements of the planning authority for such works, and shall comply in all respects with the provisions of the Design Manual for Urban Roads and Streets.  
(b) To facilitate connectivity and permeability, the finished surface of the footpath shall meet up directly with the northern boundary with Chestnut Drive and southern site boundary with Morriscastle Road without the provision of a grass verge of ransom strip.

(c) Details in relation to the design of the proposed pedestrian link to Chestnut Drive including levels shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interests of pedestrian and traffic safety.

11. (a) No tree or shrub planting is permitted within the visibility splays at the proposed entrance. The developer shall ensure that visibility splays remain unobstructed.

(b) The developer shall ensure that the proposed footpath along the entrance road to the development is set-back sufficiently to ensure a carriageway width of six metres along the roadside boundary of the entrance to the proposed development.

(c) Footpath and road construction specifications shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(d) Tactile paving at pedestrian crossing points shall be in accordance with the Pedestrian Crossing Specification and Guidance, issued by the National Roads Authority in April, 2011.

(e) Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a revised surface water drainage proposal, which caters for surface water discharge along R742 and in front of the new footpath along the Morriscastle Road.

(f) All road markings and signage associated with the development shall be in accordance with the Traffic Signs Manual, issued by the Department of Transport in 2019.

(g) Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a Roads Maintenance Plan that includes for street sweeping/cleaning in order to prevent muck/debris or any other materials interfering with the safe operation of the public road.

(h) The developer shall ensure that adequate staff parking and service delivery areas are provided within the confines of the site during the

construction phase of the project so as to eliminate the risk of works associated parking along the public road network.

(i) All works associated with the provision of the proposed entrance and footpaths shall be completed in full to the satisfaction of the planning authority prior to the commencement of works on site.

(j) All works on the public road will be subject to a Road Opening licence.

**Reason:** In the interests of traffic safety and visual amenity.

12. Prior to commencement of development, the following shall be submitted to, and agreed in writing with, the planning authority:

(a) a detailed design for a new footpath along the full length of the site adjoining Morriscastle Road. The design shall include public lighting.

(b) a detailed design for a continuation of the proposed footpath at the entrance to the scheme to the existing footpath to the north inside the entrance to Chestnut Walk estate, and to the south connecting to the R742.

(c) details of the design, implementation, costing, and phasing of these works. The cost of the design and implementation of these works shall be at the developer's expense, and

(d) the agreed new area of footpaths shall be constructed and implemented prior to the occupation of the development.

(e) the gradient of the access drives shall not exceed 3% for the first 7m adjacent to the carriageway.

**Reason:** In the interests of pedestrian and traffic safety.

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

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

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. Public lighting shall be provided in accordance with a scheme, which shall include lighting along traffic calming measures, designated pedestrian crossing points, and 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 dwelling.

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

16. Proposals for an estate name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority’s written agreement to the proposed name(s).

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

17. (a) A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details submitted and agreed in writing with the planning authority prior to commencement of development.

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

18. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

19. (a) The development, including all roads, footpaths, verges, public lighting, open spaces, surface water drains and attenuation provisions, and all other services, as permitted under this order, shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority.
- (b) The areas of open space shown on submitted drawings shall be reserved for such use and shall be levelled, contoured, soiled, seeded,

and landscaped in accordance with the detailed requirements of the planning authority. The open space areas shall be laid out and landscaped prior to the making available by the developer for occupation of any of the houses in the development.

(c) All of the areas of public open space, as shown on the submitted drawings, shall be maintained by the developer until such time as the development is taken in charge by the local authority. When the estate is taken in charge, the open spaces shall be vested in the planning authority, at no cost to the authority, as public open space.

**Reason:** In the interest of order development, the timely provision of open spaces and in order to comply with national policy in relation to the maintenance and management of residential estates.

20. 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.

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services

required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

22. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

23. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of the provision of a footpaths. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased

payments as the planning authority may facilitate and shall be 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.

**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.

24. The area identified as 'future community development site' on Site Plan Drawing No. A1 Rev. No. E lodged with the application dated 12<sup>th</sup> June 2020, which is outlined in blue and within the applicants ownership, shall be ceded to the planning authority for the development of a play area and community use, prior to commencement of development.

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

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Susan McHugh  
Senior Planning Inspector

4<sup>th</sup> February 2021