



An
Bord
Pleanála

Inspector's Report

ABP-308480-20

Development	Housing development of 24 no. two-storey dwellings together with all associated site development works
Location	Williamstown Road, Williamstown, Waterford
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	19/710
Applicant(s)	Mary McCarthy
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal of Permission
Appellant(s)	Mary McCarthy
Observer(s)	None
Date of Site Inspection	04.02.2021
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is located in the south east area of Waterford city, adjacent to the north west of Farranshone Roundabout and approx. 200 metres north of Williamstown Golf Club.
- 1.2. The south eastern boundary of the site borders the Regional Road R710/Outer Ring Road. The north eastern boundary of the site adjoins a local road north and south of a two storey house (Shangrila)/site which is surrounded by the site on three sides. Ground levels vary significantly throughout the site, including rising from approx. 45.0 at the level of the local road to 58.0 within the site over a distance of approx. 70 metres. There are extensive views over the surrounding area from the higher areas of the site, in particular in a northern and eastern direction. A substantial area of the site is covered with gorse and vegetation. Areas adjacent to the south western and south eastern boundaries are grassed fields. There is a housing development adjacent to the north west of the site and an undeveloped area adjacent to the south west. There is a tree line along the south west and south east boundaries, some trees along the third party house boundary and some throughout the site.
- 1.3. The site has an area of 2.3376 hectares.

2.0 Proposed Development

- 2.1. Permission was sought for one serviced site, 24 no. two-storey houses and all associated site development works.
- 2.2. In addition to standard planning application plans and particulars the application was accompanied by a 'Road Safety Audit Stage 1/2' prepared by Roadplan Consulting dated May 2019
- 2.3. Further information was submitted in relation to, inter alia, a revised site layout including a revised access road/footpath from Williamstown Road and removal of the proposed serviced site, public and private open space provision, and site boundary proposals. The application was re-advertised as significant further information.

3.0 Planning Authority Decision

3.1. Decision

Waterford City & County Council refused permission for the following two reasons:

1. Having regard to extent of excavation proposed to accommodate the 'usable area of open space' and based on the details provided in relation to the area of 'usable open space' and existing and proposed levels immediately adjoining this area, it is considered that the proposed development would result in the poor disposition of open space to serve the development. Given the relationship of the open space to the adjoining residential housing development and difference in levels (existing and proposed) between the site and neighbouring housing development it is considered that the proposal as submitted would give rise to overlooking and loss of privacy of neighbouring residential properties. Furthermore given the extent of excavation proposed to accommodate the estate road from the public road and based on the details provided with the application it is considered that the development would constitute a substandard form of development. The proposed development would thereby constitute a substandard form of development which would seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.
2. Having regard to the proximity of the estate road and associated footpath to the neighbouring north residential property and based on the details provided, it is considered that, by reason of the proximity of the footpath and difference in levels between the site and neighbouring north property, the proposed development would give rise to overlooking and loss of privacy which would seriously injure the amenities of said property and be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. Two Planning Reports form the basis of the Council's decision. The second report concludes that, having regard to the existing and proposed site levels and the relationship of the site to the neighbouring residential property and the adjacent

Hunters Grove and Hunters Way housing estate, the Planning Officer was not satisfied that the proposed development would not give rise to overlooking and loss of privacy of the private areas of these properties. Furthermore, the 'usable amenity space' involves a substantial level of excavation and the relationship between the open space area and adjoining estate roads and footpaths etc. has not been adequately indicated. A third recommended reason for refusal relating to the extent of excavation proposed to accommodate the estate road from the public road was omitted from the decision to refuse permission. Its wording was incorporated into the first reason for refusal.

3.2.2. **Other Technical Reports**

Roads and Transportation – Comments made in relation to a number of issues e.g. extent of excavation and implications of same, road gradients, street lighting and boundary treatment at the site entrance. These issues were sought as part of the further information request. No updated report was received based on the further information response.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

None received on foot of the planning application and none received subsequent to the application being re-advertised.

4.0 **Planning History**

None.

5.0 Policy Context

5.1. National Planning Framework Project Ireland 2040

5.1.1. Relevant National Policy Objectives (NPO) include:

- NPO 1b – Southern Region: 340,000 – 380,000 additional people, i.e. a population of almost 2 million.
- NPO 2a – A target of half (50%) of future population and employment growth will be focused in the existing five Cities and their suburbs.
- NPO 3b – Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.
- NPO 5 – Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.
- NPO 8 – To ensure that the targeted pattern of population growth of Ireland's cities to 2040 is in accordance with the targets set out in Table 4.1.
- NPO 11 – In meeting urban development requirements, there will be a presumption in favour of development that can 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.
- NPO 33 – Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

5.2. Waterford City Development Plan 2013-2019 (as varied)

- 5.2.1. Following the amalgamation of Waterford County Council and Waterford City Council on 01.06.2014, the lifetimes of the existing development plans within the amalgamated council area were extended. The City Development Plan 2013-2019 remains in effect

until a new City and County Development Plan is prepared following the making of the Regional Spatial & Economic Strategy.

5.2.2. The site is in an area zoned 'Undeveloped Residential (Subject to Phasing)'. The objective is 'To provide new residential areas and their amenities'. Residential development is generally acceptable in principle in this zone. The 'Residential Phasing' map includes the site, and the wider undeveloped area to the west of the site, as Phase 1. Section 2.3.3 states that development will be permitted in principle on Phase 1 lands during the period of this Plan.

5.2.3. Chapter 8 (Housing), Chapter 12 (Zoning Policy & Objectives) and Chapter 13 (Development Management) are relevant to the application.

5.3. **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) and the Urban Design Manual (2009)**

5.3.1. These guidelines are relevant to the application.

5.4. **Natural Heritage Designations**

5.4.1. The closest Natura 2000 site is Lower River Suir SAC approx. 1km to the north.

5.5. **EIA Screening**

5.5.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, which is a fully serviced suburban 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 stage, and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The main points made can be summarised as follows:

- The Development Management Guidelines state that one of the objectives of pre-application consultation is to avoid the need for seeking further information. Two pre-application consultations took place. Inter alia, the mixture of houses, open space, house types etc. were acceptable in principle.
- The grounds of appeal reviews the planning authority Planning Reports and notes, inter alia: the overall principle of development is acceptable, no objection to the density, the generally acceptable overall layout of the scheme, the housing mix was acceptable, satisfactory private open space provision, satisfactory screen walls, car parking and Irish Water services. The solutions provided in response to the planning authority concerns at further information are synopsised.
- The Development Plan contains a Core Strategy. The Regional Planning Guidelines for the South East cover the period 2010-2022 and require expanding urban areas to provide for an adequate supply of land in line with assessments of housing needs, ensure mixed-use and well-designed higher density development and maximise the efficient use of land. Though superseded by the National Planning Framework 2040 and the RSES for the Southern Region, these up to date documents reflect the same guiding principles. Based on these, the refusal is at variance with the principle of development within the Waterford City and County Development Plan. The planning authority did not have due regard or attach appropriate weight in its assessment to the fact that the principle of housing is acceptable.
- The first reason for refusal implies that anything other than flat ground is unusable open space. The Waterford City and County Development Plan 2013-2019 does not state that open space is required to be completely level. The open space is responsive to the topography. 18.8% has been designated as recreation area, the minimum is 15%. The open space complements the residential layout and is informally supervised by residents, in line with Section 13.2 of the Plan. The development comprehensively responds to the twelve key criteria identified in the Urban Design Manual 2009. The Plan states that housing densities in the city in the 1990's averaged 21.25 units per hectare. Between 2000-2007 the density levels on residential zoned land increased to

an average of 35.2 units per hectare. Since 2007, density levels have averaged 28 units per hectare. The density of the development responds to the existing layout and terrain of the site, the extensive natural open space amenity area which does not lend itself to house building and the need to develop on one side only of the road network due to the linear nature of the house development area. As a result, the site density appears low. However, the net house density per developable area is similar to other development in the vicinity and is not out of scale or character with its surrounds.

- The Development Management Guidelines 2007 state that a further information request should clearly indicate all information required and only where it is necessary for the determination of the application. Further information should not be sought on one aspect where there is a fundamental objection on other grounds. When refused, all reasons should be given in the decision. Further information was sought in relation to the extent of excavation works and the gradient of the access, and this was addressed. Knockboy Heights on Dunmore Road set a precedent for a steeper slope over a shorter distance. Also, the proposed site access is the only practical means of access. In zoning the land the planning authority must have given thought to the access. If it could not be accessed, it should not have been zoned residential.
- Pedestrian permeability was revised by way of further information. The footpath link to the rear of the Grangecastle Estate was removed to address privacy/security concerns. There would be no objection to a condition requiring boundary landscaping to improve the privacy of these neighbours.
- The applicant expended time and money addressing the visitor car parking/footpath concerns which was then listed as a reason for refusal.
- As noted in the further information response, there would be no difficulty in levelling off the ground above the 56m contour, giving a large area in addition to other open space which is suitable for games and play. Fencing can be erected along the north east and north west of the open space with planting behind as a safety measure.
- The serviced site has been removed, allowing for the realignment of the access road. Landscaping either side of the road will make the approach to the housing

an attractive feature. It removes concerns over impact to the existing house on Williamstown Road. Further landscaping can address any concern in respect of the footpath to the rear of this house. It is relevant to note no submissions were received.

- The pre-planning meetings, the terms of the further information request and meetings with the Roads Engineers in respect of the road design items of the request strongly suggested planning permission would be forthcoming. The reasons for refusal appear more appropriate to the scheme as originally proposed and don't acknowledge the inherent difficulty in designing a scheme for this site.
- The further information request was ambiguous and lacked clarity. The reasons for refusal were not fundamental insurmountable issues. Any outstanding planning concerns are minor and could have been conditioned.

6.2. **Planning Authority Response**

None.

6.3. **Observations**

None.

7.0 **Assessment**

The main issues are those raised in the grounds of appeal and the Planning Reports and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Zoning
- Site Layout and House Design
- Density
- Open Space

- Impact on Adjacent Residential Amenity

7.1. Zoning

- 7.1.1. The proposed development is located in an area zoned for residential use. Residential development is permitted in principle under this zoning in the Waterford City Development Plan 2013-2019, as varied. The principle of development is therefore acceptable, subject to the detailed considerations below.

7.2. Site Layout and House Design

- 7.2.1. The specific site layout and house designs are an issue for consideration in this assessment.

Site Layout

- 7.2.2. The most prominent characteristic of this site is the sharp increase in ground levels from the proposed vehicular access point into the site, which dominates the north/central area of the site. The applicant considers that the vehicular access must be at the location proposed because the alternative is off/immediately adjacent to the Farranshone Roundabout, and these physical obstacles effectively dictate that the site layout must be as set out in the application i.e. the open space is located where it is with houses on only one side of the internal road network. Having regard to the conditions and terrain on site I would accept the applicant's position that there is limited scope for a fundamental revision to the layout in terms of the general locations of the road network, open space and housing.
- 7.2.3. Notwithstanding, the site layout was altered at further information stage. The route of the internal vehicular circulation road(s) and consequent alteration of the proposed house footprints were the most significant amendments, as well as the omission of the serviced site. The extent of the required excavations was an issue in the further information request. Drawing No. 102, submitted as further information, provides longitudinal sections for the three internal roads and four site sections through the main vehicular access road. While cutting is required along all of the proposed internal access road from the entrance to the housing area it appears to be significantly less than what would have been required in the original layout. The revised site layout avoids, in so far as is reasonably possible, the main internal access road having to

traverse the highest areas of the site. The stability of the sides of the cut areas would have to be assessed to ensure they would not cause an issue and be appropriately treated, if required. Concern at the extent of cutting to accommodate the main internal vehicular circulation road was included in the planning authority's first reason for refusal and it was considered it would constitute a substandard form of development. Notwithstanding, I consider that the longitudinal sections and site sections submitted as part of the further information response illustrate ground level alterations that are acceptable. A Construction and Demolition Waste Management Plan would be required in the event of a grant of permission given the extent of cutting and filling required throughout the overall development area. A Construction Management Plan would also be necessary.

7.2.4. In terms of the general site layout, I note that a pedestrian entrance is proposed adjacent to the Farranshone Roundabout and that a potential future connection to land to the west is provided for in the southern corner of the site. The internal road culminates at a hammerhead adjacent to House No. 13. I consider this internal road could be extended to the site boundary to more easily facilitate any future vehicular, or pedestrian access. A footpath was originally proposed along the northern site boundary connecting the houses in the western corner of the site to the main internal access road. This footpath was removed as part of the further information response. The grounds of appeal states this was removed 'to address potential privacy or safety and security concerns relative to the adjoining estate'. Notwithstanding, I consider this could be re-introduced to facilitate a pedestrian desire line from this area of housing to the site entrance.

7.2.5. Having regard to the foregoing, I consider that the layout proposed is acceptable having regard to the physical characteristics of the site, the facilitation of potential future links with land to the west and desire lines within the site.

House Design

7.2.6. The design of the houses was not considered to be an issue with the application.

7.2.7. The proposed house types are consistent in terms of their external finishes and features. Roofs are blue/black tile/slate with brick and plaster to the front elevation and plaster elsewhere. There are two-storey flat roof gable features to the three and four bed houses. I consider the proposed house types to be acceptable in terms of design.

External finishes could be agreed with the planning authority in the event of a grant of permission.

- 7.2.8. Notwithstanding, given the site layout I consider that some houses should be redesigned in order to present dual frontages and avoid side elevations being presented to open space areas and estate roads. In this regard I consider House Nos. 1, 11 and 13 should be revised so as to have more active elevations to the open space/internal vehicular circulation roads. This could be carried out by way of compliance. Given the extent of existing vegetation and the nature of the boundary along the Outer Ring Road I do not consider it necessary to have houses facing onto this road.
- 7.2.9. There are 2 no. two-bed semi-detached houses proposed, 14 no. three-bed semi-detached houses, 1 no. three-bed detached and 7 no. four-bed detached houses. In terms of a housing mix for a 24 no. house development, I consider it is reasonable.

7.3. **Density**

- 7.3.1. Notwithstanding the general acceptability of the site layout and house designs as set out in Section 7.2, they significantly impact the proposed density. While this was not included as a reason for refusal, it is referred to in the grounds of appeal. The density is justified primarily on the physical characteristics of the site. The grounds of appeal also state that the density of the developable area is similar to other developments in the vicinity.
- 7.3.2. The application proposes 24 no. houses on a 2.3376 hectares site. This is a density of approx. 10 houses per hectare. Section 3.3 (Residential Density) of Variation No. 1 of the City Development Plan 2013-2019 states that the Council recognises the benefits of increasing the density of residential development at appropriate locations. This would encourage a more sustainable form of urban development, ensure a more economic use of existing infrastructure, reduce dependence on the private car, reduce the distance to be travelled, and improve accessibility and the attractiveness of public transport. Section 3.3.2 (Waterford City Area) states that “it is not intended to prescribe a maximum residential density for development ... Appropriate density shall be determined on a site by site basis” having regard to compliance with overall quantitative and qualitative standards, overall context having regard to existing

densities in adjoining residential developments, infrastructural capacity and existing features on the site. Section 3.3.4 (General Density Advice) states the planning authority will seek to implement density standards set out in the Sustainable Residential Development in Urban Areas Guidelines, “where practical to do so”.

7.3.3. The grounds of appeal state that “Williamstown Road has excellent public transport and connectivity to and from the City Centre via bus routes 607, 617 and W5. The bus shelter is located a short distance from the proposed access point to the site in question”. Section 5.8 (Public transport corridors) of the Sustainable Residential Development Guidelines states that “it is important that land use planning underpins the efficiency of public transport services by sustainable settlement patterns – including higher densities – on lands within existing or planned transport corridors”. The section goes on to recommend that increased densities should be promoted within 500 metres walking distance of a bus stop. In general, minimum net densities of 50 dwellings per hectare should be applied within public transport corridors. Under the Guidelines, an ‘Outer Suburban/’Greenfield’ Site’ should have a density in the 35-50 dwellings per hectare range. The relevant objectives of the National Planning Framework aim to increase the densities and population of existing service centres and to avoid further unnecessary suburban sprawl. The site is located inside the Outer Ring Road. It is described in the grounds of appeal as representing “an infill development opportunity within one of Waterford City’s most established suburbs. It is centrally located relative to local services and community facilities, all of which are within easy walking distance”. The grounds of appeal state that the net housing density and house numbers per developable area is similar relative to other developments in the vicinity. This statement has not been substantiated. I note that Hunters Way, Hunters Avenue, Hunters Grove and Hunters Close adjacent to the north west (79 no. houses) comprise 34 no. semi-detached, 45 no. terraced houses and no detached house.

7.3.4. Having regard to the foregoing I consider that a development on this site should be expected to provide a minimum 35 units per hectare. 10 no. units per hectare, as proposed, is significantly less than this. While I acknowledge that there is a significant constraint on this site given the terrain and ground levels, I consider that this is an unacceptably low density given the need to maximise the efficient use of land and the site location adjacent to a public transport corridor and in proximity to local services.

One third of the units proposed are detached houses and the remainder are semi-detached houses. There does not appear to be any impediment to increasing density by way of, for example, terraced or duplex units.

- 7.3.5. Having regard to the current policy environment in relation to increased densities and encouraging development in city areas, I consider that the provision of 24 no. houses on a 2.3376 hectares site, notwithstanding the on-site constraint, is not acceptable and would be a poor and inefficient use of this land which is located inside the Outer Ring Road and adjacent to a public transport corridor. I consider there is scope for the density to be increased. I recommend permission should be refused on this issue. As the issue of density was addressed in the grounds of appeal and a justification for the number of houses proposed was set out, I do not consider this to be a new issue. Notwithstanding, the Board may wish to seek the views of the parties.

7.4. Open Space

- 7.4.1. The standard of the open space area forms part of the basis of the planning authority's first reason for refusal.
- 7.4.2. The open space area is largely located at the highest point of the site. This gives extensive views across the surrounding area. The open space rises to approx. 58.0m. It is stated that there would be no difficulty in levelling off the ground above the 56m contour, "thereby giving a large level area in addition to the other open space which is suitable for games and play". The Waterford City Development Plan 2013-2019, as varied, states that public open space shall be provided at a minimum rate of 15% of the total site area. In this application the public open space area greatly exceeds this percentage. The Site Layout Plan submitted as part of the further information response indicates 47.55% of the site area is open space. Notwithstanding, much of the open space areas are small in area or adjacent to internal and/or public roads. Much of Areas A and B have significant gradients and are dissected by the main internal access road and the proposed footpath.
- 7.4.3. However, the specific area indicated as the usable public open space area is 18.18% of the total site area and therefore the percentage requirement of the Plan is achieved. The first reason for refusal includes reference to the extent of excavation required to accommodate this area, existing and proposed ground levels and the poor disposition

of the area. The development is considered to form a substandard form of development. I consider, having regard to the nature of the site, that there is a limited form of layout that could be accommodated on site. The physical characteristics largely dictate the layout. Therefore, I consider the main public open space area is in a reasonable location. Despite the substantial changes in ground levels throughout the site, no site section drawings have been submitted, apart from those relating to the roads. An open space area with a ground level of 56m would be 2.55 metres above the finished floor levels of the highest houses on the site (Nos. 18-22). Another four houses (Nos. 16-17 and 23-24), would be a maximum 3.55 metres below the level of the open space.

- 7.4.4. I consider that, having regard to the current ground levels on site, and the zoned nature of the site, that the open space area is acceptable in principle. Notwithstanding, I consider that a robust landscaping compliance submission would be required setting out, inter alia, appropriate site section drawings through the site, how the open space area can be accessed (steps and universal access), a ground level of 56.0m, planting/maintenance proposals for the steep gradients to Public Open Space Areas A and B and the appropriate delineation of the main area of public open space. Given the gradients outside this area, fencing or some form of boundary treatment may be required. Any such boundary treatment should be appropriate to the open space nature of the area.
- 7.4.5. The further information response proposed to remove all existing trees and hedgerow along the south western site boundary in order to construct a 2.1 metres high block wall. I do not consider the removal of these to be acceptable. I consider an alternative boundary type should be provided which would ensure the retention of these features.
- 7.4.6. In conclusion, while I note the position of the planning authority in relation to the open space area, I consider that, with an appropriate robust landscape plan, the public open space provision would be acceptable in principle having regard to the extent of open space proposed, the physical characteristics of the site and the zoned nature of the site.

7.5. Impact on Adjacent Residential Amenity

- 7.5.1. The first reason for refusal includes that the relationship of the open space to the adjoining residential housing development and difference in levels (existing and proposed) would give rise to overlooking and loss of privacy. The second reason for refusal states that because of the proximity of the estate road and footpath, and the difference in levels between the site and the 'neighbouring north property', the development would give rise to overlooking which would seriously injure the amenities of said property. The property being referred to in the second reason for refusal is the detached two-storey house (Shangrila) in the eastern area of the site along Williamstown Road.
- 7.5.2. Initially I shall consider the specific issues cited in the reasons for refusal. There is a substantial difference between existing and proposed ground levels between the site and the adjacent residential development to the north west. No appropriate site section drawings have been submitted illustrating the proposed development in the context of neighbouring properties, either to the planning authority or in the grounds of appeal. The floor levels of the most affected properties to the north east are not identified, but the eaves and ridge levels are. They range in height from 55.37 to 60.04, increasing in height in an east to west direction. At a maximum height of 56.0m the proposed open space ground level will be below the ridge of all but one house. The boundary of the 'usable' 56m contour open space area is approx. 12 metres from the overall site boundary with the neighbouring residential development at the closest point. I consider the separation distance between the site boundary and usable open space area could be increased to approx. 20 metres at a 56m height which would increase the separation distance while resulting in a relatively limited reduction in the usable open space area. Appropriate landscaping could also reduce any overlooking impact. The north western boundary of the site comprises a concrete panel wall. I consider that a footpath should be reintroduced linking the houses in western corner to the main vehicular access point. Appropriate additional boundary planting could be provided along the north west boundary to avoid any undue overlooking potential. However, given the south facing back gardens of these houses and the differences in ground levels it would be important that any proposed boundary planting should not grow too high which may result in a shadowing impact on the rear gardens/rear elevations of these houses. Therefore, having regard to the issue of overlooking to the adjoining

housing development, I consider that an increased set back between the site boundary and the 56m contour usable open space area, and appropriate boundary planting, would address the concern of overlooking from the public open space.

- 7.5.3. Similarly, the second reason for refusal relates to overlooking of Shangrila from the proposed estate road and footpath. Drawing No. 102 submitted with the further information response includes four section drawings showing the relative levels of the main internal vehicular access road and the footpath. However, these section drawings do not include the site boundary or the relevant levels of the adjacent house. The footpath is largely separated from the route of the road and there is some vegetation along this boundary. I consider that, similar to the boundary with the residential development to the north west, appropriate boundary treatment and landscaping would largely address any overlooking issue.
- 7.5.4. I do not consider that overlooking from the proposed houses would be an issue. House Nos. 1-8 are between approx. 16 metres and approx. 25 metres from the site boundary and primarily overlook an internal access road. The houses along the south west boundary all achieve the minimum 11 metres separation distances to their rear. House No. 24, at the north west corner, is slightly angled so as to face into the site so any overlooking potential to the rear of properties of the north west is significantly reduced. Given the two storey scale of the houses and the separation distances, I do not consider that shadowing or overbearing is an issue. The ridge height of the semi-detached house adjacent to No. 24, No. 11 Hunter's Grove, is stated as 60.04. The finished floor level of No. 24 is 52.50 and with a height of approx. 8.75 metres, the ridge height of No. 24 would be approx. 61.25, so there is not a significant difference.
- 7.5.5. Having regard to the foregoing, I consider that there would not be undue overlooking impact from the usable public open space area, the proposed estate road or the footpath to adjacent properties, subject to appropriate boundary treatment and landscaping.

8.0 Appropriate Assessment

- 8.1.1. The requirements of Article 6(3) of the Habitats Directive, as related to screening the need for Appropriate Assessment of a project under Part XAB (section 177U) of the

Planning and Development Act 2000 (as amended), are considered fully in this section.

Background to the Application

- 8.1.2. The applicant did not include an AA Screening Report as part of the application documentation. The Council's Planning Report includes a screening exercise which concluded that no Appropriate Assessment issues arise, and the proposed development would not be likely to have a significant effect on a Natura 2000 site, either individually or in combination with other plans or projects.
- 8.1.3. As a screening report for Appropriate Assessment was not submitted with this appeal case, this screening assessment has been carried out de novo.

Screening for Appropriate Assessment – Test of Likely Significant Effects

- 8.1.4. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European Site(s).
- 8.1.5. The proposed development is examined in relation to any possible interaction with European sites designated Special Area of Conservation (SAC) and Special Protection Area (SPA) to assess whether it may give rise to significant effects on any European site.

Brief Description of the Development

- 8.1.6. Permission is sought for a residential development of 24 no. houses and all associated site development works.
- 8.1.7. The development site is a greenfield site with significant changes in ground levels in a built-up urban area. It is comprised of both heavily vegetated areas and fields.
- 8.1.8. Taking account of the characteristics of the proposed development in terms of its location and scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European Sites:
- Construction related pollution
 - Habitat loss/fragmentation
 - Habitat/species disturbance (construction and/or operational)

Submissions and Observations

8.1.9. No submission or observation was received on file. Appropriate Assessment was not considered to be a concern in the planning authority's determination of the application.

European Sites

8.1.10. The development site is not located in or immediately adjacent to a European site. The nearest European site is Lower River Suir SAC approx. 1km to the north.

8.1.11. I consider that only the Lower River Suir SAC falls within a possible zone of influence having regard to the scale of the proposed development, the separation distances involved and the absence of identified pathways. The next closest European site is River Barrow and River Nore SAC approx. 7.2km to the north east. However, any source-pathway-receptor link to the River Barrow and River Nore SAC is by way of the Lower River Suir SAC. A summary of the Lower River Suir SAC is presented in the table below.

Summary of European Sites Within the Possible Zone of Influence of the Development

European Site (Code)	List of Qualifying Interest / Special Conservation Interest	Distance from Proposed Development (km)	Connections (source, pathway, receptor)	Considered Further in Screening (Y/N)
Lower River Suir SAC (002137)	Atlantic salt meadows [1330] Mediterranean salt meadows [1410] Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]	1	No	N

	<p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior [91E0]</p> <p>Taxus baccata woods of the British Isles [91J0]</p> <p>Freshwater Pearl Mussel [1029]</p> <p>White-clawed Crayfish [1092]</p> <p>Sea Lamprey [1095]</p> <p>Brook Lamprey [1096]</p> <p>River Lamprey [1099]</p> <p>Twaite Shad [1103]</p> <p>Salmon [1106]</p> <p>Otter [1355]</p>			
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Identification of likely effects

8.1.12. In relation to construction-related pollution, I note the site is not within or adjacent to any European site. The closest European site is approx. 1km from the site, by way of a built-up urban environment. There are no watercourses on site that could provide a

pathway from this site to the SAC. As there are no watercourses there is no possibility of construction-related pollution.

8.1.13. In terms of habitat loss/fragmentation, no part of the site is located within or adjacent to a European site and there will be no loss or fragmentation of habitat.

8.1.14. I also do not consider there is any possibility of habitat or species disturbance during construction or during the operational stage having regard to the absence of any hydrological or ecological corridor and the distance from the SAC.

8.1.15. In terms of the 'in combination' issue, I do not consider this is a concern. The application is a stand-alone residential development. As the proposed development itself will not have any effects on the conservation objectives of any European sites, there is no potential for any other plan or project to adversely affect the integrity of any European sites in combination with the proposed development.

Mitigation Measures

8.1.16. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Screening Determination

8.1.17. The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on European Site No. 002137 (Lower River Suir SAC), or any other European site, in view of the site's conservation objectives, and Appropriate Assessment including the submission of Natura Impact Statement is not, therefore, required.

8.1.18. This determination is based on the distance of the proposed development from the European site and absence of any hydrological or ecological connections.

9.0 Recommendation

- 9.1. I recommend that the planning application be refused for the following reasons and considerations.

10.0 Reasons and Considerations

1. The site is located in an area zoned 'Undeveloped Residential (Subject to Phasing)' in the Waterford City Development Plan 2013-2019, as varied. A density of approx. 10 no. units per hectare is proposed. Notwithstanding the physical constraints on site, this density is significantly below the minimum 35 units per hectare set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) for an 'Outer Suburban/'Greenfield' Site'. It is also considered that the low density would conflict with certain National Policy Objectives (NPO) as set out in National Planning Framework Project Ireland 2040 such as NPO 3b, NPO 5 and NPO 11. Therefore, the proposed development would be contrary to national policy and would be contrary to the proper planning and sustainable development of the area.

Anthony Kelly

Planning Inspector

09.03.2021