



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309789-21

<b>Development</b>	Split level dwelling house over three floors, new vehicular entrance and parking area, connection to services and all associated site works
<b>Location</b>	Cheekpoint, Co Waterford
<b>Planning Authority</b>	Waterford City and County Council
<b>Planning Authority Reg. Ref.</b>	20366
<b>Applicant(s)</b>	Niall & Paula Troy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Niall & Paula Troy
<b>Observer(s)</b>	1) Maurice Doherty 2) Mary Clarke 3) Derek Doherty 4) Gavin Doherty
<b>Date of Site Inspection</b>	6 <sup>th</sup> March 2022
<b>Inspector</b>	Mary Crowley

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## 1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.327ha is located on the southern side of Cheekpoint, on lands located between the public road and the estuary. Cheekpoint is a small village located to the north east of Co. Waterford, on the confluence of the Rivers Barrow and Suir and offers extensive views of Waterford Harbour. There are a number of settlements dotted along the coastline and development within Cheekpoint is concentrated at the crossroads and in the vicinity of the harbour to the north and to the north east of the crossroads. A set of photographs of the site and its environs taken during the course of my site inspection is attached. These serve to describe the site and location in further detail.

## 2.0 Proposed Development

2.1. Permission was sought on the 18<sup>th</sup> June 2020 for a split-level dwelling house over three floors (323.18 sqm), new vehicular entrance from the public road to the west and parking area, connection to services (public mains and public sewer) and all associated site works. There will be a single storey element presented to the public road, the ridge height of which will be 5.6m above road level. Below the entrance level from the public road, there will be a lower ground floor and basement levels. The application was accompanied by a Design Statement and AA Screening Report.

2.2. Following a request for **Further Information** the following was submitted on the 9<sup>th</sup> December 2020:

- Item 1 – Additional survey information was not available from adjoining properties. With the information available (planning history cases) it is considered that the separation distance together with design of adjoining properties in an area zoned for low density residential development to be more than adequate. Stated that there is scope for additional planting on the subject site by way of planning condition if necessary.
- Item 2 – Not possible to provide a vehicular access road into the lower parts of the site to the west. An access road would simply be too steep and unsafe and it is for this reason that the proposed split level house design has been proposed. This was discussed at pre-planning and was accepted as a reasonable approach.

- Item 3 – Reference is made to the Structural and Environmental Engineering report submitted together with the technical details for a Klargestor holding tank within the report together percolation test results. It is proposed to install a soakaway measuring 18.1m long x 0.9m wide x 0.8m deep with 100mm percolation pipe vented at each end and wrapped in permeable membrane. A landscaping berm of 0.5m high and 22.0m long located 2.0m down gradient of the soakaway is also proposed.
- Item 4 – The road to the east is quite narrow and has not been taken in charge by the Local Authority and has limited capacity to cater for additional residential development. If the surface on this road were upgraded and if it were widened or perhaps some form of passing points were introduced, further development of one or two dwellings might be possible at the applicant lands. The improvement of this road is beyond the applicant control.
- Item 5 – The District Engineer has confirmed a 2m wide footpath would be required at the entrance. The existing footpath is approximately 1.4m and can be widened towards the appeal site.
- Item No 6 – Construction access will gain access via the road to the east of the site until such time as the access from the main road to the west has been formed. Traffic Management Plan attached for temporary access route.
- Observations - With regard to the third party submissions on the appeal file the applicant submitted comments in relation to overlooking and loss of privacy, the vehicular entrance, the previous planning application (Reg Ref 18/133), water supply, construction access, AA Screening, underground aquifer and scenic landscape evaluation.

2.3. Following a request for **clarification** the following was submitted on the 1<sup>st</sup> February 2021. Please note that this information was not made available with the appeal file. I refer to my memo dated 14<sup>th</sup> March 2022 requesting that the clarification be made available with the appeal file. Following a formal request by ABP to WC&CC to submit the clarification information the cover letter was not submitted. This cover letter has therefore been summarised from the WC&CC Planning website.

- Item 1 – It is confirmed that the access to the northeast will be temporary only to facilitate the initial stages of construction. On completion of the development the

main access to the dwelling will be from the main road to the west of the site and the temporary access can be removed. The applicants have a right of access over the adjoining property (Folio Ref WD5364) which allows them to cross over part of the adjoining property to gain access to this property (Folio WD33386F). Copies of folios was submitted together with details of the remainder of their landholding up to appeal site boundary.

- Item 2 – Revised layout drawings attached indicating shadow cast from the proposed developments which provide more clarity.

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. Waterford City & County Council issued a notification of decision to refuse permission for 2 no reasons summarised as follows:

- 1) The development is dependent on a temporary access that is located outside the site boundary (outlined in red). It has not been demonstrated that the site can be developed without the carrying out of works outside the site. In the absence of an authorised access to the site for construction traffic the Planning Authority is not satisfied that the proposed development would not endanger public safety by reason of traffic hazard.
- 2) Having regard to the location so the external stairs and balcony relate to the adjoining north residential property and south residential site the proposal would give rise to overlooking and loss of residential amenity of adjoining property uses.

#### 3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** in their first report requested that the following further information be sought. Further information was requested on the 5<sup>th</sup> August 2020.
  - 1) Section drawings indicating existing and proposed levels together with an assessment of potential for overlooking, loss of privacy and loss of light to neighbouring sites (existing and proposed)

- 2) Assessment of potential access roadway form the public roadway to serve this site and adjoining residentially zoned land in accordance with DMURS.
  - 3) Details of proposed wastewater treatment holding tank / sump and pump together with percolation tests and design proposals
  - 4) Compliance with Objective D08 of the Development Plan.
  - 5) Revised site layout providing for road widening at this location
  - 6) Details of any temporary construction entrance together with a Comprehensive Traffic Management Plan. Site entrance to be splayed, with gateway a minimum of 4m wide.
- The **Case Planner** in their second report and having considered the further information submitted requested the following clarification as summarised:
    - 1) Clarify how it is proposed to access the site in the absence of the stoned access route to the northeast of the site. Revised construction and management plan that does not include access from the lower ground to the northeast.
    - 2) Further Shadow analysis

Having considered the information on file the Case Planner recommended that permission be refused for 2 no reasons relating to (1) the development being dependent on a temporary access that is located outside the site boundary (outlined in red) and (2) overlooking and loss of residential amenity of adjoining property uses. The notification of decision to refuse permission issued by Waterford City and County Council reflects this recommendation.

### 3.2.2. Other Technical Reports

- **Heritage Officer** – Satisfied that there is no finding of significant effect on the conservation objectives of the qualifying interests of the Nore Barrow Estuary SAC on the basis of no loss of habitat from the ecological footprint of the SAC and proposed connection to existing wastewater treatment system.
- **Roads Department** – Requested further information in relation to the provision for road widening and the exact line of the front boundary to be agreed, details of any temporary construction entrance to be approved, the submission of a Construction Traffic Management Plan, dishing of the public footpath, tactile paving, roadside

drainage, road opening license may be required, damage to the public footpath or road and splayed site entrance.

### 3.3. **Prescribed Bodies**

- 3.3.1. **Irish Water** – Subject to a valid connection agreement being put in place the proposed connection to the IW network can be facilitated.

### 3.4. **Third Party Observations**

- 3.4.1. There are 7 no observations recorded on the planning file from (1) Maurice Doherty, (2) Pat Moran, (3) Mary Clarke, (4) Gavin Doherty, (5) Victor Whitty, (6) Derek Doherty, (7) Jacqueline Doherty,
- 3.4.2. The issues raised relate to impact to residential amenities, traffic safety, water supply, NIS does not refer to the existing aquifer (reason for refusal on previous application on the landholding), construction access, undesirable precedent, piecemeal development, impact to wellbeing, development is wholly unnecessary, out of character, damaging to the scenic landscape, no justification, AA Screening fails to adequately address Article 6(3) of the EU Habitats Directive, 5 no soak pits in a row across on top of the aquifer, loss of privacy, scale of dwelling, the width, alignment and condition of the laneway to the east cannot support further development, overlooking from decking area,

## 4.0 **Planning History**

- 4.1.1. The following planning history associated with the appeal site and adjoining lands is as follows:
- 4.1.2. Appeal Site:
- **ABP PL24.222527 (PA Reg Ref PD06/1184)** - Permission refused on appeal for the construction of a house and all associated site works. Reasons for refusal relate to prematurity in terms of waste water provisions and lack of overall plan for site development works and services amounts to piecemeal fragmented development.
- 4.1.3. Adjoining Lands:



- **ABP 302297 (Reg Ref 17/761)** – In December 2018 the Board granted permission for a dwelling house and 2 no serviced sites on the land immediately to the south of the appeal site. It is noted that this site has a similar gradient to the appeal site. The house is nearing completion and it is submitted that the infrastructure for the 2 no serviced sites is in place.
- **ABP 209747 (Reg Ref 04/1165)** – Site located to the east of the appeal site and immediately to the south of the right of way / wayleave. The Board refused permission for the following 2 no reasons as summarised:
  - 1) Notwithstanding the low-density residential zoning for the site the development is premature on land which cannot be connected to the public sewer at present.
  - 2) Development constitutes piecemeal fragmented development which would lead to disorderly development, seriously injure residential amenity and depreciate property values.
- **ABP 223299 (PA Reg Ref 07/244)** - Permission refused on appeal to Kelly Fitzgerald for the construction of a bungalow with attached double garage and waste water treatment system. Reasons for refusal include settlement location policy, visual impacts and protection of groundwaters.
- **ABP 223298 (PA Reg Ref 07/226)** - Permission refused on appeal to Jason Fitzgerald for the construction of a bungalow with attached double garage and waste water treatment system. Reasons for refusal include settlement location policy, visual impacts and protection of groundwaters.
- **PA Reg Ref 06/9** - Permission refused to Kelly Fitzgerald for the construction of a bungalow with waste water treatment system. Reasons for refusal relate to the proliferation of haphazard one-off development and visual impact of cutting and embankment works and the driveway.
- **PA Reg Ref 06/8** - Permission sought by Jason Fitzgerald for the construction of a bungalow with waste water treatment system. The application was withdrawn prior to a decision issuing.
- **PA Reg Ref 04/1968** - Permission sought by Patrick Fitzgerald for the construction of 2 bungalows with waste water treatment system. The application was withdrawn prior to a decision issuing.

- **PA Reg Ref 90/262** - Permission granted to Patrick Fitzgerald to retain roadway excavation and fill.
- **PA Reg Ref 90/17** - Permission granted to Patrick Fitzgerald for new entrance.
- **PA Reg Ref 03/1621** - Permission refused to construct six no. dwelling houses in two types with biotech foul drainage waste treatment system group scheme, with new entrance walls and piers, widen existing public road and remove existing entrance walls and piers to existing property and relocate in proposed development. All with associated site works. Reasons for refusal relate to road access and waste water treatment.
- **ABP PL24.204950 (PA Reg Ref PD03/1097)** - Permission was granted for the retention and completion of a dormer dwelling and waste water treatment system. This permission related to a previous grant of permission for a dormer dwelling on the site under PA ref 96/700.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The operative plan for the areas is the **Waterford County Development Plan 2011 – 2017 (as extended)**. The subject site is located at the southern boundary of the village of Cheekpoint which is included as a District Service Centre in the Waterford County Development Plan, 2011-2017 and is **Zoned R2** in the settlement plan, contained in Volume 2 of the Plan. It is the stated objective of this R2 zoning *“to protect amenity of existing residential development and provide new residential development – low density (clustered housing, serviced sites, large plot size)”*.
- 5.1.2. In addition **Objective DO8** is attached to the appeal lands and states that *“this site has the potential to accommodate low density residential development. Proposed development shall have an appropriate/sympathetic approach to design which utilises the existing contours of the site. Development shall not detract from the visual setting of the River Suir and shall be sympathetic in design when viewed from the L4082 Road”*.
- 5.1.3. Appendix D of the LAP provides for the Waterford County Development Plan, 2011-2017 Chapter 10 Development Standards.

## 5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natura 2000 site. However, there are a number of sites proximate to the appeal site as follows:

Site	Code	Distance
River Barrow & River Suir SAC	2162	140m
Lower River Suir SAC	2137	700m
Bannow Bay SAC	0697	12km
Bannow Bay SPA	4033	12km
Tramore Dunes & Backstrand	0671	12.4km
Tramore Backstrand SPA	4027	12.4km
Hook Head SAC	0764	14.3km

## 5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The first party appeal against the decision to refuse has been prepared and submitted by Peter Thompson Planning Solutions and may be summarised as follows:

- Temporary Access – Having demonstrated the full extent of their land ownership and legal entitlements to access in the current appeal site (blue line boundary), it is submitted that the Planning Authority was entitled to permit the temporary access for construction purposes and that a new application was not required to encompass this. Reference is made to Section 34(4)(c) of the Planning and Development Act. The Planning Authority was empowered to attach a condition

permitting and regulating the use of the proposed construction access of the northeast of the site.

- Traffic Safety – Second part of the first reason for refusal made it clear that that construction access for the entire development off the public road to the west of the site would endanger public safety by reason of traffic hazard. Extract from Folio 5364 states that the transferees will at all times construct and maintain along the pathway or driveway shown in coloured yellow on the attached map to a good quality surfaced to a standard appropriate to the residential amenity of the house to be erected.
- Overlooking – The existing house to the north is 22m from the proposed house and there are mature boundaries between the sites. It is considered there will be no overlooking or loss of privacy or amenity. If additional screen planting is considered desirable the applicants are prepared to design and implement a scheme to reinforce the boundary screening. The new house to the south is c30m from the appeal house and set at a considerably lower level on the site. If considered essential the applicants have no objection to a 1.8m high frosted safety glass panels desing installed at either end.
- Development Plan – The proposal is in accordance with the Development Plan policies and objectives for the zoned settlement of Cheekpoint.
- Services – The proposed house will be connected to public water mains and the public foul sewers. A specification for a proposed wastewater treatment holding tank / sump and pump has been submitted and considered acceptable to deal with wastewater pending discharge to the public mains. This is a similar arrangement to that designed and permitted on the site under construction to the south.
- Third Party Submissions – All the relevant issues raised were wither addressed in the application or further information responses to the satisfaction of the Planning Authority save the issue of the site boundary.
- AA Screening – Revised AA Screening report attached.
- The adjoining bungalow was granted permission in 2002 Reg Ref 02/94 refers. Details of the permission, layout and plans are attached. Submitted that the house is not in the position shown on the permitted layout.

## 6.2. **Planning Authority Response**

6.2.1. None

## 6.3. **Observations**

6.3.1. There are 4 no observations recorded on the appeal file from (1) Gavin Doherty, (2) Derek Doherty, (3) Mary Clarke and (4) Maurice Doherty. The issues raised relate to the correct decision being made to refuse permission, construction traffic impact in the village, superstructure proposed is inappropriate, impact on adjoining zoned lands, impact to dwellings on lower lands, loss of sunlight, inadequacy of screening, loss of privacy, overlooking, impact to an important aquifer, reference is made to the planning history in the immediate area, piecemeal development,

## 6.4. **Further Responses**

6.4.1. None

## 7.0 **Assessment**

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings.

- Principle
- Traffic Impact & Site Access
- Residential Amenity
- Other Issues
- Screening for Appropriate Assessment

## 7.2. **Principle**

7.2.1. The appeal site is located at the southern boundary of the village of Cheekpoint which is included as a Local Service Centre in the Waterford County Development Plan, 2011-2017 and is zoned R2 Residential in the settlement plan. Contained in Volume

2 of the Plan. Public foul drainage and water supplies are available at the public road. Given the topography of the site it will be necessary to connect to the public foul drainage system by means of a rising mains and pumping stations, with a holding chamber. Details are provided together with pre-connection confirmation from Irish Water and drainage plan. Accordingly, I consider the principle of the scheme to be acceptable at this location. This is however subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

### **7.3. Traffic Impact & Site Access**

- 7.3.1. WC&CC in their first reason for refusal stated the development is dependent on a temporary access that is located outside the site boundary (outlined in red) and that it has not been demonstrated that the site can be developed without the carrying out of works outside the site. In the absence of an authorised access to the site for construction traffic the Planning Authority is not satisfied that the proposed development would not endanger public safety by reason of traffic hazard.
- 7.3.2. The development, once completed, will be accessed off the public road adjoining the site to the west. Adequate sight distances are available in both directions and the subject site lies within a 50kph speed limit, within the settlement of Cheekpoint. I am satisfied that the proposed access to serve this development when completed is acceptable
- 7.3.3. However, for construction purposes, access will initially be taken via the road to the east of the site until such time as the access from the main road to the west has been formed. A Traffic Management Plan was submitted for this temporary access route. It is stated that this will allow for much of the development including the reinforced concrete deck to be constructed. Thereafter much of the construction can be carried out with access from the public road. As set out in the reason for refusal a difficulty has arisen with regard to the applicants legal interest in this right of way.
- 7.3.4. The appeal site was acquired by the applicants in 2006 from the owners of the adjoining bungalow to the east together with a right of way / wayleave. The adjoining bungalow was developed with 2 no entrances. The main entrance is the upper entrance. It is submitted that the applicants have a right of access over the lower entrance (Folio Ref WD5364) which allows them to cross over part of the adjoining

property to gain access to this property (Folio WD33386F). Copies of folios have been submitted together with details of the remainder of their landholding up to appeal site boundary. Having regard to the information made available with the appeal file I am satisfied that the applicant has submitted the full extent of their land ownership and legal entitlements to access the appeal site by way of a right of way / wayleave.

7.3.5. Therefore, in terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal interest for the purposes of the planning application and decision. Any further consents that may have to be obtained are essentially a subsequent matter, and are outside the scope of the planning appeal. In any case, this is a matter to be resolved between the relevant parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

7.3.6. Having regard to the foregoing it is recommended that the first reason for refusal is set aside.

#### **7.4. Residential Amenity**

7.4.1. WC&CC in their second reason for refusal stated that having regard to the location of the external stairs and balcony relative to the adjoining north residential property and south residential site the proposal would give rise to overlooking and loss of residential amenity of adjoining property uses.

7.4.2. The site affords uninterrupted views to the River Suir Estuary to the east and this together with elevated nature of the site has influenced the design of the proposed dwelling. In order to deal with the steeply sloping topography of the site from the road to the west towards the estuary to the east a three-storey split level dwelling built into the hill is proposed with substantial glazing and a balcony to the west that partly wraps around the building to the south. To the north, proposed windows are frosted glazing with an external stairway providing access from ground floor to the first-floor balcony. In order to achieve access and off street parking, the ground level between the proposed dwelling and public roads is to be raised, with the dwelling acting as a retaining structure.

7.4.3. The existing house to the north is c22m from the proposed house and as observed on day of site inspection there is a mature boundary between the sites. It is noted that there is a house further to the north west of the appeal site located c80m from the

proposed new house. These distances taken together with the proposed frosted windows and design of the external stairs on the northern elevation I am satisfied that there will be no significant overlooking or loss of residential amenity of these adjoining properties. Notwithstanding this, I also support the applicant's proposal to provide additional screen planting along the site's boundaries. It is recommended that this matter is dealt with by way of condition.

7.4.4. The houses to the south are over c30m from the appeal house and set at a lower level on the site. I note that the applicant has recognised the difficulties with the proposed balcony in relation to this house to the south and has proposed that 1.8m high frosted safety glass panels are installed at either end. It is recommended that the southern section of the proposed balcony should comprise frosted safety glass panels. Taken together with location of the site and proximity to the dwellings to the south I am satisfied that there will be no significant overlooking or loss of residential amenity of these adjoining properties.

7.4.5. Having regard to the foregoing it is recommended that the second reason for refusal is set aside.

#### 7.5. **Other Issues**

7.6. **Development Contributions** – I refer to the Waterford City & County Council Development Contribution Scheme 2015-202. The development not exempt from the requirement to pay a Development Contribution Scheme. Should the Board be minded to grant permission it is recommended that a standard Section 48 Development Contribution Condition be attached.

7.7. **Aquifer** - With regard to concerns raised in the observations in relation to the protection of the underlying aquifer, I am generally satisfied that as the proposed development seeks to connect to the public services available in the village and is unlikely to have any impact on the quality of the underlying aquifer.

7.8. **Roads Department** - I note the report of the WC&CC Roads Department and the requirements there in relation to the provision for road widening and the exact line of the front boundary to be agreed, details of any temporary construction entrance to be approved, the submission of a Construction Traffic Management Plan, dishing of the public footpath, tactile paving, roadside drainage, that a road opening license may



be required, damage to the public footpath or road and splayed site entrance. It is recommended that should the Board be minded to grant permission that a suitable worded condition be attached setting out the requirements of the Roads Department.

## 7.9. Screening for Appropriate Assessment

7.9.1. I refer to the AA Screening Report submitted with the planning application; the Revised AA Screening report submitted with the appeal together with the report of the WC&CC Heritage Officer.

7.9.2. The site description and proposed development are set out in Section 1.0 and 2.0 above. During the construction phase the activities will include excavation of the site, site levelling and potentially rock breaking to prepare the site for the proposed development. Other activities include pouring of concrete, completion of roof finishes, installation of all glazing systems, wastewater holding tank installation, landscaping, road surfacing and completion of entrance. Potential impacts pathways are restricted to hydrological pathways. All other potential emission pathways such as noise, aerial and visual are not relevant due to the nature of the project and the distance separating the project from surrounding European sites.

7.9.3. The appeal site is not located within or directly adjacent to any Natura 2000 sites and there are no proposals for works to any European Site. It is noted that there are 7 Natura Sites within 15km of the appeal site as follows. While 15km is not a statutory requirement I am satisfied that it is a reasonable parameter and that the sites identified are acceptable. Site specific conservation objectives and qualifying interests have been set for these sites by the National Parks and Wildlife Service (NPWS).

Site	Code	Distance
1) River Barrow & River Suir SAC	002162	140m
2) Lower River Suir SAC	002137	700m
3) Bannow Bay SAC	000697	12km
4) Bannow Bay SPA	004033	12km
5) Tramore Dunes & Backstrand	000671	12.4km
6) Tramore Backstrand SPA	004027	12.4km

7) Hook Head SAC	000764	14.3km
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7.9.4. As stated previously all of the proposed works take place outside the SACs and SPAs and therefore there are no direct effects on the integrity of these European Sites. Taking together with an examination of the AA Screening Report, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separating distances and functional relationship between the proposed works and the European Sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, the potential impacts to the following 6 no European sites:

- 1) Lower River Suir SAC
- 2) Bannow Bay SAC
- 3) Bannow Bay SPA
- 4) Tramore Dunes & Backstrand
- 5) Tramore Backstrand SPA
- 6) Hook Head SAC

are excluded from further consideration and are therefore screened out. There are no hydrological impacts, and the distance is sufficient for no impacts to occur due to works.

7.9.5. Site specific conservation objectives and qualifying interests for the River Barrow & River Suir SAC have been set for these sites by the National Parks and Wildlife Service (NPWS). The site is designated for 11 habitats and 11 species. Details are summarised as follows

European Site	Qualifying Interest & Conservation Objective
<b>River Barrow &amp; River Suir SAC</b>	<p>Estuaries</p> <ul style="list-style-type: none"> <li>▪ To maintain the favourable conservation condition of Estuaries in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets</li> </ul> <p>Mudflats and sandflats not covered by seawater at low tide</p> <ul style="list-style-type: none"> <li>▪ To maintain the favourable conservation condition of the Mudflats and sandflats not covered by seawater at low tide in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul> <p>Salicornia and other annuals colonising mud and sand</p>

	<ul style="list-style-type: none"> <li>▪ To maintain the favourable conservation condition of <i>Salicornia</i> and other annuals colonizing mud and sand in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets: <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>)</p> <ul style="list-style-type: none"> <li>▪ To restore the favourable conservation condition of Atlantic salt meadows in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <ul style="list-style-type: none"> <li>▪ To restore the favourable conservation condition of Mediterranean salt meadows in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul> <p>Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation</p> <ul style="list-style-type: none"> <li>▪ To maintain the favourable conservation condition of Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul> <p>European dry heaths</p> <ul style="list-style-type: none"> <li>▪ To maintain the favourable conservation condition of European dry heaths in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels</p> <ul style="list-style-type: none"> <li>▪ To maintain the favourable conservation condition of Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>)</p> <ul style="list-style-type: none"> <li>▪ To maintain the favourable conservation condition of Petrifying springs with tufa formation (<i>Cratoneurion</i>) in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <ul style="list-style-type: none"> <li>▪ To restore the favourable conservation condition of Old oak woodland with <i>Ilex</i> and <i>Blechnum</i> in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>)</p> <ul style="list-style-type: none"> <li>▪ To restore the favourable conservation condition of Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) in the River Barrow and River</li> </ul> </li> </ul>
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	<p>Nore SAC, which is defined by the following list of attributes and targets</p> <p><i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail)</p> <ul style="list-style-type: none"> <li>▪ To maintain the favourable conservation condition of Desmoulin's whorl snail in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets</li> </ul> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel)</p> <ul style="list-style-type: none"> <li>▪ The status of the freshwater pearl mussel (<i>Margaritifera margaritifera</i>) as a qualifying Annex II species for the River Barrow and River Nore SAC is currently under review. The outcome of this review will determine whether a site-specific conservation objective is set for this species. Please note that the Nore freshwater pearl mussel (<i>Margaritifera durrovensis</i>) remains a qualifying species for this SAC. This document contains a conservation objective for the latter species.</li> </ul> <p><i>Austropotamobius pallipes</i> (White-clawed Crayfish)</p> <ul style="list-style-type: none"> <li>▪ To maintain the favourable conservation condition of White-clawed crayfish in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul> <p><i>Petromyzon marinus</i> (Sea Lamprey)</p> <ul style="list-style-type: none"> <li>▪ To restore the favourable conservation condition of Sea lamprey in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets</li> </ul> <p><i>Lampetra planeri</i> (Brook Lamprey)</p> <ul style="list-style-type: none"> <li>▪ To restore the favourable conservation condition of Brook lamprey in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul> <p><i>Lampetra fluviatilis</i> (River Lamprey)</p> <ul style="list-style-type: none"> <li>▪ To restore the favourable conservation condition of River lamprey in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul> <p><i>Alosa fallax fallax</i> (Twaite Shad)</p> <ul style="list-style-type: none"> <li>▪ To restore the favourable conservation condition of Twaite shad in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul> <p><i>Salmo salar</i> (Salmon)</p> <ul style="list-style-type: none"> <li>▪ To restore the favourable conservation condition of Salmon in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul> <p><i>Lutra lutra</i> (Otter)</p> <ul style="list-style-type: none"> <li>▪ To restore the favourable conservation condition of Otter in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul> <p><i>Trichomanes speciosum</i> (Killarney Fern)</p>
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	<ul style="list-style-type: none"> <li>▪ To maintain the favourable conservation condition of Killarney Fern in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul> <p>Margaritifera durrovensis (Nore Pearl Mussel)</p> <ul style="list-style-type: none"> <li>▪ To restore the favourable conservation condition of the Nore freshwater pearl mussel in the River Barrow and River Nore SAC, which is defined by the following list of attributes and targets:</li> </ul>
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7.9.6. I refer to the report of the WC&CC Heritage Officer. The relevant habitats that occur in this area are Estuary and Mudflats and Sandflats. The species that occur in this part include Otter, Salmon, Twaite Shad and Lamprey. Further conservation objectives for the these species and habitats are outlined as follows:

- Estuaries – Permanent habitat area stable or increasing (estimated at 3,856 ha); estuarine muds dominated by polychaetes and crustaceans’ community complex maintained in a natural condition.
- Mudflats & Sandflats – Permanent habitat areas is stable or increasing, subject to natural processes, conservation in a natural condition of Muddy estuarine community complex and sand to muddy fine sand community complex.
- Sea Lamprey & River Lamprey – To maintain river accessibility (no artificial barriers); healthy population structure; healthy density of juveniles; no decline in extent or distribution of spawning beds; >50% of sampling sites positive
- Salmon – To maintain a river accessibility (no artificial barriers); 100% of river channels down to second order streams accessible form estuary. No decline in spawning redds due to anthropogenic causes. No decline in abundance of out-migrating smolt.
- Twaite Shad – Greater than 75% of main stem length of rivers accessible form the estuary; more than one age class present; no decline in extent and distribution of spawning habitat; water quality – oxygen levels no lower than 5mg/l; maintain stable gravel substrate with very little fine material, free from filamentous (microalgae) growth and macrophyte (rooted in higher plants) growth.
- Otter – No significant decline in distribution; no significant decline in terrestrial / estuarine / freshwater / lake habitat; no significant decline in couching sites or holts; no decline in available fish biomass.

- 7.9.7. The Heritage Officer states that in the most recent assessment of conservation condition of the relevant habitats and species by NPWS, Brook Lamprey, River Lamprey, Twaite Shad and Otter are rated as being at good conservation status, Estuary and Tidal Mudflats are rated as intermediate conservation status, Sea Lamprey are rated as bad and Allis Shad and unknown.
- 7.9.8. I agree with the Heritage Officer that given the distance between the appeal site and the boundary of the River Barrow & River Suir SAC there is no potential for loss of ecological footprint from within the SAC boundary or impact on water flow and sediment dispersion within the estuary and mudflats. Thus, it is considered the proposed development will not pose significant effects on the conservation objectives for these habitats. It is also considered the Estuary will continue to provide the habitat requirements necessary to sustain a healthy Otter population in terms of feeding and breeding sites and thus it is considered the proposed development will not impose significant effect on the conservation objectives for this species.
- 7.9.9. As pointed out by the Heritage Officer Sea Lamprey are known to have low population densities in many catchments across Ireland and are negatively affected by barriers to migration such as weirs and dams. Their conservation status can also be threatened by water pollution as also applies to river and Brook Lamprey, Salmon and Twaite shad.
- 7.9.10. On the basis that there is no risk of loss of habitat from the SAC and foul water is connecting to the municipal wastewater treatment plant it is considered there is no potential for significant effects on the conservation objectives of qualifying interest habitats and species that occur in this section of the River Barrow & River Suir SAC relevant to the site of the proposed development and that a Stage 2 AA is not required.
- 7.9.11. As the proposed development will not have any impacts on nearby waterbodies or Natura 2000 sites, there is no risk of in-combination effects with other developments.
- 7.9.12. 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 002162 or any other European site, in view of the sites Conservation Objectives and Appropriate Assessment (and

submission of a NIS) is not therefore required. In making this screening determination no account has been taken of any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

7.9.13. As stated, the appeal site is not located within a designated Natura 2000 site. Having regard to the distance to sites, the conservation objections and qualifying interests I am satisfied that should this development be granted planning permission there will be no impacts upon the integrity or the conservation objectives of any of these Natura 2000 site and that the habitat and species associated with these sites will not be adversely affected.

## 8.0 Recommendation

8.1. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be **GRANTED** for the following reasons and considerations.

## 9.0 Reasons and Considerations

9.1. Having regard to the zoning objective for the site in the Waterford County Development Plan, 2011-2017, as extended, and the location of the site within the settlement boundary of the village of Cheekpoint, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of the policy requirements of the development plan, would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity and would not be prejudicial to public health. 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 submitted on the 9 <sup>th</sup> day of December 2020 and 1 <sup>st</sup> day of February 2021 and by the further plans and particulars received by An Bord Pleanála on the 23 <sup>rd</sup> day of March 2021, except as may otherwise be
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	<p>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.</p> <p><b>Reason:</b> In the interest of clarity</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>a) Additional screen planting shall be provided along the sites boundaries consisting predominantly of trees, shrubs and hedging of indigenous species. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the commencement of construction works. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>b) The southern section of the proposed balcony shall comprise frosted safety glass panels.</p> <p>Revised drawings and details showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
3.	<p>No development works shall commence on the site until Irish Water has issued a connection agreement for the full development. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. All foul sewage and soiled water shall be discharged to the public foul sewer and only clean, uncontaminated storm water shall be discharged to the surface water drainage or soakpits.</p>



	Reason: In the interest of public health and the proper planning and sustainable development of the area.
4.	<p>a) Prior to commencement of work on site provision for road widening and the exact line of the front boundary shall be set out and agreed in writing with the Planning Department in consultation with the Roads Department.</p> <p>b) Prior to commencement of work on site the developer shall submit details of any temporary construction entrance for approval to the Roads Section and a Comprehensive Traffic Management Plan for the construction stage including proposed provision of parking for Construction Vehicles.</p> <p>c) The existing finished road levels of the public road shall not be raised or lowered to facilitate the proposed development, without prior written agreement of the Planning Authority in consultation with the Roads Department.</p> <p>d) The footpath adjoining the site entrance shall be suitably dished and be of reinforced concrete to facilitate vehicular access</p> <p>e) Tactile paving shall be provided either side of crossing point</p> <p>f) The development shall not interfere with the roadside drainage and will not discharge any storm water onto the public road</p> <p>g) All works carried out on the public footpath of the public road and footpath shall require a Road Opening License &amp; Hoarding License (if applicable)</p> <p>h) Any interference with or damage to the public footpath or road caused during the construction of the development shall be made good by the developer to the satisfaction of the Roads Department</p> <p>i) The site entrance shall be splayed 45° back from the front boundary, with the gateway being a minimum 4m wide</p> <p><b>Reason:</b> In the interest of traffic safety.</p>
5.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>

6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
7.	<p>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 noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
8.	<p>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.</p> <p><b>Reason:</b> 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.</p>

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**Mary Crowley**

**Senior Planning Inspector**

**5<sup>th</sup> May 2022**