



An
Bord
Pleanála

Inspector's Report ABP 310974-21

Development	Development of 8 no. dwelling houses, new vehicular entrance, surface water and wastewater drainage, public lighting, boundary treatment, footpaths and open spaces and all associated site works
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	20/6272
Applicant	DSJ Construction Ltd.
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	Lisa O'Donoghue
Observers	Ellen Lynch
Inspector	Mary Kennelly
Date of site inspection	10 th March 2022

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1.0 Site Location and Description

- 1.1.1. Newmarket is designated as a 'Main Town' in the Kanturk-Mallow Municipal District Local Area Plan 2017. It is situated c.60km to the northwest of Cork City and c.30km to the northwest of Mallow. Kanturk town is located approx. 9km to the southeast. Newmarket is located at the junction of two regional roads, the R576 which links Kanturk with Rockchapel and the R578 which links Ballydesmond to the west with Charleville to the east. It is situated in an undulating rural landscape in North Cork at the foothills of the Mullaghareirk Mountains. The vision for the town (3.5 of the MDLAP) is to continue its role as an important local centre by encouraging population growth and expansion of employment and service functions.
- 1.1.2. Newmarket is a market town has a good range of retail uses, a Garda Station, facilities and services, including a supermarket, hardware stores, car sales outlets, pubs, cafes, a medical centre and community facilities. There is a large co-op Creamery located on the north-eastern outskirts of the town. The main shopping and commercial uses are largely concentrated on High Street/Scarteen Street (N-S) which is the R578 and New Street/Church Street (W-E) which is the R576. The site is located within the development boundary for the town on Scarteen Street approx. 100m to the north of the cross-roads junction in the centre of the town.
- 1.1.3. The site has a stated area of 0.3 hectares and has frontage to the R578 to the west. It is essentially a backland site with a roughly T-shape comprising a long narrow section leading eastwards from the proposed entrance on Scarteen Street to a rectangular shaped field, which is located to the rear of houses/commercial premises on both Scarteen Street and Charleville Road. It is a greenfield site which is also currently accessible from the north (Charleville Road) via a long narrow strip of land which is also in the applicant's ownership, but outside of the red line. These two sites were previously the subject of a planning permission granted by the Board on appeal (230605), which was subsequently extended under Ref. 13/5153 and subject to a Retention Permission under Ref. 19/6835.
- 1.1.4. There is an agricultural field immediately to the east which is owned by the appellant. The southern boundary of the field is with a commercial premises and that of the narrow strip is with a single dwelling house and rear garden. The western and northern boundaries are bounded by rear gardens of mainly residential properties.

2.0 Proposed Development

- 2.1.1. The proposal entails the construction of 8 no. dwellings which would be sited at the eastern end of the site and arranged around a central area of open space. The existing shed at the entrance would be demolished and an access driveway (c.60m in length) would be constructed, leading to a circular parking area. The proposed dwellings would be sited to the north and south of the parking area and the public open space for the development would be to the east. The layout as originally submitted showed the proposed dwelling houses arranged around the internal access road and central open space. The proposed development includes 2 no. 3-bed semi-detached dwellings (99.9 sq.m) and 6 no. 2-bed semi-detached dwellings (85.9 sq.m). All of the proposed dwellings would be 2-storeys in height.
- 2.1.2. The density of the proposed development is approx. 27units/ha. It is proposed to provide 2 parking spaces for each unit as well as visitor parking. All private gardens would be in excess of 60sq.m per unit. The proposed development includes a public lighting scheme. The public open space area represents 12.4% of the site. It is centrally located and overlooked by most houses and includes a local play area.
- 2.1.3. It is proposed to connect to the public water supply and to the public wastewater system. Surface water will be disposed by gravity sewer to the public system, following attenuation.
- 2.1.4. The application is accompanied by:
- Schedule of Accommodation
 - Stormwater attenuation calculations
 - Appropriate Assessment Screening Report
 - Part V Exemption Cert.
 - Outdoor Lighting Report and Layout.
 - Irish Water Pre-Connection Agreement

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The P.A. decided to grant planning permission subject to **47 conditions**, the majority of which are of a standard nature, including:

Condition 5: All mitigation measures contained in NIS to be implemented.

Condition 6: All works to trees and hedgerows to take place outside of bird breeding season.

Condition 25: Drainage to be on separate systems, with no surface/storm water to discharge to foul sewer. To prevent pollution of surface waters and/or overloading of the foul sewer.

Condition 27: All excavations on site to be supervised by an expert in invasive species management to ensure that no Japanese Knotweed present on site.

Conditions 30-33 and 42-43: Various conditions regarding public lighting.

Condition 37 and 38: Security/bonds to be paid until estate taken in charge and for specific items such as the carrying out of investigative surveys, provision of security fencing, boundary fencing and landscaping and the submission of 'As constructed' drawings.

Condition 45: Section 47 agreement restricting units to first occupation by individual purchasers.

Condition 46: Development contribution of €7,524.61 – GDCCS.

Condition 47: Special Development Contribution of €19,660.00 in respect of the provision of the loss of 4 on-street car-parking spaces in Scarteen Street to facilitate the required sightlines and for footpath improvements and the widening of footpaths on Scarteen Street to serve the proposed development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The first Planner's report dated 09/12/20 noted that planning permission had been granted previously on a slightly larger site which had included the lands to the north

which are accessed from Charleville Road, and which had been granted an extension of duration, but that the current proposal relates to a site with access from Scarteen Road only. The contents of the technical reports and reports from the prescribed bodies were noted, as well as the issues raised in the third-party objections (as summarised below). It is noted that the site is within the development boundary of Newmarket, which is expected to accommodate up to 345 new residential units over the lifetime of the Kanturk-Mallow Municipal District LAP (2017-2022). The development was generally considered to be appropriate in principle and was noted as being of a similar density to that previously permitted on the site. However, **deferral was recommended pending the receipt of FI** as follows:

1. Revised stormwater/surface water disposal arrangements and an assessment of the potential impacts on the Blackwater River SAC with appropriate pollution controls in place. No stormwater to be discharged to the public sewer.
2. Appropriate Assessment required of stormwater discharge if proposed to local watercourse due to hydrological connection to Dalua River which forms part of Blackwater River SAC. NIS required including details of proposed mitigation measures and to address points made in submission by IFI.
3. Invasive Species survey required in respect of Japanese Knotweed together with an Invasive Species Management Plan.
4. Comprehensive landscaping plan required. Identification required of trees/hedgerow to be removed, retained or likely to be impacted. Compensatory planting to be proposed if treelines/hedgerows to be removed. Root Protection zones to be identified.
5. Various revisions to parking and roads layout, signage, road markings and surface water drainage from internal roads.
6. Details of screen walls/boundary treatments between properties. Request to consider raising height of northern boundary wall to 2.0m.
7. Revised layout showing location of house types and which areas to be taken in charge.
8. Various public lighting requirements.

3.3. **The Response to the FI submitted on 15th and 18th March 2021**

The applicant's responses included revised drawings, an Appropriate Assessment Screening Report and a Natura Impact Statement, An Invasive Species Survey, a Stormwater Management Plan and a Public Lighting Scheme. The Further Information was advertised on 11th March 2021.

3.3.1. The **second planning report** dated 07/05/21 following receipt of FI noted that whilst most of the items had been addressed satisfactorily, there remained some outstanding matters which required clarification. These related to the following matters which formed the basis of a Request for Clarification on 07/05/21.

1. Stormwater/surface water disposal – clarification of what pollution control measures are proposed, particularly in respect of removal of hydrocarbons.
2. Landscaping - Revised Landscaping proposals clarifying which treelines/hedgerows to be removed, measures for protection of those to be retained and details of RPAs of trees to be retained relative to the proposed works. Furthermore, two non-native species to be omitted. Percentage of open space to be clarified.
3. Public lighting – revised public lighting plan required to show omission of proposed light opposite entrance and use ESB pole adjacent to entrance instead.

3.4. **The Response to the FI submitted on 10th June 2021**

3.4.1. It is noted that the FI submission of 10/06/21 confirmed that hydrocarbon interceptors will be installed in the stormwater system, that no trees would be removed and that all trees would be protected during construction in accordance with BS 5837 (2012) guidelines, with details of RPAs provided. Revised plans were also submitted showing the amendments to the landscaping plan and public lighting plan as requested.

The **Third planning report** dated **07/07/21** indicated that the Area Planner, and the other technical officers of the planning authority, were generally satisfied with the responses received on the 10th June 2021.

3.4.2. A grant of permission subject to conditions was recommended.

3.5. Other Technical Reports

- 3.5.1. **Water Services reports (05/11/20)** – no objection re additional 8 houses in terms of capacity of WWTP but an alternative means of storm water disposal required. Surface water should not be allowed to enter the public sewer. There is an existing problem with infiltration into the Newmarket WWTP. **Deferral recommended.**
- Second WS report (30/03/21)** – no objection to discharge of storm water to 700mm storm sewers which would then discharge to stream. Reiterated – no discharge of storm water to public sewer.
- 3.5.2. **Area Engineer's report (09/12/20)** raised concerns regarding potential for presence of Japanese Knotweed on site and a detailed report is required. There was no objection to the proposed new entrance onto Scarteen Street, but it was noted that existing on-street parking spaces would be displaced and that this would require a special contribution. The parking provision was considered acceptable, but it was suggested that two of the spaces along the internal road should be relocated closer to the houses. Stop signs, road markings, an autotrack for bin lorries and a detailed cross section of the proposed roadway and footpaths were requested as FI.
- 3.5.3. It was noted that surface water from the development would be disposed of via the combined sewer which was considered unacceptable. Disposal of stormwater should be by means of piping to the nearby watercourse. The proposal to attenuate surface water within the site would require more detail and a more robust system. More road gulleys required around the proposed 'circle' on the site. Water supply and sewage disposal were considered acceptable. **Deferral recommended.**
- Second AE Report (07/05/21)** – Generally satisfied with revised plans and details regarding surface water disposal and roads/transport matters s.t. conditions. Notwithstanding the findings of the Invasive Species Report that no record of invasive species, given the history of the site, recommends that excavation be monitored and supervised by a suitably qualified expert and report to be submitted to P.A. No objection subject to conditions including a special contribution of €19,660 for displaced on-street parking.
- Third AE Report (18/06/21)** – no objection subject to conditions.
- 3.5.4. **Estates Engineer report (08/04/21)** – No objection to a grant of permission subject to conditions.

3.5.5. **Ecology Report (03/12/20) – Deferral Recommended.** FI required including

- Surface water - a post-construction surface water/storm water management plan with an assessment of potential impacts and associated mitigation measures in respect of Blackwater River SAC.
- Appropriate Assessment – given uncertainty posed by SW disposal arrangements (not permitted to public sewer) any disposal to a watercourse would necessitate AA due to hydrological connection of the Dalua River to the SAC. NIS required.
- Invasive Species Survey required with particular attention to Japanese Knotweed and should the potential for such species be identified, an Invasive Species Management Plan should be provided.
- Treelines/hedgerows – details required re trees/hedgerows to be removed/retained/impacted as well as Root Protection Zones and mitigation measures for protection during construction.

Second Ecology Report (06/05/21) – generally satisfied with conclusions of NIS and additional details regarding stormwater/ surface water disposal in terms of mitigation re attenuation and silt control measures but not in respect of prevent of pollution from hydrocarbons. Landscape drawing fails to include RPA for trees to be retained or which hedgerows/trees earmarked for removal. Inclusion of non-native species in landscape proposals unacceptable. Invasive Species Survey findings accepted. Deferral recommended - Clarification required.

Third Ecology Report (05/07/21) – generally satisfied with proposed hydrocarbon interceptor s.t. specifications being approved by Engineers. Notwithstanding the response re landscaping/tree protection, it is noted that it is proposed to construct a footpath within the Root Protection Zone of boundary trees along the entrance driveway. Specific condition required to ensure that surface of footpath is designed to provide for tree root protection, details to be approved. Furthermore, invasive plants proposed within hedgerow planting proposals – Conditions required to address these matters.

3.5.6. **Public Lighting Reports (16/11/20)** Deferral recommended and FI sought with a revised layout having regard to matters such as location of trees, the likelihood of

house owners extending driveways etc. The need to upgrade the public lighting at the entrance was also identified.

Second PL Report (23/03/21) – revised/additional details satisfactory but objection to proposed light across the street from entrance, which would be unduly obtrusive. Alternative suggested re the use of an existing ESB pole directly adjacent to entrance instead. Detailed conditions to be attached should permission be granted.

Third PL Report (17/06/21) – no objection s.t. conditions.

3.6. Prescribed Bodies

3.6.1. **Irish Water** in a letter dated 02/12/20 stated that the developer had engaged with IW and that confirmation of feasibility had been issued. As the applicant proposes to connect to a public water supply/wastewater network operated by IW, it will be necessary to enter into a connection agreement prior to the commencement of development. It would, however, be subject to the constraints of the IW Capital Investment Programme.

3.6.2. **Inland Fisheries Ireland** in an email dated 24/11/20 stated that IFI has no objection subject to ensuring that development would not result in polluting matters entering surface waters. All construction and landscape activities should be designed and carried out in accordance with IFI Guidelines regarding Construction Works in and adjacent to watercourses.

3.7. Third Party Observations

Objections received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the 3rd Party appeals and observations received and summarised in section 6 below. The issues generally related to density, parking, proximity of development to existing dwellings, boundary treatments and the presence of Japanese Knotweed.

A letter of support was also submitted which stated that the proposed development was in accordance with national and local policy objectives to provide additional housing in urban areas which are serviced with a view to providing sustainable housing development in appropriate locations.

Many of the issues raised were addressed in the Further Information which included revised plans, the submission of an NIS and an Invasive Species Survey. The FI was readvertised, but no further third-party submissions were received.

4.0 Planning History

4.1.1. On the subject site

ABP.310159-21 – Concurrent application on adjoining site to north-east with access off Charleville Road (formerly part of the site of a previous proposal – PL04.230605). This application, which is currently under a third party appeal to the Board, is for the construction of 3 apartments which would be accessed directly from Charleville Road to the north.

PL04.230605 – planning permission granted by the Board for demolition of existing structures and construction of 9 dwelling houses and all associated site works. This permission was never implemented. It was extended under 13/5153. It is noted that the principle of the development of the site for residential purposes at a density of 27dw/ha was accepted by the Board.

P.A. 19/06835 – Permission to retain the demolition of derelict sheds and outhouses granted in July 2020.

5.0 Policy Context

5.1. Cork County Development Plan 2014

Chapter 3 – Housing – Existing Built-Up Areas include all lands within a development boundary which do not have a specific zoning objective. It sets out the housing policies and objectives including the following:

HOU 3-1 Sustainable Residential Communities – reference to national guidance on achieving high quality neighbourhoods.

HOU 3-2 Urban Design – high quality design and layout required.

HOU 3-3 Housing Mix – Intention to seek a mix of house types and sizes in accordance with the Joint Housing Strategy and National Guidelines.

Notwithstanding the desire to achieve higher densities (as set out in the Sustainable

Residential Development in Urban Area Guidelines), it is acknowledged that there is a need to allow some lower density development in order to achieve a broader range of house types, particularly where there is a high demand for development in unserviced rural areas.

HOU 4-1 Housing Density on zoned lands – The site is designated as ‘Medium Density B’, with a recommended minimum of 12/ha net density and 25/ha maximum.

5.2. Kanturk-Mallow Municipal District Local Area Plan 2017

- 5.2.1. Newmarket is designated as a Main Town in the Kanturk Mallow Municipal District LAP. The vision for the town is to continue its role as an important local centre through encouraging further population growth and expansion of its employment and service functions. Key challenges (3.5.3) are identified as reversing the trend of stagnating or falling population and the contraction of its economic base and to secure new sources of employment as a platform for population growth. The reversal of this trend is seen as critical to securing the existing facilities within the town and to attract further investment. It is further stated that Newmarket should be able to offer an attractive alternative to one-off housing in the countryside and also where infrastructural capacity is hindered in some of the surrounding villages.
- 5.2.2. Provision is made for a growth in population within the Kanturk Mallow Municipal District of 7,556 new housing units of which Newmarket is expected to deliver 155 units. The retention and expansion of residential uses within the town centre to support its vitality. The site is located within the Development Boundary and in an area zoned Existing Built-Up Area.

5.3. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

- 5.3.1. In order for small towns and villages to thrive and succeed, it is stated that their development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past. New development should contribute to compact towns and villages and offer alternatives to urban generated housing in unserviced rural areas. The scale should be in proportion to the pattern and grain of existing development. In terms of densities, centrally located

development in small towns and villages could achieve densities of up to 30-40 dw/ha., whereas edge of centre sites should achieve 20-35 dw/ha. However, in order to offer an effective alternative to single houses in the surrounding countryside, it may be appropriate in a controlled situation to allow a density of 15-20 dwellings at the edge of a town or village, provided that it does not represent more than 20% of the housing stock of the village.

5.4. **National Planning Framework (2018)**

- 5.4.1. The NPF seeks to focus growth in cities, towns and villages with an overall aim of achieving higher densities than have been achieved to date.

NP Objective 11 states that 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.

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

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

5.5. **Natural Heritage Designations**

River Blackwater (Cork/Waterford) SAC (site code 002170) is located c.880m to the west.

Lower River Shannon SAC (site code 002165) and located approx. 10.4km to the north-west.

Stack's to Mullaghareirk Mountains West Limerick Hills and Mount Eagle SPA (Site code 004161) is located approx. 5km to the west.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A Third-Party Appeal has been received from Lisa O'Donoghue who lives on Charleville Road and who recently became the owner of the agricultural field immediately to the east of the site.

6.1.2. The submissions can be summarised as follows:

- **Principle of development** – Newmarket needs more commercial and retail development in the town core, not residential. There has been an increase in residential properties within the town centre in recent years in terms of occupation of vacant properties and changes of use.
- **Boundary treatment** – objection is raised to the boundary treatment proposed on the eastern boundary. It is disputed that there is an existing “sod and stone ditch” between the appeal site and the field to the east. (Photos enclosed to illustrate point). It is claimed that the trees grow straight from the ground and that there is some wire fencing on the appeal site side. The proposed boundary treatment is unacceptable as it would not provide the level of security required to prevent trespass and insurance claims.
- **Location of play area unacceptable** – the location of the play area in close proximity to the eastern boundary, with inadequate secure fencing between the two properties is unacceptable. It is requested that the play area be relocated and/or that the boundary screening/fencing be made secure with no access permissible to the adjoining lands.
- **Maintenance of trees along boundary** – the hedgerow and trees along the boundary will need to be maintained. It is not clear who will take responsibility for this. A similar issue arises in respect of Dwelling No. 5 which bounds the appellants' site with trees along the boundary line. In addition, the maintenance of the groundworks and gardening within the development, if not adequately catered for could result in a nuisance to neighbouring properties.
- **Parking provision and layout unacceptable** – no wheelchair or disability parking included in layout. It is still sub-standard and is located at a distance

for the houses that it is meant to serve. It is unclear how the P.A. calculated the number of on-street parking spaces lost due to the development. It is submitted that it should have been 6 spaces rather than 4 spaces. It is further noted that under P.A. Ref. 20/6707, it was acknowledged that no access could be provided from Charleville Road serve this apartment development as the loss of on-street parking spaces was unacceptable. The loss of on-street spaces in Scarteen Street will put further pressure on the demand for such spaces in Charleville Road.

- **Design and layout unacceptable** – the minimum separation distance between dwellings should be 1 metre from a side boundary per 3-metres of height. This is likely to impact on the future development potential of the appellant's site.
- **Invasive Species** – There was Japanese Knotweed present on the site in Summer 2020. The applicant advised that he had sprayed it with Roundup. It is submitted that as the ground has been disturbed due to reseeding, the spores of the knotweed are likely to be present underground. This matter needs to be adequately addressed to prevent the spread of invasive species.
- **Ecology and Biodiversity** – the Rampart Stream flows along the bottom of the appeal site and is associated with woodlands and biodiversity. It then flows through the town and joins the Dalua River which forms part of the Blackwater River SAC. The Rampart Stream also has a good population of Salmon. Newmarket is also known to be home to 4 or 5 species of Bat
- **Archaeology** - site lies within a historic 17th Century town (as per the Archaeological Sites and Monuments Record) where development proposals in the town core are likely to require an archaeological or architectural assessment. It is very disappointing that no provision has been made to have the site assessed for archaeological importance. There are 2 no. Fulacht Fiadhs in Scarteen Lower and may be one in the field to the east. It is submitted that there is justification for a requirement for an archaeological survey to be carried out.
- **Adjoining development proposal for 3 apartments** – concern raised regarding the height of the apartment block and the likely impact on

residential amenity in terms of overshadowing and overlooking. The submitted plans also show that parking for this apartment block will be provided within the grounds of the proposed development of 8 houses. The submitted drawings show the lands to be taken in charge outlined in blue. It is not clear however whether the proposed parking for the apartments is included in that area.

6.2. Applicant Response to Grounds of Appeal

The submission from Gerald McCarthy on behalf of the applicant (24/08/21) is mainly in the form of a rebuttal of the grounds of appeal. It was noted that there is no objection to the principle of development. The points of particular relevance in the submission can be summarised as follows:

- **Impact of proposed apartment building** – it was noted that the proposed apartment building is located to the north of the proposed houses and as such, there would be no likelihood of overshadowing of the proposed houses. However, it required, the developer could provide a shadow diagram.
- **Boundary treatment** - The existing sod and stone fence will be retained and improved. This was requested by the P.A. However, the applicant has no objection to constructing a 1.8m high wall instead along the eastern boundary. The play area is ideally located but the developer could provide additional screening on the boundary if required and is prepared to do the same along the boundary with No. 5. The trees and hedgerows will require very little maintenance but will be the responsibility of the developer until taken in charge.
- **Parking** – there is no objection to providing a disabled access parking bay if required. The carpark will be taken in charge by the P.A.
- **Japanese Knotweed** – this invasive species was eradicated from the site in 2018, which is detailed in the independent Invasive Species Report submitted as part of the planning process.
- **Archaeology** – there are no archaeological features on the site and this issue was adequately addressed in the submissions.

- **Ecology** – the Rampart Stream will be protected during construction. A full NIS was submitted which includes mitigation measures. This issue was fully assessed by the planning authority.

6.3. **Planning Authority Response**

The P.A. responded to the grounds of appeal on the 24th of August 2021. No further comments were made.

6.4. **Observations**

Ellen Lynch, Charleville Road

The main issues raised may be summarised as follows:

- **Japanese Knotweed** – although it has been sprayed with roundup a few times, it may still be present on the site, but not visible. The site was reseeded and has cattle grazing on it at the moment. This invasive species must be fully eradicated from the site.
- **Boundary wall with her property to the north** – the height of the wall has been agreed between the P.A. and the developer to be 2 metres, capped and plastered. It is requested that this height be increased further as the appeal site is significantly lower than the observer's garden, in the interests of privacy. It is also requested that both sides of the wall be plastered.

7.0 **Assessment**

I consider that the issues arising can be assessed under the following headings:

- Principle of development
- Layout and design of scheme
- Boundary treatment
- Ecology and biodiversity
- Environmental Impact Assessment
- Appropriate Assessment

7.1. Principle of Development

- 7.1.1. Newmarket is a designated 'Main Town' in the Kanturk-Mallow Municipal District LAP 2017, with a good range of services, community facilities and amenities. The vision for the town is to continue its role as an important local centre by encouraging population growth and expansion of employment and service functions, and key challenges include the reversal of stagnating or falling population and the contraction of economic growth. These matters are seen as critical in the LAP to securing the existing range of facilities, attracting new investment and to offering an attractive alternative to one-off housing in the countryside. These policies are generally consistent with the objectives of the National Planning Framework and the Sustainable Residential Development in Urban Areas Guidelines, as summarised in 5.3 and 5.4 above.
- 7.1.2. The site of the proposed development is located in the centre of the town, just 100 metres from the crossroads junction in the centre of the shopping area. The site is a backland site but has good access from Scarteen Street and is surrounded by principally residential properties with one commercial use along its southern boundary and an agricultural field along its eastern boundary. The density of development is similar to that previously permitted on the site under PL04.230605 which was for 9 dwelling units on a site which included the applicant's lands to the north. These lands are the subject of a concurrent application/appeal which is before the Board for an apartment building (3 apartments) with access from Charleville Rd.
- 7.1.3. It is considered that the location of the site within the development boundary and town centre makes it a suitable location for a residential development. The site is located within 100m of the junction with Church Street and is opposite the Supervalu supermarket. There is a good network of footpaths connecting the site to the town's extensive range of services and community facilities. No objections have been raised in the technical reports to the availability of infrastructural capacity to serve the development. The site is a vacant backland site which is well positioned to provide for sustainable housing development at a reasonable density within a town where the population has been falling and where it is an objective to reverse this trend. It is considered, therefore, that the proposed development is acceptable in principle.

7.2. Layout, Design and Density of development

- 7.2.1. The third parties have raised various concerns regarding the layout of the proposal including the siting of the parking area and of the play area, the proximity of dwellings to external boundaries, the relationship with the proposed apartment building to the north-east and the knock-on effect of loss of on-street parking due to the location of the access.
- 7.2.2. It is considered, however, that the proposed design responds well to the character of the existing houses on adjoining lands and to the restricted nature of the backland site. The scale and density of the development are considered to be appropriate in the context of a backland site within such close proximity to the town centre. The configuration and orientation of the infill site, the presence of natural screening along some of the boundaries, combined with the siting, design and layout of the existing houses on adjoining sites have strongly influenced the layout and design of the development. The ground levels fall to the south and to the west and the adjoining residential properties are generally located within large sites with unusually long rear gardens. The proposed access is quite long and adjoins two houses to the immediate north and south, but otherwise is bounded by large open space to the rear of these and other houses.
- 7.2.3. The main site is roughly rectangular in area and is set out with two pairs of dwellings on either side of a central, circular parking /access area with a green space and play area. The siting of the play area within the green public open space, which is centrally located within the site, accessible to and overlooked by each of the proposed houses means that it is generally in accordance with the Government guidance. As the proposal is a small cul-de-sac development, it is likely that the parking and access area would be used informally as an extension of the open space area. It is considered that the layout would facilitate a community spirit within the development and that it is an appropriate layout for a small housing development such as that proposed.
- 7.2.4. The proposed dwellings are sited a minimum of 11m from the boundaries with adjoining properties to the north and south. The southern boundary is with a commercial premises. The boundary to the north will be screened by a 2m high wall which will be capped and rendered. Although the observer has sought that this wall

be higher due to the difference in ground levels, (which appear to be up to 3 metres), it is considered that a requirement for a taller wall would be likely to result in an oppressive feature. It is considered that screen planting along the common boundary, together with the fact that the proposed dwellings would be at a lower ground level, would ensure that there would be no loss of amenity to the existing dwellings to the north.

- 7.2.5. The distances from the side boundaries are considered to be appropriate given that it would be side gable walls that would be facing these boundaries. It is noted that in each case, the common boundary would be with the rear section of a very long private garden or with an agricultural field. Nevertheless, the gable walls contain a small bathroom window on each gable, which should be required to be fitted with obscure glazing to prevent any overlooking.
- 7.2.6. The proposal to incorporate the parking area for the apartment block within the site is rather unusual (refer to Drawing OS-01 and DSJ-SLP-01). This indicates that four parking spaces would be provided at the north-eastern end of the appeal site which would be accessed by means of a pedestrian gate from the apartment block that is proposed under the concurrent scheme (310159). This would result in an additional four vehicles accessing the development site, which is not ideal. However, the proposed development makes adequate provision for public and private open space and for an appropriate density of development at this location. It is accepted that the configuration of the adjoining site (in the ownership of the developer) is such that it would be difficult to provide adequate access and parking within that development.
- 7.2.7. On balance, it is considered that the proposed development would not detract from the character of the area, would not adversely affect the residential amenities of the surrounding area, is responsive to the conditions on site and is respectful of the existing built fabric and heights with an appropriate density whilst providing for adequate amenity for prospective occupants. The layout would also facilitate good levels of connectivity with the village and for good levels of passive surveillance over the communal areas, in accordance with good urban design practice for the creation of sustainable communities.

7.3. **Boundary treatment**

- 7.3.1. The appellant has raised a number of issues regarding the boundary treatment in terms of the description of the existing boundary screening and the adequacy of the proposed screen planting. I noted from my site inspection that vegetation and screening along the existing boundaries is variable and inconsistent. There are several mature treelines particularly along the south-western boundary and along parts of the eastern boundary. I would agree with the appellant that the sod and stone fence along the eastern boundary is intermittent and non-existent for much of it. The treeline is attractive and appears to be of ecological value but appears to be outside the boundary line as it is on the far side of a wire fence. Thus, it is not clear whether the applicant has control over the retention and maintenance of this feature which should be retained if possible. However, given the uncertainty regarding their position with respect to the boundary, it is considered that the planting along the developer's side should be robustly enhanced with new trees and hedgerows.
- 7.3.2. The absence of a sod and stone fence particularly along the section adjoining the proposed play area and green space is of concern to the appellant. The developer has responded to the grounds of appeal by offering to build a 1.8m high concrete wall along this boundary. It is considered, however, that this would be likely to damage the existing treeline and the ecological value of the existing tree line and hedgerow that the P.A. had sought to retain and enhance for biodiversity and amenity reasons. I agree that the eastern boundary needs to be made more secure, but I consider that this should be achieved by the erection of a timber fence along the full length of the boundary, together with the planting of a robust hedge which should include additional trees planted at intervals along the boundary line. This could be addressed by means of a condition of any planning permission.
- 7.3.3. The northern boundary has no effective screening at present and the garden of the adjoining dwelling house overlooks the site with a difference in ground levels which requires the introduction of effective and appropriate screening. It is proposed to erect a 2m high concrete wall which would be rendered and capped. As mentioned in the previous section, the neighbouring resident has sought the provision of a higher wall on this boundary, which I had observed would be oppressive for the future occupants of the proposed dwellings (1-4). It is considered, however, that

some tree planting to soften the effect of the wall and the provision of additional screening in the interests of privacy should be required on the developer's side of the boundary wall. Such planting should take the form of native garden trees rather than screen planting.

- 7.3.4. I noted from my site inspection that the south-western boundary is defined by a mature tree line, but again these are located outside the wire fence. It may be that both the fence and the trees are within the red line boundary, but in the event that the trees are not within the control of the applicant, it is considered that this tree line would need to be enhanced and strengthened also. Furthermore, I note that the southern boundary line is utilitarian in nature and the adjoining site is commercial in nature. It is proposed to provide a 1.8m high block wall which will address the privacy and amenity issues to a certain extent. It is considered that the wall should be capped and rendered in the interests of residential amenity.
- 7.3.5. The existing boundary treatment along the access laneway and the western boundary of the site is of a very poor quality apart from the sod and stone ditch and tree line along the southern part of the accessway. It is proposed to provide a 2m high block wall along the northern and western boundaries and to retain and enhance the vegetative screening along the southern part of the access. It is also proposed to plant some ornamental shrubs adjoining the western boundary. It is not clear if it is proposed to demolish the existing poor-quality fencing. It is considered that the proposed wall along the northern part of the access lane and the western boundary to the north of the lane should be rendered and capped in the interests of amenity. This can be addressed by means of condition.
- 7.3.6. In conclusion, it is considered that the existing boundary treatment is variable in terms of quality with poor quality sections along the northern, western and southern boundaries and reasonable quality vegetation along parts of the eastern boundary. It is considered that the backland nature of the site combined with the nature and layout of the adjoining uses, requires a robust form of boundary treatment which should incorporate a significant enhancement of the vegetative screening along the boundaries in the interests of protecting amenity and enhancing biodiversity.

7.4. Ecology and biodiversity

- 7.4.1. The third parties have raised concerns regarding the impact of the development on biodiversity and ecology of the area, including the presence of Japanese Knotweed on the site, the potential impact on the Rampart Stream and on Bats. The Board should note that most of these matters are also addressed in the Appropriate Assessment section of the report below.
- 7.4.2. The site is of low ecological value with the main habitats being Improved Agricultural Grassland and Buildings/Artificial surfaces, apart from the treelines and hedgerows along the eastern and part of the western boundaries and the boundary of the access route. As stated previously, these trees and hedgerows appear to be outside the site, or at least are currently separated from the development site by a wire fence. The P.A. has sought and obtained assurances that the trees will be protected during construction and that the tree lines and hedgerows will be retained and enhanced/supplemented as part of the development. As discussed above, I am in agreement with this approach and consider that appropriate conditions (similar to those attached to the P.A. decision) could be attached to any planning permission to ensure that these objectives are achieved.
- 7.4.3. Concern is raised regarding the potential impact on the 'Rampart Stream' or 'Newmarket Stream' to the south. This watercourse is located outside of the site boundaries and flows in an E-W direction approx. 11 metres to the south. It is further noted that there are no watercourses or drains within the site, which was dry underfoot at the time of my inspection. The first party has responded to the grounds of appeal by stating that the stream will be protected during construction and that a full NIS has been submitted which sets out the mitigation measures to ensure that the water quality of the stream will be protected both during and after construction. The planning authority's Ecologist and Engineer had sought information on these matters and were satisfied that the water quality of the stream would be protected.
- 7.4.4. Although bat species may frequent the area within which the site is situated, no evidence has been presented of roosting sites or foraging within the development site, or that the proposed development poses a threat to any of these species. The site is generally open in character, with little opportunity for roosts to be present, but the mature trees and hedgerows along the boundaries could potentially provide sites

suitable for roosting or foraging. However, these trees are to be retained and supplemented with additional tree and hedgerow planting and as such, the potential for foraging or roosting sites for bat species and other wildlife is likely to be enhanced in the future. In addition, all works to existing trees and hedgerows should be carried out outside of the bird nesting season. It is noted that at 4.5.1 of the NIS, it is recommended that should any mature, ivy-covered trees along the front site boundary be required to be felled for sightline reasons, they should be checked for bats prior to felling and left for 24 hours after felling and not mulched immediately after felling. This could be attached as a condition of any permission.

7.4.5. The applicant has submitted an Invasive Species Management Report which was based on two site surveys. These were undertaken on 13/12/19 and on 18/01/21. It is stated that the site was surveyed on foot, involving a thorough search along the boundaries. The main findings were that while no invasive species were found on the site, there were remnants of Japanese Knotweed in other areas within the surroundings of the site, approx. 30m and 100m respectively from the site. These areas were described as not being ones which would be likely to be disturbed by traffic and no vectors are likely to be spread onto the site. The invasive species Japanese Knotweed was removed from the site in 2018. The third parties raised concerns that the remnants of the species could still be contained within the soil. The P.A. had raised similar concerns during the course of the application and included a condition (27) requiring all excavations to be supervised by an expert in invasive species management to address this issue. It is considered that should the Board be minded to grant permission, a similar condition should be attached to any such permission.

7.4.6. In conclusion, it is considered that the development of the site is likely to enhance the biodiversity of the area provided that appropriate conditions such as those discussed above are attached to any planning permission.

7.5. Other planning matters

7.5.1. **Loss of on-street parking** – concern was raised regarding the loss of on-street parking as a result of the proposed access to the site. The P.A. has addressed this by means of a condition (47) requiring a special contribution (€19,660) in respect of the provision of the loss of 4 on-street parking spaces in Scardeen Street to facilitate

the required sightlines and for footpath improvements and the widening of footpaths on Scarteen Street to serve the proposed development. The appellant considers that this is inadequate and that there should be a contribution on the basis of the loss of 6 no. parking spaces.

7.5.2. At the time of my inspection, I noted that there were no marked parking bays on Scarteen Street in the vicinity of the site access point and cars were parked on the footpath on either side of the entrance. The road carriageway appeared to be quite narrow at this point and the footpath is very wide with a low-level kerb, all of which would encourage illegal parking on the footpath. The existing site entrance is, however, quite wide with a vehicular gate with the words 'No Parking' on the gates, and the kerb seems to have been dropped outside the site, and the adjoining site to the north, in the past. In these circumstances, it is difficult to judge how many 'on-street' parking spaces are likely to be lost as a result of the development. However, what is clear is that the parking and pedestrian arrangements need to be formalised with improved pedestrian access along the street leading to the town centre in the interests of pedestrian safety and sustainable development. It is considered, therefore, that a special contribution condition, which has not been appealed by the first party, should remain with slightly amended wording to reflect the need to rationalise on-street carparking and to improve footpaths adjoining the site.

7.5.3. **Archaeology** – The appellant has raised concerns regarding the archaeology of the area and the fact that the town is of archaeological importance, being a 17th Century Town. It is submitted that an archaeological survey and assessment should have been carried out. Although there is evidence of some Fulact Fiadhs in fields nearby, there is no record of any archaeological features within the site. The County Archaeologist has not commented on the application. It is considered that there is insufficient reason to require an archaeological appraisal of the site. However, should the Board decide that such an appraisal should be undertaken, a condition to this effect can be attached to any permission.

7.5.4. **Construction impacts** - The planning authority has identified potential environmental impacts during construction including potential pollution events, noise and disturbance and dust and dirt on the roads and footpaths. I would agree with these concerns and consider that the residential amenities of the established residents could be adversely affected by the construction phase of the development

in the absence of an appropriate CEMP. Should the Board be minded to grant permission, it is considered that the submission of a construction management plan, including a traffic management plan and mitigation measures to control environmental emissions, for the approval of the planning authority, prior to the commencement of works on the site should be required as a condition of any planning permission.

- 7.5.5. **Apartment development** – the appellant has raised concerns regarding the apartment development which is in the ownership of the developer but is the subject of a separate planning application and appeal (ABP.310159). It is considered that the issues raised in respect of this development are more appropriately addressed under that proposal which is concurrently before the Board.

7.6. **Environmental Impact Assessment**

- 7.6.1. Class 10(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required where more than 500 dwelling units would be constructed and where 10-hectare urban sites would be developed. The proposal is for the development of a site with a stated area of 0.3ha to provide 8 no. dwelling units. Accordingly, it does not attract the need for a mandatory EIA.
- 7.6.2. The site is located within the built-up area of an existing town and is approx. 800m distant from the closest European site and is not proximate to any other sites of conservation interest. Having regard to the nature and scale of the proposed development and to its location within the development boundary of Newmarket town, on serviced and zoned lands, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for Environmental Impact Assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.7. Appropriate Assessment

7.7.1. Compliance with Article 6(3) of the Habitats Directive

The requirements of Article 6(3) 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

- 7.7.2. The application is accompanied by an Appropriate Assessment Stage 1: Screening Report and a Stage 2: Natura Impact Statement Report. These reports were completed by Ash Ecology & Environmental Ltd. It is considered that the Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European sites within a possible zone of influence of the development. The submitted Screening Report identified three European sites within a 15km radius of the site. It is stated that the closest European site is the River Blackwater (Cork/Waterford) SAC (002170). The distances between the appeal site and the Lower River Shannon SAC (002165) and the Stack's to Mullaghereirk Mountains West Limerick Hills and Mount Eagle SPA (004161), is 10.4km to the northwest and 4.6km to the west and north, respectively. The two most distant sites were screened out on the basis of distance and lack of a hydrological connection, but the River Blackwater SAC was not screened out.
- 7.7.3. The submitted Screening Statement concluded that significant effects cannot be ruled out as there may be a hydrological connection to the River Blackwater SAC via surface water. The proposed works will not occur within a designated site and there are no watercourses or drains within the development site, but wastewater from the site will discharge to the wastewater treatment system at Newmarket which in turn discharges to the SAC via the Dalua Stream.
- 7.7.4. The likely significant risks to these European sites arise (in the absence of mitigation) from the potential for the proposed development to affect water quality in the receiving aquatic and estuarine environments, via surface water. It was identified that an accidental event during construction works and/or during operation of the development may generate pollutants, which could potentially cause impacts on the qualifying interests of the SAC and the SPA, alone or in combination with other plans

or projects. It was stated that further assessment of these potential impacts at Stage 2 of the Appropriate Assessment process will be required in order to comprehensively address potential impacts on the SCA and SPA. It is noted that an NIS has been submitted.

- 7.7.5. The submitted NIS sets out a series of proposed construction management measures and concludes that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the European Site River Blackwater SAC (002170), or any other European sites, in view of the Sites' Conservation Objectives.

Screening for Appropriate Assessment

- 7.7.6. 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).

Description of Site and Surroundings

- 7.7.7. The applicant has provided a description of the site in Sections 1.3, 2.1, 2.2 and 3.1.1 of the Screening Report. The site can be described as follows (but please see Section 1.0 above for a full site description):
- The site is a backland site which is located in an urban setting in the central area of Newmarket Town. The site is accessed from Scarteen Street to the west via a private accessway leading from an established vehicular entrance but is also accessible from Charleville Road to the north via a small narrow site in the ownership of the applicant (which is the subject of a concurrent application/appeal 310159). The surrounding development comprises mainly residential properties to the north and west, a commercial premises to the south and an agricultural field to the east.
 - The site is a greenfield site (for the most part) comprising improved agricultural grassland (GA1) with a stated area of 0.3376ha. There are mature treelines and hedgerows (WL2/WL1) along most of the eastern boundary and part of the western boundary (south of the entrance accessway). The remainder of the boundaries are either unscreened or screened by means of

fencing or walls. The accessway formerly contained an old shed which has been demolished.

- There are no rivers, streams or areas of standing water within the site. However, the Newmarket Stream (FW1) is located approx. 11 metres to the south of the site and is separated from the site by the grounds of a commercial unit to the south-southeast and by an earthen bund where the site is lower than the adjacent grounds.
- No invasive species were found during the field surveys within the development site. However, Japanese Knotweed had previously been present on the site and had been removed in 2018. Evidence of Japanese Knotweed was found at two separate areas in the general surroundings of the site (30m and 100m distant, respectively).

Description of project

7.7.8. The applicant provides a description of the project in Section 1.3 of the Screening Report. In summary the development comprises

- Construction of 8 housing units, and terraced houses, which are 2-storey semi-detached houses (see Section 2.0 above for a detailed description of the project).
- The houses will be served by a c.65-metre long access road from Scarteen Street which is approx. 9m wide and will incorporate a footpath, traffic calming, visitor parking bays and landscape screening.
- The houses are laid at the eastern end of the site in two pairs of semi-detached dwellings which face each other and front onto a communal parking/access area and a green space/play area.
- It is proposed to retain and supplement the existing treeline/hedgerow planting along the boundaries.
- Separate foul and surface water discharge systems will be provided, as requested by the planning authority. Foul water drainage will be discharged to the Newmarket WWTP subject to a connection agreement from Irish Water.

- Post construction stormwater/surface water disposal arrangements involve discharge to the Newmarket Stream by means of an existing 700 diameter rigid storm sewer running along the roadside following attenuation. Prior to discharge, the stormwater will pass through a silt trap and hydrocarbon interceptor and will be released via a flow control valve which will ensure that the flow is at greenfield runoff rates.

7.7.9. Taking into account the characteristics of the proposed development in terms of its location and the nature and scale of the works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Construction related uncontrolled surface water pollution arising from an accidental pollution event.
- Accidental pollution event arising during the operational phase affecting surface water quality.

7.7.10. Habitat loss/fragmentation and/or the disturbance of habitats and species were ruled out on the basis of distance from a European site and the lack of any suitable habitats on the site to support species for which the sites have been designated.

European Sites

7.7.11. In determining the Zone of Influence, I have had regard to the nature and scale of the project, the distance from the development site to the European Sites, and any potential pathways which may exist from the development site to a European site. The site of the proposed development is not located within or immediately adjacent to a European Site. The closest European sites are River Blackwater (Waterford/Cork) SAC (002170), Lower River Shannon SAC (002165) and Stack's to Mullaghereirk Mountains West to Limerick Hills and Mount Eagle SPA (004161) which are located at approx. 815 metres, 10.4km and 4.6km of the site, respectively.

7.7.12. A summary of the European Sites that occur within a possible zone of influence of 15km is presented in the table below. Where a possible connection between the development and a European Site has been identified, these sites are examined in more detail.

Designated European Site	Distance	Qualifying Interest/ Conservation Objectives	Connections (source pathway receptor)	Considered further in screening Y/N
Lower River Shannon (Site code 002165)	10.4km to northwest – closest point	<p><u>Annex I Habitats</u></p> <p>Sub-tidal sandbanks, estuaries, mudflats/sandflats, coastal lagoons, large shallow inlets and bays, reefs, stony banks, vegetated sea cliffs, annuals colonising mud and sand, salt meadows, salt marshes, water courses, Molinia Meadows, Alluvial forests</p> <p><u>Annex II Species</u></p> <p>Freshwater pearl mussel, sea lamprey, brook lamprey, river lamprey, salmon, bottlenose dolphin, otter</p> <p><u>Conservation Objectives</u></p> <p>To maintain or restore the favourable conservation status of habitats and species of community interest –</p>	No Hydrological connection	No due to distance and absence of hydrological link

		specific attributes and targets are listed on the NPWS website in relation to each qualifying interest.		
Stack's to Mullaghareirk Mountains West to Limerick Hills and Mount Eagle SPA (Site code 004161)	4.6km to west, southwest, northwest, north	<p><u>Qualifying interests</u></p> <p>Hen Harrier (<i>Circus cyaneus</i>) [A082].</p> <p><u>Conservation objectives</u></p> <p>To maintain or restore the favourable conservation status of habitats and species of community interest – specific attributes and targets are listed on the NPWS website in relation to each qualifying interest.</p>	No hydrological connection	No due to distance and absence of hydrological link
Blackwater River (Cork/Waterford) SAC (002170)	815m to west, south, east	<p><u>Qualifying interests</u></p> <p>Estuaries, Mudflats and sandflats, Perennial vegetation of stony banks,</p> <p>Salicornia and other annuals colonising mud and sand, Atlantic salt meadows,</p> <p>Mediterranean salt meadows,</p> <p>Old Sessile oak woods</p>	Potential pathway via Newmarket Stream which discharges to Dalua River which is a tributary of the River Blackwater	Yes

		<p>Watercourses of plain to montane levels with</p> <p>Ranunculon fluitantis and Callitricho-Batrachion vegetation,</p> <p>Alluvial forests,</p> <p>Margaritifera margaritifera (Freshwater pearl mussel),</p> <p>Austropotamobius pallipes (White Crayfish)</p> <p>Petromyzon marinus (Sea Lamprey)</p> <p>Lampetra planeri (Brook Lamprey)</p> <p>Lampetra fluviatilis (River Lamprey)</p> <p>Alosa fallax fallax (Twaite Shad)</p> <p>Salmo salar (Salmon)</p> <p>Lutra lutra (Otter)</p> <p>Trichomanes speciosum (Killarney Fern)</p> <p><u>Conservation objectives</u></p> <p>To maintain or restore the favourable conservation status of</p>		
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		habitats and species of community interest – specific attributes and targets are listed on the NPWS website in relation to each qualifying interest.		
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7.7.13. I do not consider that any other European sites fall within the zone of influence of the project, based on a combination of factors including the intervening distances, the lack of suitable habitat for qualifying interests, and the lack of a hydrological or other connection to the development site.

7.7.14. I consider that there is no possibility of significant effects on Lower River Shannon SAC (002165) or Stack's to Mullaghareirk Mountains West to Limerick Hills and Mount Eagle SPA (004161), having regard to the conservation objectives relating to the qualifying interests of these sites, due to distances between these sites and the site of the proposed development, the intervening land uses and the absence of any hydrological or other linkage between the development and these European sites. I therefore concur with the applicant and am screening out these designated sites at Stage 1.

Identification of likely effects

Blackwater River (Cork/Waterford) SAC

7.7.15. This site has been designated for the protection of a range of riparian, estuarine and coastal habitats and species associated with the Blackwater River and its tributaries. NPWS publications highlight the specific attributes and targets for the various qualifying interests in the SAC. This European site is located approx. 815m to the west, south and east of the site. There is no direct hydrological pathway from the development to the SAC. However, the Newmarket Stream is approx. 11m to the south of the appeal site and it discharges to the Dalua River, which in turn discharges to the River Blackwater, thereby reaching the SAC. The EPA

Assessment of the Dalua River (2018) was that it is in satisfactory ecological condition. Monitoring stations are located upstream of the site at Knockduff and downstream of the site near the WWTP. The monitoring results (2018) indicated 'Good status' at both stations. The WFD River Waterbody status of the Dalua River (DALUA_020) is also 'Good' and was assessed (2013-2018) as 'Not at Risk'. The site is situated on the 'Rathmore West' groundwater body, which is 'Not at Risk' and has a Groundwater WFD status of 'Good'.

- 7.7.16. The Screening Report identifies a potential pathway via the wastewater system, which following treatment at the Newmarket wastewater treatment plant discharges to the River Dalua, which is 1.3km hydrologically distant from the appeal site. A further potential pathway is identified via the surface water drainage network and the European site via the Newmarket Stream, Dalua River and the River Blackwater. Pathways via land and air are ruled out due to the distances involved.
- 7.7.17. The Screening Report ruled out direct impacts in terms of loss or damage to any Qualifying Features or habitats or species on the basis of distance from the European sites. In terms of indirect impacts, it was concluded that the risk of surface water contamination arises from construction activities and during the operational phase such as sediment laden surface water and hydrocarbons or oils from spillages. I would accept that there is potential for surface water runoff containing dust, silt and/or contaminants arising from the construction phase and from dust or pollutants including hydrocarbons arising from the use of the access road leading to the site could enter the drainage channels and potentially the Newmarket Stream. As this stream discharges to the Dalua River, such contaminants could therefore reach the SAC and have effects on the qualifying interests of the European site. An accidental pollution event during the operational phase was also identified as having the potential to affect water quality via the surface water drainage network. Furthermore, it was noted that there is a potential water quality impact from the discharge of the treated effluent from the Newmarket WWTP. The potential effects of the development on the European site cannot therefore be screened out and a Stage II Appropriate Assessment is required in respect of the Blackwater River SAC (002170).
- 7.7.18. The Screening Report also identified the potential for likely significant effects on the qualifying interests of the SAC, in the absence of mitigation, arising from invasive

species and disturbance to Otter during the construction phase. The site was surveyed for invasive species, but no evidence of any invasive species was found on the site during these field surveys. However, the invasive species Japanese Knotweed had previously been present on the site but had been eradicated in 2018. The survey also identified the presence of Japanese Knotweed at two locations outside the site but in the surroundings, one at 30m distance and another at 100m distance. Disturbance to Otter was identified as a potential impact by reason of noise during the construction phase. The potential effects from these impacts could not be screened out and were therefore screened in for a more comprehensive assessment as part of the Stage II Appropriate Assessment.

In combination effects

- 7.7.19. The Screening Report addressed in combination effects (3.3). This included a review of planning applications in the area and of various plans such as the Cork County Development Plan 2014, Cork County Biodiversity Plan, Kanturk Mallow Municipal District LAP and the River Basin Management Plan. It was noted that there were no policies or plans for the area that would interact with the proposed project in any significant way. The planning applications for the area generally related to small residential schemes including several on the development site itself.
- 7.7.20. Having reviewed the P.A.'s Planning Enquiry system, I would agree that the recent planning permissions in the vicinity relate primarily to single dwelling houses or small residential schemes. It is considered, therefore that in-combination effects have been adequately considered by the applicant. I am satisfied that the proposed development in combination with other permitted developments and plans in the area, which in themselves have been screened for AA, would not be likely to have a significant effect on any European site.

Mitigation measures

- 7.7.21. 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

- 7.7.22. 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) could have a significant effect on European Site no. 002170 in view of the site's Conservation Objectives and Appropriate Assessment (and submission of a NIS) is therefore required.

Appropriate Assessment of Implications of the Proposed Development

7.7.23. The following is an assessment of the implications of the project on the relevant conservation objectives of the European site using the best available scientific knowledge in the field (NIS). All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are examined and assessed. I have relied on the following guidance:

- DoEHLG (2009) Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service, Dublin
- EC (2021) Assessment of plans and projects in relation to Natura 2000 sites - Methodological Guidance on Article 6(3) and Article 6(4) of the Habitats Directive 92/43/EEC.

The following site is subject to appropriate assessment

Blackwater River SAC (Site Code 002170)	
Conservation Objectives and Qualifying Interests / Special Conservation Interests	Potential Impacts
<p><u>CO</u> – To maintain or restore the favourable conservation condition of the Annex I habitats and/or the Annex II species listed as Special Conservation Interests for this SAC.</p> <p><u>Qualifying Interests/Species of Conservation Interest:</u> Estuaries [1130], Mudflats and sandflats not covered by seawater at low tide [1140], Perennial vegetation of stony banks [1220], Salicornia and other annuals colonising mud and sand [1310], Atlantic salt</p>	<p><u>Direct Effects:</u> No direct effects due to separation distance.</p> <p><u>Indirect Effects:</u> Potential for indirect effects from</p> <ul style="list-style-type: none"> • surface water discharge associated with the proposed

<p>meadows (Glauco-Puccinellietalia maritima) [1330], Mediterranean salt meadows (Juncetalia maritimi) [1410], Watercourses of plain to montane levels with Ranunculion fluitantis and Callitriche-Batrachion vegetation [3620], Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0], Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0], Margaritifera margaritifera (Freshwater pearl mussel) [1029], Austropotamobius pallipes (White-clawed Crayfish) [1092], Petromyzon marinus (Sea Lamprey) [1095], Lampetra planeri (Brook Lamprey) [1096], Lampetra fluviatilis (River Lamprey) [1099], Alosa fallax (Twait Shad) [1103], Salmo salar (Salmon) [1106], Lutra lutra (Otter) [1355], and Trichomanes speciosum (Killarney fern) [1421]</p>	<p>development and access road</p> <ul style="list-style-type: none"> • Introduction and facilitated spread of invasive species via construction vehicles, materials or machinery • Disturbance to Otter <p>in the absence of site specific mitigation measures.</p>
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7.7.24. A description of the site is set out in section 3.1.1 of the NIS with the qualifying interests set out in Table 2 and which are set out above. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives document for the site available through the NPWS website.

Identification of likely effects

7.7.25. The Blackwater River SAC has been designated for the protection of a range of riparian, estuarine and coastal habitats and species associated with the River Blackwater and its tributaries. NPWS publications highlight the specific attributes and targets for the various qualifying interests in the SAC. This European site is located approx. 815m to the west of the site. There is no direct hydrological pathway from the development to the SAC. However, the Newport Stream is stated in the NIS to be approx. 11m to the south of the development site and it discharges to the Dalua River, which in turn discharges to the Blackwater River, thereby reaching the SAC.

7.7.26. The habitats within the site are of low ecological value and are not Qualifying Interests of the SAC). They mainly comprise Improved Agricultural Grassland (GA1)

and a small area of hardstanding near the entrance (where sheds were recently demolished) (BL3). There are some treelines and hedgerows (WL2/WL1) along the boundaries of the site which are to be retained. There are no drainage ditches or streams within the site. Thus, there will be no loss, fragmentation or alteration of habitats which would affect the Blackwater River SAC. Pathways via land and air are ruled out due to distances involved. However, the potential for the spread of invasive species such as Japanese Knotweed has been identified in the NIS, which could arise during construction. Mitigation measures are proposed to prevent such a spread of invasive species.

7.7.27. There is potential for disturbance during construction due to noise, which could affect Otter, which is a Qualifying interest of the SAC. Otters are widespread within the catchment of the Blackwater River. A record for Otter has been noted upstream of the outfall from the Newmarket WWTP. However, it is noted that this is an urban environment, and the Newmarket Stream (W1) is an open channel which is within sight of and easy access of the adjoining R578. Thus, the construction works are unlikely to cause significant disturbance to this species, particularly as the works will take place during the day, and Otters tend to be most active at night, dawn and dusk, and the works will not be immediately adjacent to the stream where they tend to frequent. Mitigation measures will be employed to limit construction noise in accordance with BS5228. These include use of quiet plant, shutting down of equipment when not in use and adherence to construction noise limits. All other qualifying interests for the SAC are either plant or animal species occurring instream and not in the vicinity of the site apart from Lamprey and Salmon in the Dalua River.

7.7.28. The proposed development includes a proposed access route which links the principal development area with Scarteen Street. The application site is separated from the Newport Stream by a field or rear gardens at the western end and by a commercial site, together with a small earthen mound at the eastern end. The access lane is estimated to be c.20m from the channel of the stream, but the rear boundaries of the proposed residential properties would be up to c.7 metres from the stream channel. Thus, a potential pathway via surface water exists to the European site either from run-off from the site or via the proposed surface water management plan (as amended by FI) to discharge directly to the watercourse. A further pathway was identified by the applicant as wastewater from the development will be

discharged to the Newmarket WWTP, which in turn discharges to the Dalua River, and hence to the Blackwater River SAC. However, the Newport Stream is located c.1.3km from the Dalua River hydrologically.

7.7.29. Records of Brook and River Lamprey have been noted in the Dalua River and the main channel of the Blackwater River is a designated salmonid water. There are records of good spawning ground and nursery habitat in the Dalua River. These species require good water quality. The Dalua River is currently assigned 'Good status' and it is very important that this status is maintained. The main aspects of the proposed development that could adversely affect water quality include:

- Construction works involving earthworks which has the potential to generate pollutants or an accidental pollution event and/or the release of dust which could potentially cause impacts via surface water drainage on the qualifying interests of the SAC.
- An accidental release of hydrocarbons via the proposed surface water drainage system from the proposed development during the operational phase which could enter the Newport Stream and could potentially cause impacts on the qualifying interests of the SAC.
- Pollutants contained in the wastewater generated on site during the operational phase and which is discharged to the Dalua River following treatment at the Newmarket WWTP, should the treatment system fail to comply with the ELVs for the plant.

7.7.30. Water quality would be adversely affected by the presence of sedimentation and the presence of hydrocarbons which would affect fish species by reason of increased turbidity, reduction in available oxygen and clogging of gills etc. with silt. Impacts on the fish population would also affect the food availability for otters and would adversely affect habitats for aquatic flora and species. It is considered, therefore, that aspects of the proposed development could result in impacts which would adversely affect the integrity of Blackwater River SAC in view of the conservation objectives of this site.

7.7.31. Mitigation measures are set out in the NIS (section 4.5). The mitigation measures for water quality impacts during the construction phase are based on guidelines provided by Inland Fisheries Ireland. They include minimising the

removal/disturbance of existing vegetation, avoidance of such activities during wet weather, retention of eroded sediments on site in controlled conditions and the use of silt fences and silt traps. Furthermore, measures will be employed to prevent concrete or cement from entering surface water run-off and appropriate storage, containment and handling of fuels, lubricants and oils to prevent accidental spillage.

7.7.32. The post-construction surface water drainage proposals were revised during the course of the application to include attenuation (storage capacity of 92.5 cubic metres) to facilitate a once in a 100 year storm event in respect of both the proposed development and the proposed apartment building on the adjoining site owned by the applicant (310159). Potential pollution issues are addressed by means of a silt trap at the outlet of the attenuation tank and a Hurricane Vortex flow control valve to limit the outflow from the tank to 4.55l/s (greenfield rate). The outflow will be discharged via an existing 700mm diameter rigid storm sewer running along the roadside at the entrance to the site and will then be discharged to the Newport Stream.

7.7.33. The most recent Irish Water Annual Environmental Report (2020) for the Newmarket Agglomeration (Licence Reg. No. D0333-01) states that the annual mean hydraulic loading for the WWTP is greater than the peak treatment capacity, which is partly due to the combined sewerage system. However, the Report stated that the WWTP outfall was compliant with the ELVs set in the wastewater discharge licence. Furthermore, the discharge from the wastewater treatment plant does not have any observable negative impact on water quality. There is a hydraulic overload at times of high rainfall which occurs when the flows in the river are high. This results in a high dilution factor which means that there is no detectable impact on the water quality downstream of the outfall.

7.7.34. The proposed development, at operational phase, would result in a small increase in the number of households connected to the public sewer. However, it would also remove some of the hydraulic loading by the removal of some hard surface from the site and also as the proposed surface water drainage system will not discharge surface water to the foul sewer.

7.7.35. I consider that the proposed mitigation measures are clearly described, are reasonable, practical and enforceable. I am satisfied that the measures outlined fully

address any potential impacts on the Blackwater River SAC arising from the proposed development and that this conclusion can be made on the basis of objective scientific information.

Cumulative and In-Combination Effects

- 7.7.36. This issue is addressed in 4.4 of the NIS. The existing and permitted development in the vicinity of the site comprises mainly of single dwelling houses and agricultural developments associated with existing farms. The most recent planning applications in the vicinity related to small housing related developments or infill housing developments. I am satisfied that the proposed development in combination with other permitted developments and plans in the area, which in themselves have been screened for AA, would not be likely to have a significant effect on any European Site.
- 7.7.37. Following the appropriate assessment and the consideration of mitigation measures, I can ascertain with confidence that the project would not adversely affect the integrity of Blackwater River SAC in view of the conservation objectives of this site. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

Appropriate Assessment Conclusion

- 7.7.38. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the Blackwater River SAC. Consequently, an appropriate assessment was required of the implications of the project on the qualifying features of those sites in light of its conservation objectives.
- 7.7.39. Following an appropriate assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the European Site No. 002170 or any other European site, in view of the site's conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects. This is consistent with the findings of the submitted NIS.

7.7.40. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Blackwater River SAC.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

In coming to its decision, the Board had regard to:

- (a) the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018,
- (b) the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued by the Department of the Environment, Heritage and Local Government in 2009,
- (c) the policies set out in the Cork County Development Plan 2014 relating to the residential development,
- (d) the pattern of development in the area,
- (e) the range of mitigation measures set out in the documentation received, including the Natura Impact Statement and Further Information,
- (f) the planning history of the site,
- (g) the submissions made in connection with the planning application and appeal.

Appropriate Assessment: Stage 1:

The Board considered the Natura Impact Statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites. The Board agreed with and adopted the screening assessment carried out and conclusions reached in the Inspector's report that the Blackwater River SAC (site code 002170) is the only European Site in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the aforementioned European Site in view of the site's Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the Appropriate Assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the Conservation Objectives for the European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the site's Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the site's Conservation Objectives.

Proper Planning and Sustainable Development:

Having regard to the location of the site within the town centre of Newmarket and to the objectives as set out in the Kanturk-Mallow Municipal District Local Area Plan 2017 to encourage the development of additional dwelling units within the town centre during the plan period, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, would not adversely impact on the character of the area and would be acceptable in terms of traffic safety and convenience. 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 to the planning authority on the 6th day of November 2020, the 15th day of March 2021, the 18th day of March 2021 and the 10th day of June 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The developer shall comply with the following requirements: -
 - (a) A timber fence shall be provided along the eastern boundary to the west of the existing treeline and a robust hedgerow shall be planted on the development side of the fence.
 - (b) Screen walls shall be provided along the northern boundary, the southern boundary and the western boundary north of the access lane, respectively, which shall be 2 metres in height above ground

level and shall be constructed of concrete block which shall be suitably capped and rendered.

- (c) Screen planting with native garden trees shall be provided on the southern side of the wall along the northern boundary.
- (d) All bathroom/ensuite windows shall be fitted and permanently maintained in obscure glass. The use of film is not permitted.
- (e) No dwelling within the development shall be occupied until all services have been connected and operational.
- (f) Each proposed house shall be occupied as a single dwelling unit.

Reason: In the interest of the residential amenity.

- 3. All rear gardens shall be bounded by block walls, 1.8 metres in height, capped and rendered on both sides, to the written satisfaction of the planning authority.

Reason: In the interests of residential and visual amenity.

- 4. The proposed footpath along the access drive shall incorporate a surface which is to be designed to provide for tree root protection along its path details of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To ensure the protection of the hedgerows and treelines bounding the accessway.

- 5. Prior to the commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water. No dwelling shall be occupied until water and sewerage services serving the development have been installed and functioning in accordance with the connection agreements made with Irish Water.

Reason: To ensure that satisfactory water and wastewater arrangements are in place to serve the development.

- 6. a) All foul sewage and soiled water shall be discharged to the public foul sewer

- b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system

Reason: in the interest of public health

- 7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

- 8. All works shall be implemented in accordance with the mitigation measures specified in Section 4.5 of the Natura Impact Statement (NIS) received by the planning authority on the 15th day of March 2021 and as updated by the conditions of this order.

Reason: In the interests of the protection of the environment.

- 9. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

- 10. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

- 11. Sight distances of 80 metres to the west and to the east of the entrance to the development shall be provided from the centre point of the entrance, 3.0 metres back from the road edge. Sightlines and the road markings shall be carried out in accordance with detailed standards of the planning authority for such works prior to the occupation of any dwelling. No vegetation or structure shall exceed 1 metre in height within the sight distance triangle.

Reason: In the interest of road and public safety and visual amenity.

12. A minimum of two parking spaces shall be provided and maintained within the curtilage of each dwelling unit.

Reason: To ensure adequate off-street parking provision is available to serve the proposed development.

13. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interests of sustainable transportation.

14. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interest of amenity and public safety.

15. 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.

Reason: In the interest of visual and residential amenity.

16. The excavation of the proposed development shall be supervised by a suitably qualified invasive species consultant to ensure that no evidence of Japanese Knotweed is present on the site. Prior to the completion of the excavation, a full report shall be submitted for the agreement of the planning authority.

Reason: In the interests of orderly development and the control of invasive species.

17. Proposals for an estate/street name, housing numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

18. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 15th day of March 2021, as amended by the layout plan submitted on 10th day of June 2021. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

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

19. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
- (i) Existing trees and hedgerows specifying which are proposed for retention as features of the site landscaping
 - (ii) The measures to be put in place for the protection of these landscape features during the construction period
 - (iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine,

- oak, hawthorn, holly, hazel, beech or alder and which shall not include *prunus* species
- (iv) Details of screen planting which shall not include *cupressocyparis x leylandii*
 - (v) Hard landscaping works, specifying surfacing materials, furniture, play equipment and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment
 - (c) A timescale for implementation

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

- 20.
- (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of 2 metres from the trunk of the tree or the centre of the shrub, and to a distance of 2 metres on each side of the hedge for its full length and shall be maintained until the development has been completed.
 - (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No works shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals

or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

21. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection.

22. (a) Construction works shall only take place between the months of August and April.
- (b) Trees to be removed on site shall be felled in late summer or autumn. Any disturbance to bats on site shall be in a manner to be agreed in writing with the planning authority on the advice of a qualified ecologist.

Reason: In the interest of wildlife protection.

23. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the Recommendations for Site Development Works in Housing Areas issued by the Department of Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer in compliance with these standards until taken in charge by the Planning Authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

24. A plan containing details for the management of waste (and in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

25. 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

26. The construction of the development shall be managed in accordance with a Construction and Environmental 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

- Location of site/materials compounds including areas for the storage of construction refuse.
- Location of areas for construction site offices/staff facilities.
- Details of site security fencing and hoardings
- Details of on-site car parking facilities for site workers during the course of construction.

- Measures to obviate the need for queuing of construction traffic on the local road network.
- Details of appropriate mitigation measures for noise, dust and vibration and for monitoring of such levels.
- Containment of all construction related fuel and oil within specially constructed bunds to ensure that fuel spills are fully contained. Such bunds shall be roofed and exclude rainwater.
- Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- Means to ensure that surface water is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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

27. Prior to the commencement of any dwelling house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted to first occupation by individual purchasers i.e., those not being a corporate entity, and/or by those eligible for the occupation and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

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

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

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

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

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

30. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of rationalisation of on-street parking and improvement of footpaths adjoining the entrance to the site on Scarteen Street. The amount of the contribution shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such

phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

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

Mary Kennelly
Senior Planning Inspector

31st March, 2022