



An
Bord
Pleanála

Inspector's Report

ABP-311244-21

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| Development | Function room extension, basement bar and courtyard, external courtyard, ESB substation and ancillary works. Retention for marquee structure for 18 months. |
| Location | The Haven Hotel, Dunmore East, Co. Waterford |
| Planning Authority | Waterford City and County Council |
| Planning Authority Reg. Ref. | 20703 |
| Applicant(s) | Integer Ltd |
| Type of Application | Permission |
| Planning Authority Decision | Grant with Conditions |
| Type of Appeal | Third Party |
| Appellant(s) | 1) Michael & Jean Farrell 2) John Stewart |
| Observer(s) | None |
| Date of Site Inspection | 14 th May 2022 |
| Inspector | Mary Crowley |

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 1.74 ha is on the site of the Haven Hotel, which is located within Dunmore East Village, Co Waterford. The site is immediately bounded along its northern, western and southern boundaries by built development in the form of housing estates, local road (L4202) and St Andrews Church. The main access to the site is via Dock Road (R684) which runs along the sites eastern boundary and separates the site from a public park.
- 1.2. The sloping, elevated site overlooks Dunmore Bay which is located c127m to the east of the hotel. The eastern half of the site (front of site) steeply slopes towards Dunmore Bay and is terraced providing pedestrian access via a stepped path. An access track located along the lower section of the eastern boundary (Dock Road) provides vehicular access, gently winding its way in a northerly direction to the back of the hotel.
- 1.3. The 12-bedroom hotel, formerly the Vila Marina, is a protected structure on the NIAH (ID: 2281721) for Architectural, Artistic, Historic and Social categories of special interest.
- 1.4. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photomontages available to view on the appeal file. Together these serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. Permission including all demolitions, is sought for a function room extension to the hotel which consists of the following: the construction of a sunken permanent function room including bar, storage and toilets with an overall gross floor area of 532 sqm basement courtyard, lift and 2 no. stairs, external courtyard (c. 390sq.m) service ramp and gravel footpath, universal bedroom, ESB substation and external plant area and all ancillary works
- 2.2. Retention permission is sought for the temporary erection of 1 no. marquee structure with a Gross Floor Area of 320sq.m and 3 no. sheds (c.40 sqm) for a period of 18 months.
- 2.3. The Haven Hotel which is a Protected Structure (Record: Protect Structures No. 103)

2.4. The application was accompanied by the following:

- Architectural & Built Heritage Assessment
- Architectural Design Statement
- Visual Impact Assessment
- Planning Statement
- Stage 1 AA Screening Report
- Minutes of Correspondence with WCCC
- Letters of Support

2.5. Following a request for further information the applicant sought a 3 month time extension. Waterford City & County Council granted a time extension to 27th August 2021.

2.6. Further Information was submitted on the 26th June 2021 and may be summarised as follows. As part of the FI response revised plans for the proposed function room together with revision to landscape provisions for around the hotel grounds were submitted. The revised function room plans and landscaping and together with photomontages of visual impact are considered in the Architectural and Built Heritage Impact Assessment submitted.

- ***Justification for the temporary retention of the marquee*** - The marquee is temporary in nature, until the owners and operators of the Haven Hotel secure the necessary financing and arrangements to construct a permanent function room. No adverse effects to the protected structure will occur.
- ***Revised Architectural Heritage Impact Assessment*** - A revised Architectural and Built Heritage Impact Assessment was submitted. The report acknowledges that the marquees position affects the visual setting of the protected structure. However the report highlights that the temporary retention would be for a short duration and must be balanced against the importance of the support the marquee provides to the transition to the more permanent solution.
- ***Justification for the chosen location of the function room*** - The submitted Design Statement examined the strengths and weaknesses of the hotel as a whole. This considered access, architectural heritage, landscape, parking role of significant views and site orientation together with aspect in relation to daylight

availability. A part of the design process and project development, Section 6 of the Design Statement identified 3 no potential site locations. The further information set out the options considered and provides detail on the selection process and justification for the function room position.

- **Visualisations of the proposed development and a heritage-led master plan** - Six views were selected illustrating the visual context of the revised design of the proposed development submitted with the further information and demonstrated how the overall visual setting can accommodate the proposed function room and associated development. A heritage-led masterplan has been prepared by the Conservation Architect.
- **Noise mitigation measures for the marquee** - Sound measurements for the previous use of the temporary Marquee has been examined in noise reports submitted. Measures implemented by the applicant in advance of this planning application and which the applicant has committed to maintain over the temporary duration of any permission for the Marquee are outlined. Sound absorption measures and characteristics for both internal and external areas are set out in the technical document.
- **Revised car parking calculations** - The revised design provides for a total of 50 no car parking spaces as follows:
 - 15 no existing parking spaces
 - 18 no provided as “overflow” parking spaces
 - 17 no car spaces where permission for retention is sought as part of the concurrent planning application Reg Ref 20/652
- **Details of the intended uses and management of the marquee** – Proposed to continue to provide a function space for local groups, community groups, charity event and weddings. If granted planning permission the applicant is committed to operating and managing the temporary Marquee and long term use of the permanent function room in a manner that will maintain the amenities of the hotel and the neighbourhood around the hotel and will be happy to comply with the planning conditions that would adhere to EPA and relevant noise standards suitable for the area.

- **Clarification around the proposed development of an ornamental garden** - The proposals for terraced area are considered to be carefully thought-out adaptations which are consistent with the hotel use and setting of the protected structure.
- **Additional section drawings of the proposed service ramp and confirmation of trees to be retained** - Additional section drawings submitted. The proposed works are at a substantial distance to the existing boundary treatment to the church and will therefore have no impact on the existing boundary treatment. These demonstrate how the proposed landscape and protection of trees on the lands will support the protected setting of the hotel.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Waterford City & County Council issued a notification of decision to grant permission subject to 17 no conditions. Conditions of note are as follows:

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| Condition No 2 | (a) Temporary marquee may be used for a limited period of 18 months form date of grant of permission (b) 3 no temporary shed may be used for a limited period of 18 months form the date of grant of planning permission |
| Condition No 8 | Noise restrictions a) Full details of sound proofing of the Marquee shall to be submitted and agreed b) All music in the marquee to cease prior to 23.00 c) When entertainment is taking place at the premises, noise shall not increase after 23.00 d) Entertainment noise taking place at the premises, shall not increase after 23.00 e) The developer shall install a permanent noise monitoring point to monitor noise from the site. |

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| | f) Electric noise limiter on the sound system in both the marquee and the permanent function rooms to be installed |
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3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** in their first report recommended that further information be sought in relation to the following. Further information was requested on the 19th November 2020.
 - 1) Justification for the temporary retention of the marquee
 - 2) Revised Architectural Heritage Impact Assessment
 - 3) Justification for the chosen location of the function room
 - 4) Visualisations of the proposed development and a heritage-led master plan
 - 5) Noise mitigation measures for the marquee
 - 6) Revised car parking calculations
 - 7) Details of the intended uses and management of the marquee
 - 8) Clarification around the proposed development of an ornamental garden and
 - 9) Additional section drawings of the proposed service ramp and confirmation of trees to be retained.
- The Case Planner in their second report and having considered the further information recommended that planning permission be granted subject to condition. The notification of decision to grant permission issued by Waterford City & County Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Environment Section** – No noise report was submitted with the application. No stated objection subject to conditions relating to noise (Condition No 8 refers) and waste (Condition No 9 refers).
- **Conservation Officer** – Haven Hotel is a very successful business. Certain interventions are necessary for commercial operations. There are significant concerns with regard to the works for retention, the proposed works and the impact

of such works on the built heritage and its setting and therefore further information is requested as summarised:

- 1) Revised Architectural Heritage Impact Assessment
- 2) Justification for the chosen location of the function room
- 3) Visualisations of the proposed development and a heritage-led master plan

3.3. Prescribed Bodies

- **Department of Tourism, Culture Arts, Gaeltacht & Media** – Further information requested seeking the submission of visualisations of the proposed development and a heritage-led master plan

3.4. Third Party Observations

- 3.4.1. There are 4 no observations recorded on the appeal file from (1) Jonathon & Mary Torrie, (2) Ms. Winifred Sutton c/o Michael Reilly Consulting Engineer, (3) Drs. Michael & Jean Farrell c/o Michael O' Neill MIPI and (4) John Stewart. The issues raised relate to noise impact, application seeks to circumvent Court Order in relation to the marquee, strict noise control in line with the Court Oder is necessary, non-conforming use is a material contravention, unnecessary development and not in accordance with the preservation of the Protected Structure. One of the observations supports the proposal.

4.0 Planning History

- 4.1. There is no evidence of any previous planning appeal on this site. The following planning history relates to the appeal site.

- **Reg Ref 20/652** – Retention permission granted subject to conditions for the following:
 - 1) playground and its boundary fencing (158m²)
 - 2) 2 no. storage sheds (59.5m²)
 - 3) paved courtyard area (730m²)
 - 4) 17 no. car parking spaces (197m²)

- 5) underground utility area (63m²) and
 - 6) 6 no. signs. The development is at the Haven Hotel which is a Protected Structure (Record Protected Structures No. 103)
- **Reg Ref 19/543** - Retention permission refused for marquee structure, 2 no. canopies and 3. Signage for 3 no reasons relating to (1) negative visual impact on the protected structure, (2) noise disturbance and (3) inadequate car parking.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan for the county is the **Waterford County Development Plan 2011 – 2017** (as extended). Relevant policies are set out below:

- Section 8.30 Conservation of the Architectural Heritage - *It is an objective of Waterford County Council to identify, conserve and protect elements of the architectural heritage. This not only includes structures on the Record of Protected Structures (as outlined in Appendix A13) but also elements of the built heritage such as vernacular heritage, industrial archaeology, streetscapes, walls, gardens, demesnes and landscapes.*
- Policy AH 1 - It is a policy of the Council to protect the architectural heritage and to encourage sensitive development or appropriate reuse of buildings to promote economic development and regeneration
- Policy AH 3 - It is the policy of the Council to maintain a Record of Protected Structures within the County to protect all the structures or parts of structures which are of historical, architectural, artistic, archaeological, social, scientific, technical and cultural interest.
- Policy AH 5 - It is the policy of the Council to protect the main building and curtilage of Protected Structures from any works which would visually or physically detract from the special character of the main structure or any structures within the curtilage.
- Demolition of a Protected Structure can only be considered in exceptional circumstances and the onus will be on the developer to provide the strongest justification for such an action.

- 5.1.2. The operative plan for the village is the **Dunmore East Local Area Plan 2011 – 2017** (as extended). The site is zoned **R1 – Residential – Medium** where the objective is *to protect the amenity of existing residential development and to provide for new residential development at medium density.*

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within any Natura 2000 designated site. There are 8 no European sites within 15km of the appeal site:

- River Barrow and River Nore SAC (002162)
- Hook Head SAC (000764)
- Tramore Dunes and Backstrand SAC (000671)
- Tramore Back Strand SPA (004027)
- Lower River Suir SAC (002137)
- Bannow SAC (000697)
- Bannow Bay SPA (004033)
- Mid-Waterford Coast SPA (004193)

- 5.2.2. The closest site to the appeal site is the River Barrow and River Nore SAC (002162).

5.3. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. There are 2 no third party appeals that may be summarised as follows:

- 6.1.2. **O'Neill Town Planning on behalf of Drs Michael & Jean Farrell**

- Appellants are a radiologist and ultra-sonographer and require focused concentration all day. The noise from the marquee has serious effects on the appellants sleep and could have potential devastating consequences for their patients. The appellants have had to call the guards on occasion. The proprietors have shown total disregard for the appellants complaints.
- There is no objection to a well-run hotel at this location. The unauthorised development (407sqm) of a marquee with its attendant uses, particularly loud noise late at night has been the subject of legal proceedings and a court order. To date the applicants have not complied with the order in relation to noise and nuisance.
- Condition No 8 (Noise) – The Planning Authority have already ruled that the marquee structure is a material contravention of the statutory Development Plan for the area (Reg Ref 19/543). Having regard to Section 37(2) of the Planning and Development Act (as amended) permission should be refused.
- All of the conservation reports prepared by the applicant and the Planning Authority are at one about the significant negative affect the marquee has on the protected structure.
- No information has been submitted to show how noise, particularly, can be mitigated during weddings, concerts and other activities that have been ongoing in the marquee until late at night – indeed the consultants seem to be only aware of weddings and charity events at the venue, as was the noise expert who prepared his report on noise in 2019. No mention, or noise report was prepared regarding the numerous concerts and other events held in the marquee in the last two years.
- With regard to Reg Ref 19/543 it is submitted that this development was considered to be a material contravention of the Waterford County Development Plan 2011 – 2017 in terms of both its design in front of a protected structure, and in terms of its use in a residential area. As such any attempt by the Planning Authority to grant planning permission would require a material contravention procedure which would require the elected members of the Council to adjudicate on the application.
- The proposed marquee development is neither consistent with the policies and Development Control Standards of the Development Plan. It also compromises the views and context of the Protected Structure by its location and design. Because the site is zoned for residential uses the existence of a loud, busy, non-

conforming use within it must be deemed a material contravention of the Development Plan.

- The temporary retention of the marquee in front of the Protected Structure must be refused for the same reasons as set out in the 2019 decision ie material contravention. The temporary retention of the marquee is unnecessary particularly as it is proposed to retain it in the same location where the new function rooms is to be built. The applicant erected and used the marquee without the benefit of a planning permission for 3 years. Submitted that the only course open to the Board is to refuse planning permission for the proposed development on the grounds set out above.

6.1.3. **John Stewart FRIAI & Associates**

- Stated that the appellant has intimate knowledge of the Haven Hotel having previously been involved in its restoration in 2015 after a fire. Requested that the application should be refused.
- **Protected Structure** – The proposed scheme while showing the new building at a reduced floor level has totally ignored the fact that an examination of the structure during restoration revealed that it was not built as a single entity.
- **North Wing** – Nowhere in the application are the structural implications of the development even mentioned nor is there any permission sought to effectively demolish this building, nor is there an application to rebuild it either as a new building or as a total reconstruction of the existing. This building is a Protected Structure designed by John Skipton Mulvany, and the proposal as submitted are incompatible with its preservation.
- **Main Block** – No attention has been given to the structural implications of the vibrations of such a level of excavation to the structure of the main house, which would be further weakened by the removal of the buttressing wall at basement level, or by the proposed excavation directly onto the main building. This level of work adjacent to the main block will lead to considerable cracking both in the adjacent walls and result in some spreading of the building.
- **Summary** – The proposed scheme would lead to the total destruction of the North Wing of the house, and to severe structural damage to the north section of the main block, along with subsidence and cracking to the rest of the building. None of these

works are compatible with the Conservation or protection of the Villa Marina as required under its Protected Status under the Waterford City & County Development Plan.

- **Legal Position** – Submitted that some sort of agreement appears to have been reached that if an application for a new building was made then the retention of the Marquee and the other unauthorised extensive works could be entertained.
- **Present Application (20703)** – Requested that the Board examine the original application and in particular the new staircase proposed in the north wing which has been designed so that you could not get down it unless you were 3 feet tall.
- **Trojan Horse** – Permission should not be given for works which in essence amount to the demolition of the north wing of the Villa Marina as such works could lead to the destruction of this Protected Structure. Permission should not be given for works which would merely amount to a method of overcoming a refusal to retain an illegal development or that thwarts and frustrate the orders of the Court.

6.2. Applicant Response

6.2.1. The first party response to the third-party appeal has been prepared and submitted by Fehily Timoney and may be summarised as follows.

6.2.2. Submitted that it is paramount that temporary retention be permitted to allow the owners and operators of the Hotel to utilize the existing marquee and that trading is facilitated for the spring-summer seasons of 2022 to 2023. This development will ensure the long-term protection of the hotel building and its setting. Through the conditions attached to the grant of permission the key issues raised by the appellants have already been fully addressed, noting in particular the requirements of Condition No 8 will control noise emissions.

6.2.3. Drs Michael & Jean Farrell

- **Noise** - Detailed proposals for noise protection and mitigation controls were submitted to WC&CC. The Council determined that compliance with Condition No 8 would ensure satisfactory protection of the residential amenity of the area. The applicant has implemented a number of measures to reduce and control noise levels from the marquee. The hotel owner is committed to ensuring noise

generated from the proposed development and the proposed temporary marquee retention accords with the noise levels required in Condition No 8. The noise control system provides the equipment necessary to ensure future compliance with Condition No 8(f) of the grant of permission. This will operate together with the policy of ceasing music playing at 23.00. The Haven Hotel has continued to conduct its own internal testing and is currently working to further insulate the marquee to ensure the least impact upon residential amenity is made. Details of these tests are provided in the submitted "Update on Sound Level Treatment of Marquee". Submitted that there have been no complaints regarding noise made by any of the neighbouring receptors. The Hotel has been fully compliant with Covid 19 restrictions.

- **Material Contravention** - The Haven Hotel has been in operation for over 70 years and is a long-established use. The land use matrix set out in Table 10.3 of the Development Plan confirms that hotel / tourism accommodation within residential zoned lands is "open for consideration". There is no conflict between the existing hotel use and the proposed development with the residential zoning objectives for the area. The proposed temporary retention of the marquee and provision of a permanent function room should not be classed as a "non-conforming" use but rather as an acceptable extension of the existing use. The subject application is substantially different to the application submitted under Reg Ref 19/543 and it is submitted that all the reasons for refusal in that application are fully addressed in the subject application. The temporary retention of the marquee is proposed as a component of the overall design solution.
- **Removal of Marquee** - It is proposed to undertake construction of the proposed function room after the removal of the Marquee structure. The idea that the position for the temporary retention of the marquee has any other motive than to allow for the orderly programming of the long-term management of the hotels development programmes is rejected.

6.2.4. John Steward

- **Structural Integrity** - The structural integrity of the existing buildings during excavation and construction works was validated by the Architect as part of the design process by Civil and Structural Engineering Consultants. Reference is made to an additional report prepared by Frank Fox & Associates provided under

a separate cover to this response. This sets out the basis for their opinion on how the structural integrity of the existing hotel will not be compromised as a result of ground excavations and construction of the proposed function room.

6.2.5. The response was accompanied by the following:

- FFA Engineering Assessment Report
- DBL Sound Level Report Noise Control Measures
- Letter from the applicant including copy of Court Order
- Letters of support from individuals and businesses

6.3. **Planning Authority Response**

6.3.1. None

6.4. **Observations**

6.4.1. None

6.5. **Further Responses**

6.5.1. None

7.0 **Assessment**

7.1. This assessment is based on the plans and particulars submitted to Waterford City & County Council on 30th day of September 2020 as amended by the further plans and particulars submitted on the on the 6th day of July 2021 and by the further plans and particulars received by An Bord Pleanála through the appeal process.

7.2. **NOTE:** Please note that a complete copy of all the plans and details submitted with the planning application on 30th September 2020 to Waterford City and County Council has not been made available with the appeal file. I have reviewed the plans and particulars available to view on the local authority planning website including several drawings that are not available on the appeal file. Prior to the consideration of this appeal the Board may wish to request the submission of a complete copy of all plans and particulars submitted with the planning application the 30th September 2020.

7.3. Please note that the response to a request for further information included a revised design of the proposed function room, a detailed architectural heritage assessment and conservation master plan for the hotel and a detailed justification for retention of the temporary retention of the Marquee.

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

- Principle
- Noise Impact
- Protected Structure
- Other Issues
- Screening for Appropriate Assessment

7.5. **Principle**

7.5.1. Permission is sought for a permanent sunken function room extension to the Haven Hotel (protected structure) together with retention permission for the temporary erection of 1 no. marquee structure for a period of 18 months.

7.5.2. The site is zoned R1 – Residential – Medium where the objective is to protect the amenity of existing residential development and to provide for new residential development at medium density in the Dunmore East Local Area Plan 2011 – 2017 (as extended). The hotel is considered to be a non-conforming use. Section 10.57.2 of the Development Plan states that *the expansion of existing minority Tourism/Commercial/ Industrial uses will be allowed where such use conforms to sustainability principles and good planning practice and contributes to the economic and social well-being of the area as a whole*. It is further stated that *while the policy will be to secure conformity of use through discouragement of a continuation of non-conforming uses, it is recognised that from time to time, it may be necessary to allow minor building extension and alterations within a non-conforming use area to allow for continuity of use, provided that the continued use does not prejudice the proper planning and development of the area and the preservation and improvement of amenities thereof*.

- 7.5.3. The Haven Hotel has been in operation in its current use since the early 1960's. as stated by the WC&CC Conservation Officer the Haven Hotel is a very successful business. It is a small family run hotel that is a long-established, non-conforming use which is of significant importance to Dunmore East as demonstrated by the thousands of people who have signed the petition of support for the restoration of the planning application. Having regard to the foregoing policies and the long-established hotel use at this location I consider the proposed works (as amended) will contribute to the economic and social wellbeing of the area and facilitate the continued operation of the hotel. Accordingly, the principle of the proposed development is acceptable.
- 7.5.4. With regards to the detailed design of the scheme I have considered the plans and particulars submitted to the Planning Authority on the 30th day of September 2020 together with the revised plans for the proposed function room together with revision to landscape provisions for around the hotel grounds submitted by way of further information on the 6th day of July 2021. I consider these amended plans to be an improvement on the original plans and that the overall development has been carefully considered given the open and elevated nature of the site, the dominance of the protected structure and the formal landscape setting of the overall site. It is recommended that should the Board be minded to grant permission that a condition be attached requiring that the development be carried out and completed in accordance with the plans and particulars lodged with the application on the 30th day of September 2020 as amended by the further plans and particulars submitted on the on the 6th day of July 2021.
- 7.5.5. I also note the concern raised that the proposed development constitutes a material contravention of the Waterford County Development Plan 2011 – 2017 (as extended) on the basis that it represents an expansion to the “non-confirming use” of the hotel and would be inconsistent with the zoning provision of the development plan. It is further suggested that the proposed temporary retention of the marquee would be inconsistent with the development plan policies concerning protected structures. Having regard to the foregoing and in particular Section 10.57.2 of the Development Plan as set out above I am satisfied that to permit the proposed development would not constitute a material contravention of the development plan. The matter of impact to the protected structure is considered in further detail below.

- 7.5.6. I note that concern is raised in relation to the timing of the removal of the Marquee and replacement with the permanent function room. It is suggested that the temporary retention of the Marquee is a ruse to keep the marquee in place. I have considered the nature of the proposed scheme and I am satisfied that subject to condition whereby the marquee is removed within 18 months from the date of any grant of permission regardless of whether the proposed function room is built out or not will ensure that the marquee is permitted for a temporary period only and that it is removed within a reasonable time frame.
- 7.5.7. Overall I am satisfied that the proposed development (as amended) accords with the zoning objectives and conservation policies (Policy AHA) of the County Development Plan. I also consider that the applicants development strategy involving the temporary retention of the marquee to be followed by the provision of the permanent function room is a reasonable and acceptable development strategy to support the future requirements of the hotel and the community it serves.

7.6. **Noise Impact**

- 7.6.1. The pertinent concern raised in the appeal relates to noise impact particularly to adjoining residential properties. Concern is raised that no information has been submitted to show how noise will be controlled during the temporary operation of the marquee and that the noise levels generated will negatively impact on the residential amenities of the area.
- 7.6.2. Detailed proposals for noise protection and mitigation controls were made available with the appeal file. It is noted that the applicant has implemented the following measures to reduce and control noise levels from the marquee:
- 1) The Haven Hotel has a strict cut off of 11.00pm for music inside the marquee
 - 2) The entrances to the marquee have been moved to reduce noise impact, and the outdoor canopies have been removed
 - 3) The eaves of the marquee have been soundproofed with Rockwool and sound curtains are being installed
 - 4) A SoundEar II Noise Activated Warning Sign and a Drawmer SP2120 Speaker Protector have been installed

5) A staff member is assigned to ensure the doors of the marquee remain closed during the duration of the music event

6) Noise levels are monitored and recorded from several points around Dunmore East using a Duratool D03130 Digital Sound Level Meter

7.6.3. It is stated that the hotel owner is committed to ensuring noise generated from the proposed development and the proposed temporary marquee retention accords with the noise levels required in Condition No 8. It is considered the requirement to achieve noise levels of *LA₁₀ level measured over 15 minutes in 1/3 octave band between 40 and 160hz measured one meter outside a window to the nearest noise sensitive location not connected to the developer* to be achievable by the hotel and is comparable with noise control requirements for other licensed establishments where noise management is important to protect the residential amenities of surrounding lands and properties.

7.6.4. It is further stated that the noise control system, the installed Drawmer SP2120 Speaker Protector, offers strict noise level control as the processor eliminates the possibility of excessive sound pressure level on speaker systems. This unit provides the equipment necessary to ensure future compliance with Condition No 8(f) of the grant of permission. This will operate together with the policy of ceasing music playing at 23.00

7.6.5. I refer to Condition No 8 as recommended by WC&CC and recommended that should the Board be minded to grant permission that a similar condition be attached including the requirement that during the holding of an event in the temporary marquee all music shall cease at 23.00. the noise monitoring requirement shall apply to both the marquee and the permanent function rooms.

7.7. Protected Structure

7.7.1. Concern is raised relating to the impact of the scheme on Haven Hotel, a protected structure and in particular the structural integrity of same. Submitted that the excavation and construction work required for the proposed function room would lead to the destruction of the North Wing and do severe structural damage to the main central part of the hotel building.

- 7.7.2. I agree with the WC&CC Conservation Officer that certain interventions are necessary for commercial operations and therefore the question to be addressed, in my view, is whether or not the proposed works (as amended) would have such a significant negative impact on the protected structure as to warrant a refusal.
- 7.7.3. The Haven Hotel, formerly the Vila Marina, a protected structure on the NIAH (ID: 2281721) for Architectural, Artistic, Historic and Social categories of special interest. The structure is an example of 19th century classical style architecture. The Architectural Conservation report submitted with the planning application sets out the key features of the classical architectural form of the original Villa and confirms the view of NIAH on how the current structure is an amalgam of styles reflecting both its Victorian construction date and influences from earlier periods. The proposed sunken function room is a major intervention that has been designed to be concealed and not interrupt the views to and from the principal central building on the site or the important outdoor area on the top terrace in front of the building. To this end I consider the proposed sunken function room together with landscaping proposals and associated internal works (as amended) to be well considered and sensitively designed so as not to detract from the special character or obstruct views to and from the protected structure. I agree with the Architectural Heritage Report that the proposed development works will have a neutral impact on the protected structure of the hotel.
- 7.7.4. With regard to the proposed Marquee to be retained it is evident that it occupies an important position to the front of the hotel on the top terrace of the garden and that it obstructs important views of the protected structure from the Dock Road and the garden to the east in front of the hotel. The marquee has a negative impact on the protected structure as it detracts from the special character of the protected structure. However subject to a condition as outlined in Section 7.3.6 whereby the marquee is removed within 18 months from the date of any grant of permission, I am satisfied that this negative impact is only temporary and that it facilitates the transition to the more permanent solution proposed by the new function room.
- 7.7.5. With regard to the issues raised by the appellant regarding structural integrity I refer to the report prepared by Frank Fox & Associates and submitted with the first party response to the appeal. It is stated that the works are achievable by careful detailed design and implementation of well-established methods of construction and that the works proposed won't impede on the integrity of the proposed structure. The structural

integrity of the protected structure was considered during the design process and addressed in documents submitted which recognise that underpinning of existing structures will be required. I am satisfied that this matter can be dealt with by way of a suitably worded condition whereby the details of the proposed ground excavations and construction of the proposed function room will be agreed to ensure that the structural integrity of the existing hotel will not be compromised as a result.

7.7.6. Reference is made to an additional report prepared by Frank Fox & Associates provided under a separate cover to this response. This sets out the basis for their opinion on how the structural integrity of the existing hotel will not be compromised as a result ground excavations and construction of the proposed function room. This report provides guidance based on their experience and site knowledge on construction requirements for the function room and associated works.

7.8. Screening for Appropriate Assessment

7.8.1. The application was accompanied by a Stage 1 Appropriate Assessment Screening Report. The site description and proposed development are set out in the foregoing report and also Section 1.0 and 2.0 above. The construction phase is estimated to last 12 to 18 months. An excavator will be used to excavate c3,507m³ of soil. All excavated soil will be reused for landscaping works within the site. Potential impacts pathways are restricted to hydrological pathways. All other potential emission pathways such as noise, aerial and visual are not relevant due to the nature of the project and the distance separating the project from surrounding European sites

7.8.2. The site is not located within or directly adjacent to any designated Natura 2000 site and there are no proposals for works to any European Site. There are a total of 8 no SACs within 15km of the proposed development site. While 15km is not a statutory requirement I am satisfied that it is a reasonable parameter and that the sites identified in Stage 1 of the AA are acceptable.

7.8.3. The closest site to the appeal site is the River Barrow and River Nore SAC (002162) (2.9km). The remainder of the sites are situated >12km from the site boundary. Site specific conservation objectives and qualifying interests have been set for the 8 no sites within 15km of the appeal site by the National Parks and Wildlife Service (NPWS).

Details are summarised as follows. Generic conservation objectives only were available for:

- Mid-Waterford Coast SPA (004193)

7.8.4. Detailed site-specific conservation objectives were available for the following sites:

- River Barrow and River Nore SAC (002162)
- Hook Head SAC (000764)
- Tramore Dunes and Backstrand SAC (000671)
- Tramore Back Strand SPA (004027)
- Lower River Suir SAC (002137)
- Bannow SAC (000697)
- Bannow Bay SPA (004033)

7.8.5. Tramore Back Strand SPA and Tramore Dunes and Backstrand overlap as do Bannow Bay SAC and Spa overlap, the conservation objectives for each respective overlapping site should be used in conjunction with each other.

| European Site | Distance (km) | Qualifying Interest | Conservation Objective |
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| River Barrow and River Nore SAC (002162) | 2.9km | <ul style="list-style-type: none"> ▪ Estuaries ▪ Mudflats and sandflats not covered by seawater at low tide ▪ Reefs ▪ Salicornia and other annuals colonising mud and sand ▪ Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) ▪ Mediterranean salt meadows (<i>Juncetalia maritimi</i>) ▪ Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation ▪ European dry heaths ▪ Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels ▪ Petrifying springs with tufa formation (<i>Cratoneurion</i>) ▪ Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles ▪ Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus</i> | To maintain and / or restore the favourable conservation condition of the Annex I habitat(s) and / or the annex II species for which the SAC has been selected. Further detailed conservation objectives for each qualifying interest are provided by the NPWS. |

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| | | <ul style="list-style-type: none"> excelsior (Alno-Padion, Alnion incanae, Salicion albae) ▪ <i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) ▪ <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) ▪ <i>Austropotamobius pallipes</i> (White-clawed Crayfish) ▪ <i>Petromyzon marinus</i> (Sea Lamprey) ▪ <i>Lampetra planeri</i> (Brook Lamprey) ▪ <i>Lampetra fluviatilis</i> (River Lamprey) ▪ <i>Alosa fallax fallax</i> (Twaite Shad) ▪ <i>Salmo salar</i> (Salmon) ▪ <i>Lutra lutra</i> (Otter) ▪ <i>Trichomanes speciosum</i> (Killarney Fern) ▪ <i>Margaritifera durrovensis</i> (Nore Pearl Mussel) | |
| Hook Head SAC (000764) | 4.3km | <ul style="list-style-type: none"> ▪ Large shallow inlets and bays ▪ Reefs ▪ Vegetated sea cliffs of the Atlantic and Baltic coasts | To maintain and / or restore the favourable conservation condition of the Annex I habitat(s) and / or the annex II species for which the SAC has been selected. Further detailed conservation objectives for each qualifying interest are provided by the NPWS. |
| Tramore Dunes and Backstrand SAC (000671) | 4.5km | <ul style="list-style-type: none"> ▪ Mudflats and sandflats not covered by seawater at low tide ▪ Annual vegetation of drift lines ▪ Perennial vegetation of stony banks ▪ <i>Salicornia</i> and other annuals colonising mud and sand ▪ Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) ▪ Mediterranean salt meadows (<i>Juncetalia maritimi</i>) ▪ Embryonic shifting dunes ▪ Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) ▪ Fixed coastal dunes with herbaceous vegetation (grey dunes) | To maintain and / or restore the favourable conservation condition of the Annex I habitat(s) and / or the annex II species for which the SAC has been selected. Further detailed conservation objectives for each qualifying interest are provided by the NPWS. |
| Tramore Backstrand SPA (004027) | 4.6km | <ul style="list-style-type: none"> ▪ Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) ▪ Golden Plover (<i>Pluvialis apricaria</i>) ▪ Grey Plover (<i>Pluvialis squatarola</i>) ▪ Lapwing (<i>Vanellus vanellus</i>) ▪ Dunlin (<i>Calidris alpina</i>) ▪ Black-tailed Godwit (<i>Limosa limosa</i>) | To maintain and / or restore the favourable conservation condition of the Annex I habitat(s) and / or the annex II species for which the SAC has been selected. Further detailed conservation objectives for each qualifying interest are provided by the NPWS. |

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| | | <ul style="list-style-type: none"> ▪ Bar-tailed Godwit (<i>Limosa lapponica</i>) ▪ Curlew (<i>Numenius arquata</i>) ▪ Wetland and Waterbirds | |
| Lower River Suir SAC (002137) | 9.6km | <ul style="list-style-type: none"> ▪ Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) ▪ Mediterranean salt meadows (<i>Juncetalia maritimi</i>) ▪ Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation ▪ Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels ▪ Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles ▪ Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) ▪ <i>Taxus baccata</i> woods of the British Isles ▪ <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) ▪ <i>Austropotamobius pallipes</i> (White-clawed Crayfish) ▪ <i>Petromyzon marinus</i> (Sea Lamprey) ▪ <i>Lampetra planeri</i> (Brook Lamprey) ▪ <i>Lampetra fluviatilis</i> (River Lamprey) ▪ <i>Alosa fallax fallax</i> (Twaite Shad) ▪ <i>Salmo salar</i> (Salmon) ▪ <i>Lutra lutra</i> (Otter) | To maintain and / or restore the favourable conservation condition of the Annex I habitat(s) and / or the annex II species for which the SAC has been selected. Further detailed conservation objectives for each qualifying interest are provided by the NPWS. |
| Bannow Bay SAC (000697) | 9.8km | <ul style="list-style-type: none"> ▪ Estuaries ▪ Mudflats and sandflats not covered by seawater at low tide ▪ Annual vegetation of drift lines ▪ Perennial vegetation of stony banks ▪ <i>Salicornia</i> and other annuals colonising mud and sand ▪ Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) ▪ Mediterranean salt meadows (<i>Juncetalia maritimi</i>) ▪ Mediterranean and thermo-Atlantic halophilous scrubs (<i>Sarcocornetea fruticosi</i>) ▪ Embryonic shifting dunes ▪ Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) | To maintain and / or restore the favourable conservation condition of the Annex I habitat(s) and / or the annex II species for which the SAC has been selected. Further detailed conservation objectives for each qualifying interest are provided by the NPWS. |

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| | | <ul style="list-style-type: none"> ▪ Fixed coastal dunes with herbaceous vegetation (grey dunes) | |
| Bannow Bay SPA (004033) | 11.2km | <ul style="list-style-type: none"> ▪ Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) ▪ Shelduck (<i>Tadorna tadorna</i>) ▪ Pintail (<i>Anas acuta</i>) ▪ Oystercatcher (<i>Haematopus ostralegus</i>) ▪ Golden Plover (<i>Pluvialis apricaria</i>) ▪ Grey Plover (<i>Pluvialis squatarola</i>) ▪ Lapwing (<i>Vanellus vanellus</i>) ▪ Knot (<i>Calidris canutus</i>) ▪ Dunlin (<i>Calidris alpina</i>) ▪ Black-tailed Godwit (<i>Limosa limosa</i>) ▪ Bar-tailed Godwit (<i>Limosa lapponica</i>) ▪ Curlew (<i>Numenius arquata</i>) ▪ Redshank (<i>Tringa totanus</i>) ▪ Wetland and Waterbirds | To maintain and / or restore the favourable conservation condition of the Annex I habitat(s) and / or the annex II species for which the SAC has been selected. Further detailed conservation objectives for each qualifying interest are provided by the NPWS. |
| Mid-Waterford Coast SPA (004193) | 11.7km | <ul style="list-style-type: none"> ▪ Cormorant (<i>Phalacrocorax carbo</i>) ▪ Peregrine (<i>Falco peregrinus</i>) ▪ Herring Gull (<i>Larus argentatus</i>) ▪ Chough (<i>Pyrrhocorax pyrrhocorax</i>) | To maintain and / or restore the favourable conservation condition of the Annex I habitat(s) and / or the annex II species for which the SAC has been selected. |

7.8.6. The Screening report states that a planning search of the area in the last 5 years revealed that proposed and consented developments have mainly comprised of the retention or extension of existing residential properties with the construction of several one-off residential buildings. In addition the Department of Agriculture, Food and the Marine have been permitted to further develop the harbour of Dinmore East, providing better access via pontoon systems and parking. The relief road is partially constructed, Dunmore East Golf Course to Kilea Church. There is no potential for cumulative emissions if the proposed construction works were to occur at the same time as either of both of the aforementioned developments as the Haven Hotel site has no hydrological links to any European site and works will be limited. The combination of the operational project is likely to result in more people using the Haven Hotel site and its services. The site is serviced by the public sewage system which is treated at Dunmore East WWTP. As set out in the Screening Report, due to the location of the WWTP outfall (open sea) and distance to the closest European site (c4km; Hook Head) any future exceedances will not have a significant effect on any European Site.

7.8.7. As stated above all of the proposed works take place outside the SACs and SPAs and therefore there are no direct effects on the integrity of these European Sites. Taking together with an examination of the Appropriate Assessment Stage 1 Screening Report, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separating distances and functional relationship between the proposed works and the European Sites, their conservation objectives and my assessment of the subject site and the surrounding area, the potential impacts to the following 8 no European sites:

- 1) River Barrow and River Nore SAC (002162)
- 2) Hook Head SAC (000764)
- 3) Tramore Dunes and Backstrand SAC (000671)
- 4) Tramore Back Strand SPA (004027)
- 5) Lower River Suir SAC (002137)
- 6) Bannow SAC (000697)
- 7) Bannow Bay SPA (004033)
- 8) Mid-Waterford Coast SPA (004193)

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

7.8.8. 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, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on any European Site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

7.9. Other Issues

7.9.1. **Development Contributions** – I refer to the Waterford City & County Council Development Contribution Scheme 2015-2021. The development not exempt from the requirement to pay a Development Contribution Scheme. Should the Board me

minded to grant permission it is recommended that a standard Section 48 Development Contribution Condition be attached.

8.0 Recommendation

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

9.0 Reasons and Considerations

9.1. Having regard to the zoning objective for the site in the Waterford County Development Plan, 2011-2017, as extended, and the location of the site within the grounds of the Haven Hotel and within the settlement boundary of Dunmore East, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of the policy requirements of the development plan, would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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| 1. | <p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 30th day of September 2020 as amended by the further plans and particulars submitted on the on the 6th day of July 2021 and by the further plans and particulars received by An Bord Pleanála, 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.</p> <p>Reason: In the interest of clarity</p> |
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| 2. | <p>a) The period during which the temporary marquee may be used is for a limited period of 18 months from the date of grant of planning permission. Upon expiry of this period, the marquee and all associated site works shall be removed from the site permanently.</p> <p>b) The period during which the 3 no temporary shed may be used is for a limited period of 18 months from the date of grant of planning permission. Upon expiry of this period, the 3 no sheds and all associated site works shall be removed from the site permanently.</p> <p>Reason: Having regard to the nature of the development as proposed and in the interest of orderly development it is appropriate to specify a period of validity of this permission.</p> |
| 3. | <p>a) Amplified music or other specific entertainment noise emissions from the Marquee and the permanent function rooms shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2300 hours and by more than 1 dB(A) at any other time, when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L90 and the specific noise shall be measured at LAeq.T.</p> <p>b) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedence criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at LAeqT.</p> <p>c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating; either</p> <ul style="list-style-type: none"> i) during a temporary shutdown of the specific noise source, ii) or during a period immediately before or after the specific noise source operates. |

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| | <p>d) When measuring the specific noise, the time (T) shall be any five minute period during which the sound emission from the premises is at its maximum level.</p> <p>e) Any measuring instrument shall be precision grade.</p> <p>f) During the holding of event in the temporary marquee all music shall cease at 23.00.</p> <p>g) The developer shall install a permanent noise monitoring point with equipment to IEC 61672 (minimum Class 2) location and details to be agreed with the local authority, to monitor noise from the site. This monitor shall facilitate the remote monitoring of the noise levels by the local authority.</p> <p>h) The developer shall install an electric noise limiter on the sound system in both the marquee and the permanent function rooms, to ensure if the noise level exceeds a threshold measured as likely to cause a breach of the noise limit above, the sound system will cut off. This noise limiter shall be calibrated against the noise readings from the noise monitoring point at least once a year.</p> <p>Detailed plans and particulars indicating sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to use of the premises. An acoustical analysis shall be included with this submission to the planning authority.</p> <p>Reason: In order to protect the amenities of residential property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during night-time hours</p> |
| 4. | <p>a) Details of the proposed ground excavations and construction of the proposed function room shall be submitted and agreed in writing prior to commencement of work on site.</p> <p>b) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted</p> |

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| | <p>works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.</p> <p>c) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.</p> <p>d) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings) staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.</p> <p>Reason: To ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of fabric</p> |
| 5. | <p>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.</p> <p>Reason: In the interest of visual amenity</p> |
| 6. | <p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p> |
| 7. | <p>The developer shall enter into a water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health</p> |

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| 8. | <p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p> |
| 9. | <p>No advertisement or advertisement structure (other than those shown on the drawings submitted) the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected (on the building/within the curtilage of the site) unless authorised by a further grant of planning permission.</p> <p>Reason: In the interest of visual amenity. [In order to allow the planning authority to assess the impact of any such advertisement or structure on the amenities of the area</p> |
| 10. | <p>External lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of amenity and public safety</p> |
| 11. | <p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p> |
| 12. | <p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction</p> |

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| | <p>practice for the development, including noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p> |
| 13. | <p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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.</p> |

Mary Crowley

Senior Planning Inspector

23rd May 2022