



An
Bord
Pleanála

Inspector's Report ABP-311379-21

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| Development | A dormer style dwelling with ancillary works. |
| Location | To the rear of Nos. 11 – 15 Eldon Terrace, Waterford. |
| Planning Authority | Waterford City & County Council |
| Planning Authority Reg. Ref. | 20/566 |
| Applicant(s) | Jennifer Lanigan |
| Type of Application | Permission |
| Planning Authority Decision | Refusal |
| Type of Appeal | First Party -v- Decision |
| Appellant(s) | Jennifer Lanigan |
| Observer(s) | Residents of Nos. 11, 13, 14, 16 & 17 Eldon Terrace |
| Date of Site Inspection | 24 th May 2022 |
| Inspector | Hugh D. Morrison |

Contents

| | |
|--|----|
| 1.0 Site Location and Description | 3 |
| 2.0 Proposed Development | 3 |
| 3.0 Planning Authority Decision | 4 |
| 3.1. Decision | 4 |
| 3.2. Planning Authority Reports | 4 |
| 4.0 Planning History..... | 5 |
| 5.0 Policy and Context..... | 6 |
| 5.1. Development Plan..... | 6 |
| 5.2. Natural Heritage Designations | 6 |
| 5.3. EIA Screening | 6 |
| 6.0 The Appeal | 7 |
| 6.1. Grounds of Appeal | 7 |
| 6.2. Planning Authority Response | 8 |
| 6.3. Observations | 8 |
| 6.4. Further Responses..... | 10 |
| 7.0 Assessment..... | 10 |
| 8.0 Recommendation..... | 19 |
| 9.0 Reasons and Considerations..... | 19 |
| 10.0 Conditions | 19 |

1.0 Site Location and Description

- 1.1. The site is located to the south of Waterford city centre in an area of inner suburbia. This site lies in a backland position to the north-east of Nos. 11 – 15 Eldon Terrace, a terrace of five dwelling houses with elongated rear gardens, the ends of which abut an unsealed back lane which also serves the site. This lane connects to the south-east with the residential curtilage of a detached dormer style dwelling house, “Eureka”, which has a gravel driveway. In turn, this curtilage is served by a gated entrance off John’s Hill to the south-west. To its south-east lies another terrace, Nos. 1 – 9 Bellevue Terrace, and to the north-east lies the grounds to St. Declan’s National School. To the north-west of the site lie the elongated rear gardens that serve the terraced dwelling houses at Nos. 6 – 9 South Parade.
- 1.2. The site is of rectangular shape, and it extends over an area of 0.04 hectares. This site lies at a lower level than both the lane off which it is accessed and the adjacent dwelling house to the south-east. This difference is spanned by steps between the curtilage to this dwelling house and the site, which are set within its south-eastern boundary. The site is cleared and vacant at present. It has a garage in its easternmost corner adjacent to the said steps. This site is bound by stone walls on two of its four sides. Portions of the stone wall, which abuts the school grounds, rises to considerable heights and they are heavily overgrown with ivy. The remaining sides are bounded by a concrete blockwork wall and by a concrete post and timber panel fence.

2.0 Proposed Development

- 2.1. Under the proposal, a detached dormer style dwelling house would be constructed centrally within the site. This dwelling house would be orientated roughly north/south. It would afford three-bed/six-person accommodation over a floorspace of 150 sqm.
- 2.2. The dwelling house would have a projecting, single storey, front gabled element on its principal elevation, which would be accompanied by a glazed porch/conservatory. This dwelling house would have an asymmetrical roof profile with a long front roof plane and a short rear one. The corners of the roof would be hipped, and the rear roof plane would feature dormer windows at either end. The dwelling house would be finished in render under a tiled roof.

2.3. The dwelling house would be served by a turning circle to the front and garden areas on either side and to the rear. It would also be served by connections to the public water mains in John's Hill, via the adjoining curtilage to the south-east, and to a combined sewer in the rear garden to the dwelling house at No. 11 Eldon Terrace.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was refused on the following grounds:

1. In the absence of any demonstration that foul and surface water would be separated and, in the absence, too, of any consent (pre-application connection enquiry) from Irish Water to allowable surface water discharge, the proposal may be prejudicial to public health.
2. In the absence of any demonstrated clarity over water supply and waste water, in the absence of a letter of feasibility from Irish Water, and, in the absence, too, of consents from third parties to the provision of services over their properties, the proposal may be prejudicial to public health.
3. Due to its design and height, the proposal would have a negative visual impact upon protected structures in the vicinity of the site. This proposal would set an undesirable precedent for such development, and it would be contrary to the built heritage policies of the CDP.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The following further information was requested:

- Foul and surface water to be separated. Irish Water's consent, under a pre-connection enquiry application, to discharge surface water to combined sewer. Alternatively, surface water drainage to be designed for the site.
- Applicant to obtain a letter of feasibility in response to pre-connection enquiries with respect to water and waste water.

- Letter of consent needed from owner of No. 11 Eldon Terrace to facilitate the laying of the proposed waste water connection to the combined sewer, and Applicant to demonstrate that she has sufficient legal interest to lay a water supply connection in the lane that bounds the side/rear of Nos. 11 – 17 Eldon Terrace.
- Applicant to submit an Architectural Heritage Impact Assessment, which shall investigate any visual impact upon adjacent protect structures and any physical impact on their boundary walls.
- CDP standards with respect to 2 car parking spaces and 120 sqm of private open space to be met.

3.2.2. Other Technical Reports

- Waterford City & County Council
 - Roads: No objection.
 - Water Services: Following receipt of further information, objection raised on the grounds cited above in the first and second reasons.
 - Conservation Officer: Further information requested with respect to the submission of an Architectural Heritage Impact Assessment.

4.0 Planning History

Site

- 95/509483: Two-storey dwelling house: Refused at appeal PL31.096701 on the grounds of excessive overlooking.
- 96/509719: Dormer dwelling house: Permitted at appeal PL31.099259.
- 07/500039: Dormer dwelling house: Permitted at appeal PL31.226555.

5.0 Policy and Context

5.1. Development Plan

Under the Waterford City Development Plan 2013 – 2019 (CDP), the site is shown as lying within an area that is zoned “developed residential”, wherein the objective is “To protect and improve existing residential areas and their amenities and provide for appropriate residential infill opportunities where feasible.” John’s Hill is shown as being the subject of proposed cycle lanes and Zone 16 of archaeological potential overlaps with this road, while extending to the south-west.

The Record of Protected Structures (RPS) includes the following:

- Nos. 6 – 10 South Parade under nos. 419 – 423,
- Nos. 11 – 15 Eldon Terrace under nos. 222 – 226,
- Nos. 1 – 8 Bellevue Terrace under nos. 227 – 234, and
- St. Declan’s National School under no. 475.

The above buildings are also included in the NIAH. Additionally, the pedestrian gateway to Bellevue Terrace and roadside railings on John’s Hill are included, too.

5.2. Natural Heritage Designations

Lower River Suir SAC (002137)

5.3. EIA Screening

Under Items 10(b)(i) and (iv) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2022, where more than 500 dwelling units would be constructed and/or where an urban site would exceed 10 hectares in area the need for a mandatory EIA arises. The proposal is for the development of 1 dwelling on a site with an area of 0.04 hectares. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall well below the relevant thresholds, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The applicant begins by describing the site, summarising its planning history, and presenting a chronology of the current application. The following grounds of appeal are then cited.

- In relation to the first reason for refusal, under 07/500039, the site had permission for a similar dwelling house with the same servicing arrangements as are now proposed. This permission was not implemented due to the economic downturn.

The applicant reviewed recent decisions on applications for individual dwelling houses made by the Planning Authority. One permission granted to application 21/619 was subject to a condition precedent requiring that the applicant obtain a connection agreement with Irish Water for water services.

Condition No. 2 attached to the permission granted to 07/500039 at appeal PL31.226555 was analogous to this condition precedent. It could be reused albeit with Irish Water inserted in place of the Planning Authority.

The applicant proposes to utilise rainwater harvesting and soak pits to drain all stormwater run-off from hard surfaces on the developed site.

- In relation to the second reason for refusal, the citation of a letter of feasibility appears mis-placed, as such a letter was not required in the case of the permission granted to application 21/619. In the present case, the public water main is immediately opposite the site entrance and the route to it would be through the property of the applicant's father. He has consented to the current application and by deduction its entailments.
- Notwithstanding the absence of consent from the current owner of No. 11 Eldon Terrace, the applicant is satisfied that the legal agreement made with his predecessor-in-title is still applicable and so a connection to the combined sewer through the rear garden of this property would be available. Should the applicability of this agreement be contested, the matter would be a civil one.

Section 34(13) of the Planning and Development Act, 2000 – 2021, is relevant in this respect.

- Attention is drawn to the further information request for a brief Architectural Heritage Impact Assessment (AHIA) and the case planner's subsequent critique that the submitted Assessment was insufficiently comprehensive. This Assessment was prepared in the knowledge that permission had previously been granted on the basis that a similar dwelling house would have no adverse impact upon Eldon Terrace, indeed the site is not visible in conjunction with the front elevation of this Terrace.

Attention is also drawn to application 19/680 for an extension to a protected structure at St. Declan's National School to the north-east of the site. This application was permitted without an AHIA, notwithstanding its attachment to a protected structure and its visibility from public vantage points. The Planning Authority's approach in the present case thus appears disproportionate.

The applicant's AHIA noted that the site is enclosed on two sides by old random rubble field boundaries, which would be unaffected by the proposal. A condition requiring that these walls be safeguarded could be attached to any permission.

- The third reason for refusal refers to Policies 10.2.1 & 2 of the CDP, which are inapplicable to the proposal. Policy 10.2.3 refers to the settings of protected structures. Under Section 6.2 of the 2007 CDP, this policy was effectively operative when the previous permission for the site was granted. Accordingly, as there has been no material change in planning circumstances with respect to conservation, the Planning Authority should not have taken a different view of the proposal to the one that it took previously.

6.2. Planning Authority Response

None

6.3. Observations

Residents of Nos. 11, 13, 14, 16 & 17 Eldon Terrace

The observers' comments follow the outline of the Planning Authority's request for further information.

Items (i) and (ii)

- Attention is drawn to the additional 3 months that the applicant was granted beyond the normal 6-month period within which to respond to the request. Even so, no information from Irish Water was obtained.

Item 3(a) & (b)

- Under appeal PL31.226555, the inspector's statement that the sewer connection through No. 11 Eldon Terrace would have "no adverse impact on the character or fabric of the existing protected structure" is contested. The works necessary for this connection have not been shown in the application and yet they would involve the removal of the stone wall and steps to the flagged courtyard at No. 11 with possible structural works to the rear of the dwelling house depending on how close the existing sewer line is to it. Furthermore, rock may lie close to the surface, in which case rock breaking may be necessary. No details of either the existing sewer or the levels involved in any connection to it have been submitted.
- The owners of No. 11 state that the works envisaged for their property, which is a protected structure, would need to be the subject of a separate planning application, insofar as they would be within its curtilage, and they would adversely affect its character. In this respect, the Planning Authority requested a letter of consent from the owners, which was not forthcoming.
- At the appeal stage, the applicant proposes that the needed connection should be routed via her father's property under the right of way. However, this would be a material change to the content of the application, which users of the right of way have not had the opportunity to see/comment upon. Furthermore, her father does not have a way leave over the right of way and he does not own all the land over which this right of way runs.

Item 4

- The observers state that the current CDP is more stringent than its predecessor with respect to conservation. In this respect, they draw attention

to Objective 10.2.5, which requires the submission of AHIA's where significant impacts would arise, and Objective 10.2.8, which promotes the character and distinctiveness of the historic city and the improvement of its physical condition and presentation.

- The submitted AHIA failed to depict the proposal in conjunction with existing protected structures in the vicinity of the site. Concern is expressed over its impact upon adjacent rear gardens and the design and finishes of both the proposed dormer dwelling house and the proposed south-western boundary treatment to the site.
- Furthermore, the proposal would be out of sympathy with its context. It would afford a poor standard of amenity to future residents, and it would fail to contribute positively to the amenity of the area. In this respect, the setting of the rear elevation of Eldon Terrace is of importance and not just its public front elevation.

Item 5

- While the applicant's revised site plan bears additional annotation, it fails to show any turning circle or swept path analysis of either the site or its attendant right of way.
- Attention is drawn to the narrowness of the right of way to the rear of Eldon Terrace at c. 3.05m and to change of levels between it and the site itself. Any ramp that would be needed to span this change, along with its knock-on effects for parking and manoeuvring, has not been shown. Alternatively, if the site were to be raised to obviate the need for a ramp, this would be a material change in the application.

6.4. Further Responses

None

7.0 Assessment

- 7.1. I have reviewed the proposal in the light of the Architectural Heritage Protection Guidelines, the Quality Housing for Sustainable Communities: Best Practice

Guidelines, Waterford City Development Plan 2013 – 2019 (CDP), the planning history of the site, the submissions of the parties and the observers, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use, planning history, and zoning
- (ii) Amenity,
- (iii) Conservation,
- (iv) Access,
- (v) Water, and
- (vi) Appropriate Assessment.

(i) Land use, planning history, and zoning

- 7.2. The site is cleared and vacant. It accommodates a garage in its easternmost corner and steps link it to the adjoining residential property to the south-west. This site may thus have been used on an ancillary basis to this property in the past.
- 7.3. The site has previously received planning permission on two occasions at appeal (PL31.099259 & PL31.226555) for a similar dwelling house to the one now proposed. This dwelling house would be of dormer style and its design appears to have been prompted by an earlier refusal of permission at appeal for a two-storey dwelling house (PL31.096701). The applicant states that the last permission was not implemented, due to the economic downturn between 2008 – 2014.
- 7.4. The site occupies a backland position, which is set within a predominantly residential area of Waterford's southern inner city. Terraces of historic dwelling houses lie to the north-west, south-west, and beyond the aforementioned residential property to the south-east. The grounds of St. Declan's National School lie to the north-east. The CDP's zoning of the locality reflects the existing pattern of land use. Consequently, the site and surrounding housing is zoned "developed residential" in which the objective is "To protect and improve existing residential areas and their amenities and provide for appropriate residential infill opportunities where feasible." New housing is therefore deemed to be permissible in principle on the site.
- 7.5. I conclude that there is no land use objection to the proposal.

(ii) Amenity

- 7.6. The proposal is for the construction of three-bed/six-person dwelling house with a floorspace of 150 sqm over two floors. Under Table 5.1 of the Quality Housing for Sustainable Communities: Best Practice Guidelines, this floorspace would be in excess of the relevant target gross floor area of 100 sqm. Likewise, living and night-time accommodation would exceed the areas cited in this Table. Internal storage space, as proposed, would be confined to underneath the staircase. It would need to be supplemented. Opportunities to do so at first floor level within the roofspace would exist.
- 7.7. The proposed dwelling house would be served by 123.56 sqm of garden space on either side of it and to the rear. As this dwelling house would be sited centrally and in an offset position the utility/amenity of the side garden on its north-eastern side would be limited. By contrast, the side garden to the south-west and to the rear would wrap around the westernmost corner of the dwelling house to provide a continuous area of more meaningful utility/amenity. As the rear garden would be relatively shallow at between 6m and 9.3m, the need to remove the opportunity for domestic exempted development under Classes 1 and 3 of Part 1 Schedule 2 to Article 6 of the Planning and Development Regulations, 2001 – 2022 would arise.
- 7.8. The front and rear elevations of the proposed dwelling house would face roughly to the south and to the north. The site is at a lower level than the adjoining residential property to the south-east and to that portion of the rear lane from which it is accessed. Two of the four boundary walls are composed of stone and the one to the north-east rises in places to considerable heights. To the north-west, at the end of the rear gardens to terraced dwelling houses on South Parade, there are several mature deciduous trees. Likewise, to the south-west at the end of the rear gardens to terraced dwelling houses comprised in Eldon Terrace there are such trees. In combination these factors would serve to reduce somewhat the natural lighting available to the dwelling house.
- 7.9. First floor windows in the proposed dwelling house would take the form of a pair of dormer windows at either end of the rear roof plane. These windows would face roughly north towards the above cited rear gardens on South Parade. The screening

properties of existing trees in these gardens would serve to limit any overlooking and loss of privacy that may ensue.

7.10. I conclude that the proposal would afford a satisfactory standard of amenity to future residents and conversely it would be compatible with the existing residential amenities of the area.

(iii) Conservation

7.11. Under the RPS in the CDP, the site is surrounded by dwelling houses and a school that are all protected structures, i.e.,

- To the north-west, Nos. 6 – 10 South Parade,
- To the south-west, Nos. 11 – 15 Eldon Terrace,
- Further to the south-east, Nos. 1 – 8 Bellevue Terrace, and
- To the north-east, St. Declan's National School.

This site occupies a backland position within this historic context, which is also affected by the presence of a modern red brick dormer style dwelling house to its south-east. Access to the site is via the gated entrance to this dwelling house and along its gravel driveway to an unsealed lane, which parallels the rear elevations of the dwelling houses comprised in Eldon Terrace.

7.12. As described above, under the second heading of my assessment, the site is at a lower level than the adjacent dwelling house and lane and it is enclosed on two sides by stone walls. The north-eastern wall rises in places to considerable heights and so it effectively screens the adjoining school. Mature deciduous trees partially screen the site from the north-west and south-west and to the south-east an evergreen hedgerow largely screens the dwelling houses comprised in Bellevue Terrace. Consequently, notwithstanding the site's location within the setting of multiple protected structures, its presence is relatively discrete at present.

7.13. Under the proposal, a dormer style red brick dwelling house would be constructed on the site. This dwelling house would be similar in design and appearance to the existing adjacent dwelling house to the south-east. Insofar as it would be visible from surrounding dwelling houses, it would be the upper portion that would be glimpsed,

i.e., the extended front roof plane, the asymmetric roofline to the western gable, and the rear roof plane with its dormer windows.

- 7.14. Under further information, the applicant submitted an Architectural Heritage Impact Assessment (AHIA), which considers the impact of the proposal upon the surrounding dwelling houses and school. This AHIA concludes that “Surprisingly there appears to be minimal and acceptable impact to any of the protected structures surrounding the site on all sides.” It also comments on the vintage of the north-western and north-eastern boundary random rubble stone walls and on the compatibility of the proposed dwelling house with their retention.
- 7.15. During my site visit, I observed that the north-eastern wall with the school is the subject of considerable vegetation growth, especially on the higher portion of this wall. Given the historic interest attendant upon this wall, as an old field boundary, its retention in good condition is of importance. Any permission should therefore be conditioned to require its survey and the undertaking of remedial works, such as the removal of excess vegetation and the re-pointing of stonework. I also observed that the fence along the south-western boundary is in poor condition. The applicant proposes to replace this fence with a 1.8m high wall finished in plaster.
- 7.16. The case planner and the observers critique the AHIA on the basis that it was, variously, insufficiently comprehensive and it failed to depict the relationships that would emerge between the proposed dwelling house and surrounding protected structures. The applicant has responded by stating that the further information requested cited the need for a “brief” AHIA, which would address visual impact upon these structures and physical impact upon the site’s boundary walls. The AHIA fulfilled this request.
- 7.17. The Planning Authority’s third reason for refusal refers to the visual impact of the proposal upon the protected structures in the vicinity. The observers contend that conservation policies and objectives in the current CDP are stronger than in its predecessor and so a material change in planning circumstances has arisen that would allow the design of the proposed dwelling house, which is virtually the same as that previously permitted, to be revisited. The applicant disagrees and cites, for example, the continuity between the 2007 and 2013 CDP’s in requiring that the settings of protected structures be considered.

- 7.18. I note that the Architectural Heritage Protection Guidelines were introduced in 2004 and that they advise on the need to consider the affect of proposals on the setting of protected structures. Accordingly, these Guidelines were operative when planning permission was last granted for the site, in addition to the 2007 CDP. I note, too, that the present array of protected structures in the vicinity of the site were all protected then, too, i.e., they were all first included in the 2002 RPS. Accordingly, I have been unable to identify any material change in planning circumstances that would justify requiring that the design of the proposed dwelling house be revisited, as sought by the observers.
- 7.19. I conclude that, while the site lies within the setting of multiple protected structures, it is reasonably well screened and so its developed as proposed would have a limited visual impact upon these structures. I also conclude that there have been no material changes in planning circumstances that would justify insisting upon a different design of dwelling house from that which was previously permitted for the site.

(iv) Access

- 7.20. The site would be accessed by means of the gated entrance from John's Hill which presently serves the residential property to the south-east and the rear lane to Nos. 11 – 17 Eldon Terrace. This entrance connects with a gravel drive to this property and to the unsealed lane, which is used by residents of the Terrace to access their rear gardens for the purpose of parking, amongst other things. The site itself is accessed off this lane via existing gates.
- 7.21. The lane falls towards the north-west at gentle gradients. The area of the site access point, likewise, falls at gentle gradients to the north-east around to the north-west within the site. Under the proposal, this area would be laid out to be continuous with a turning circle and parking areas forward of the dwelling house. The site access point would be widened to 4.5m.
- 7.22. The observers draw attention to the narrowness, at 3.05m, of the right of way along the rear lane. They also draw attention to the submitted plans, which fail to show sufficient detail to demonstrate that the proposed access/egress arrangements to/from the site would work satisfactorily.
- 7.23. While I recognise the validity of the above observations, I consider that, provided the area of the site between the front of the proposed dwelling house and the front of the

existing garage, which is to be retained, is available for vehicular manoeuvring, a satisfactory resolution of the challenge posed by a combination of levels and the shape of this area would be achievable. Clearly, the details of any such resolution would need to be conditioned.

7.24. I conclude that the proposal would be capable of being satisfactorily accessed/egressed.

(v) Water

7.25. Under the proposal, the new dwelling house would be connected to the public water mains in John's Hill. A pipe would be laid in this respect from the site to the connection point via the rear lane to Eldon Terrace and the driveway to the residential property to the south-east.

7.26. Under the proposal, the new dwelling house would be connected to a combined sewer which is served by an existing manhole to the rear of the dwelling house at No. 11 Eldon Terrace. At the appeal stage, the applicant stated that this sewer would be relied upon for waste water disposal, while surface water use/disposal would be provided for by SuDS methodologies, e.g., water butts and a soakaways.

7.27. Under further information, the Planning Authority requested that the applicant contact Irish Water to obtain its consent by means of a pre-application enquiry to the use of the combined sewer for both waste and surface water disposal. It also requested that a letter of feasibility be obtained with respect to the proposed connections to the public water mains and the public combined sewer. Furthermore, the applicant was requested to demonstrate that she had sufficient legal interest to lay a water pipe as described above and to obtain the consent of the owner of No. 11 Eldon Terrace to the proposed connection on his/her property.

7.28. The Planning Authority's first and second reasons for refusal relate to the above requests. Thus, the applicant's failure to obtain consent/confirmation of feasibility from Irish Water and her failure to obtain the consent of the owner of No. 11 Eldon Terrace are cited as grounds for refusal, as they may lead to scenarios wherein public health maybe prejudiced.

7.29. The applicant has responded to the above cited reasons for refusal by drawing attention to the Board's willingness previously to rely upon a condition to address water supply and drainage arrangements (PL31.226555). A similar approach is

requested now. She also suggests that the Planning Authority's approach in this case is in excess of that adopted in other cases involving single dwelling house proposals.

7.30. Specifically, the applicant states that the route of the water pipe would be under the driveway to her father's residential property. He has consented to her application and its entailments such as this route. The applicant has submitted a copy of a legal agreement that provides for an easement across the rear garden to No. 11 Eldon Terrace for the purpose of achieving a drainage connection, as described above. While the consent of the current owner to such a connection has not been forthcoming, she expresses confidence that the legal agreement "runs with the property" and so is capable of being enforced. Should this be contested then the matter would be a civil one. In this respect, Section 34(13) of the Planning and Development Act, 2000 – 2022, recognises that planning permission *per se* does not entitle someone to proceed with development.

7.31. The observers state that the applicant may not have the right to lay the water pipe as shown under the lane and driveway. They also state that the works needed to achieve the waste water connection within the curtilage of a protected structure may need planning permission. In this respect, they contest the view expressed by the Board's inspector, under PL31.226555, that such works would have "no adverse impact on the character or fabric of the existing protected structure".

7.32. I note the availability of a public water mains and a public combined sewer in the vicinity of the site. While the absence of comment from Irish Water is regrettable, reliance upon a condition to ensure that the necessary consents are forthcoming is not uncommon. This practice was adopted by the Board previously. Significantly, Condition 2(a) attached to the relevant order (PL31.226555) stated the following:

A connection to the public mains sewer shall be made and certified by the planning authority prior to commencement of the construction of the dwelling house.

The accompanying reason stated, "In the interest of public health, the amenities of adjoining property and to ensure a proper standard of development." Accordingly, the Board recognised the importance of addressing the question of this connection "up front" and prior to the construction of the dwelling house itself. The same

precautionary approach commends itself in the similar circumstances that now persist.

- 7.33. I note, too, that at the appeal stage the applicant proposes to use SuDS methodologies to achieve a situation wherein surface water disposal from the site would not arise. This goal has been stated, but its satisfactory realisation has not been demonstrated. I consider that for such realisation to occur a greater suite of SuDS methodologies than those cited may be necessary, e.g., the specification of a permeable surface to the vehicular manoeuvring area and the reuse of rainwater to flush toilets. Furthermore, detailed calculations to demonstrate the efficacy of any soakaway(s) would be necessary, too.
- 7.34. Turning to the question of consent for the routes identified for the water supply pipe and waste water sewer, I note the applicant's submissions, including her point that potential dispute resolution would lie beyond the planning system. I note, too, that the works entailed in providing the waste water sewer would run through the rear garden of the protected structure at No. 11 Eldon Terrace and that until they have been fully quantified any need for additional planning permission in this respect cannot be definitively stated. An expansion of the equivalent of the above cited Condition 2(a) to require the submission of a scheme in this respect would afford the opportunity for a view to be taken by the Planning Authority.
- 7.35. Under the OPW's flood maps, the site is not shown as being the subject of any identified flood risk.
- 7.36. I conclude that the proposal would potentially be capable of being supplied with water from the public mains and of being satisfactorily drained. Conditions to ensure that these matters would be delivered satisfactorily should be attached to any permission.

(vi) Appropriate Assessment

- 7.37. The site is not in or beside a European site. Rather it lies within a fully serviced urban area. Under the proposal, this site would be the subject of SuDS methodologies for the use/disposal of surface water, and it would be connected to the public combined sewer for the purpose of wastewater disposal. No Appropriate Assessment issues would arise.

7.38. Having regard to the nature, scale, and location of the proposal, the nature of the receiving environment, and the proximity of the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposal would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

That permission be granted.

9.0 Reasons and Considerations

Having regard to the Architectural Heritage Protection Guidelines, the Quality Housing for Sustainable Communities: Best Practice Guidelines, Waterford City Development Plan 2013 – 2019 (CDP), and the planning history of the site, it is considered that, subject to conditions, the proposed dwelling house would fulfil the developed residential zoning objective for the site. This dwelling house would afford a satisfactory standard of amenity to future occupiers, and it would be compatible with the residential amenities of the area. The dwelling house would not harm the setting of adjacent protected structures and it would be capable of being satisfactorily accessed. Connections to the public mains water supply and the public combined sewer in the vicinity of the site would potentially be available. No Appropriate Assessment issues would arise. The proposed dwelling house would therefore accord with the proper planning and sustainable development of the area.

10.0 Conditions

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| 1. | The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 15 th day of July 2021 and by the further plans and particulars received by An Bord Pleanála on the 13 th day of September 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 |
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| | <p>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> |
| 2. | <p>Prior to the commencement of development, the developer shall enter into water and waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p> |
| 3. | <p>Prior to the commencement of development, the developer shall submit to and agree in writing with the Planning Authority, a scheme providing comprehensive details of the waste water sewer that would be laid between the site and the public combined sewer in its vicinity. This scheme shall also include a timetable for the laying of this sewer.</p> <p>Reason: In order to afford the Planning Authority the opportunity to review the works involved in laying this sewer in the interest of conservation.</p> |
| 4. | <p>Prior to the commencement of development, the developer shall submit to and agree in writing with the Planning Authority, a scheme providing comprehensive details of how surface water would be handled. This scheme shall specify Sustainable Urban Drainage Systems in the form of water butts, the use of rainwater to flush toilets, and the laying of a permeable surface to the proposed vehicle manoeuvring area. It shall also specify on site soakaway(s).</p> <p>Reason: In the interest of water conservation and the satisfactory on-site drainage of surface water.</p> |
| 5. | <p>Prior to the commencement of development, the developer shall submit to and agree in writing with the Planning Authority, a scheme providing plans and sections of the proposed site access point from the adjoining lane, and the on-site vehicular manoeuvring and parking area.</p> <p>Reason: In order to ensure the provision of a satisfactory standard of access to the site.</p> |

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| 6. | <p>Prior to the commencement of development, the developer shall submit to and agree in writing with the Planning Authority, a scheme providing a survey of the condition of the wall along the north-eastern boundary of the site and a schedule of works for any repairs that may be necessary. This scheme shall also include a timetable for the undertaking of repairs.</p> <p>Reason: In order to safeguard this wall, in the interest of conservation.</p> |
| 7. | <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> |
| 8. | <p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p> |
| 9. | <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> |
| 10. | <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> |

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| | Reason: In the interests of visual and residential amenity. |
| 11. | <p>(a) Prior to the commencement of occupation of the dwelling house, the new wall along the south-western boundary of the site shall be constructed.</p> <p>(b) The existing stone walls along the north-western and north-eastern boundaries of the site shall be retained in-situ and at their existing heights for the duration of the dwelling house upon the site.</p> <p>Reason: In the interests of visual amenity and conservation.</p> |
| 12. | <p>Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwelling house without a prior grant of planning permission.</p> <p>Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings.</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</p> |

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| | Development Contribution Scheme made under section 48 of the Act be applied to the permission. |
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Hugh D. Morrison
Planning Inspector

21st June 2022