



An
Bord
Pleanála

Inspector's Report ABP-311484-21.

Development	Permission to construct 49 dwelling houses and all associated services.
Location	Monadrishane, Kilworth, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	21/4904.
Applicant(s)	MHC Property Holdings Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Thomas & Cathriona Hanrahan.
Observer(s)	None.
Date of Site Inspection	26/01/2022.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located within the settlement boundary of the key village of Kilworth, Co. Cork, which is located approximately 32km to the north of Cork City. The village lies approximately 1.2km to the east of the M8 motorway and approximately 5km to the north of Fermoy. The village is established on the R667 and enjoys a number of commercial, retail and other service providers in the area, as well as recreational amenities including a Tennis club, football club and a GAA pitch.
- 1.2. The subject site lies approximately 400m to the west of the village and lies to the rear (south) of the existing Moin na Ri residential estate. The existing estate comprises 12 no. two storey detached houses all accessed via a single estate road. A number of these houses are occupied, and the front of the development has been completed and landscaped and is connected to the village core via a public footpath. Planning permission for these houses was granted in 2006 and are described as Phase 1 of the overall scheme associated with the landholding.
- 1.3. The site the subject of this appeal, has a stated area of 2.4ha and is currently greenfield in nature. The site is accessed via the established estate road through the Moin na Ri residential estate and I note that the site is bound to the east by Elm Place, residential estate and a number of detached houses. To the south, the site bounds a small road, the L90807. This local road serves a small number of large, detached houses on large sites and connects to the R639 to the west. The boundaries of the site on this road currently comprises a low stone wall with trees/hedgerow while the boundary of the house to the south of the local road comprises a high stone wall.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices, for Phase 2 of the Móin Na Rí housing scheme and a modification to the permission granted under Reg. Ref: 06/11967 (which was extended under Reg. Refs: 12/6492 and 17/7224). The development will involve the construction of 49no. residential units (24no 3 bed semi-

detached dwellings, 10no 4 bed semi-detached dwellings, 9no 4 bed detached dwellings, 6no 2 bed terrace dwellings and 2no detached garages), associated car parking, landscaping and amenity areas, foul and storm water drainage, including attenuation, and all associated site, boundary treatment and development works, all at Monadrishane, Kilworth, Co. Cork.

2.2. The application included a number of supporting documents including as follows:

- Plans, particulars and completed planning application form.
- Architectural Design Statement
- Planning Statement
- Civil Engineering Design
- Landscape Design
- Part V Proposal
- Lighting Design

2.3. Following the request for further information, the applicant submitted proposals to address the issues raised by the. The response has resulted in the reduction of units from 49 to 46 including amendments to the layout, separation distances and the public open space provision. In addition, the response to the FI request includes the following:

- Housing Mix Statement
- Letter from IW
- Storm Sewer Calculations & Soakpit Checks
- Archaeological Impact Assessment
- Preliminary Construction and Demolition Waste Management Plan (with Surface Water Management Plan)
- Public Lighting Design Report

- 2.3.1. The Board will also note that following the submission of a third-party objection, the applicant advised the PA that should the Planning Department wish to omit the pedestrian access onto Maryville Boreen to the south of the site, they would not oppose this.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority, following the submission of the response to the FI request, decided to grant planning permission for the proposed development subject to 35 conditions.

3.1.1. Planning Reports

Pre-planning:

A pre-planning meeting was held to discuss the proposed development with the Senior Planner and email correspondence between the first party and the SP is noted. I note that the SP acknowledged the anomaly within the LAP in terms of the scale of a single development in Kilworth and advises that the PA would consider a single scheme that was in line with the overall growth target for the village as set out in DB-01 of the LAP.

In terms of density, the SP advised that the development would fall at the upper end of the Medium B density range and is deemed appropriate.

With regard to housing mix, it was advised that a statement of housing mix would be required and that the ratio of 2 bed units relative to the overall scheme was a concern. It is indicated that 4, 2 bed units is insufficient to provide for an appropriate housing mix on the site, advising that at least 6, 2 bed units would be considered reasonable.

In terms of the layout, it is noted that given that the services are already provided, this appears to be fixed. The proposed pedestrian access to the L90807 is noted and

welcomed. The applicant is advised to consult with the Area Engineer and the Estates Engineer in relation to traffic management.

Planning Officers Report:

The initial Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, third party submission, planning history, the County Development Plan policies and objectives and the Fermoy MD Local Area Plan. The report notes that a pre-planning meeting was held to discuss with the Senior Planner and email correspondence between parties is noted. The report also considers third party submissions and includes a section on EIA and AA.

The Planning Report considers the proposed development under a number of headings and notes that as no multiple unit scheme has been permitted within the development boundary of Kilworth, the proposed development is acceptable in principle. The report notes no concerns in terms of density and accepts that the layout of the scheme is largely prescribed by the existing permission on the site and the road alignment which is partly defined. It is noted that the provision of cul-de-sacs does little to enhance permeability, the proposed provision of a pedestrian access onto the L90807 is welcomed. Issues with the layout are discussed and are raised as an issue requiring the submission of further information.

Further information is required in relation to the following issues:

- Statement of Housing Mix required.
- Concerns regarding the layout of the scheme.
- Works to the roadside boundary on the L90807 including the provision of a footpath, public lighting etc.
- Connection feasibility from IW required.
- Compliance with DMURS.
- Traffic calming measures required
- Foul sewer arrangements.

- Design calculations for the storm water proposals,
- An Archaeological Impact Assessment required.
- Revised landscaping plan with a greater emphasis on native trees and shrubs.

The SEP noted the Planning officers report and endorsed it, recommending that FI be sought as indicated.

Following the submission of the response to the FI request, the planning officers report noted the response to the request issues, as well as the internal technical reports in relation to same. I also note that the amendments made to the original scheme were not deemed significant and that no new public notices were required to be submitted. The final Planning Officers report also deals with development contributions and the special development contributions sought by the Area Engineer, noting that no specific justification for the application of a special development contribution has been included. The report concludes that proposed development is acceptable and recommends that permission be granted for the proposed development, subject to 35 conditions. The SEP noted and endorsed the planning officers report and recommended that permission be granted subject to 35 conditions.

These Planning Reports formed the basis of the Planning Authority's decision to grant planning permission.

3.1.2. **Other Technical Reports**

Housing Officer: The report notes the proximity of the site to Kilworth village centre and its suitability for social housing. There is demand for housing in the area and the Council will need 6 units to be purchased under the developers Part V obligations.

The layout of the scheme is noted and deemed cohesive and sustainable and the proposed social units are designed and laid out in accordance with relevant guidelines.

There is no objection to the proposed development.

Public Lighting: Thought the public lighting design appears to be adequate, it is not possible to make a definitive assessment as the quality of the public lighting lux drawing is poor. No attempt has been made to demonstrate reconciliation between light standards and tree planting. The report further states that the increased traffic volumes on the access road through phase 1 justifies the requirement to upgrade the lighting to LED.

The report recommends that further information be sought with regard to three issues but provides conditions to be included should permission be granted.

Following the submission of the response to the FI request, the subsequent report concludes that the applicant has addressed all of the concerns previously outlined. There is no objection to the proposed development subject to compliance with conditions.

Estates: No objection to permission being granted subject to compliance with conditions.

Environment Report: No objection to permission being granted subject to compliance with conditions.

A second Environment Report is noted on the Planning file which provides that the application lacks information noting that a preliminary Construction and Demolition Waste Management Plan was not provided and that a surface water management plan for the construction phase is required. Conditions are noted.

Following the submission of the response to the FI request, there is no objection to the proposed development.

Area Engineer: Advises that while the density of the development has increased from that originally proposed, the treatment plan has been ungraded. It is noted that while site development works (for phase 1) have been completed, public lighting columns have not been installed yet most of

the houses are occupied. This is required to be clarified, and it is indicated that all site development works shall be carried out and functioning correctly on the houses already constructed to the front of the estate before any works can commence on foot of a new permission. The report notes the following:

- A special contribution of €1,500 per dwelling to be levied to fund the renewal of old and aged footpath surfaces in the village core.
- A special contribution of €1,500 per dwelling to be levied to fund the resurfacing of the R667 from the site entrance back to the village core.
- Inadequate visitor parking spaces have been provided within the estate.

In terms of surface water, it is noted that the site is not subject to flooding and is outside any indicative flood zone.

Report notes connections to IW infrastructure.

The initial Area Engineer report required further information.

Following the submission of the response to the FI request, there is no objection to the proposed development subject to compliance with conditions.

Archaeologist Report: The report notes that the development contains the site of and the Zone of Archaeological Potential of CO027-111 Cist Burial, Recorded Monument. It is noted that no archaeological assessment has been provided with no acknowledgment of the cist burial. Further information is required to submit an Archaeological Impact Assessment.

Following the submission of the response to the FI request, which included an Archaeological Impact Assessment, the County Archaeologist advised satisfaction with the report and concurs with the recommendations regarding monitoring of all remaining undisturbed

ground. There is no objection to the proposed development subject to compliance with conditions.

Ecology: The report notes the nature of the proposed development and the water courses which lie in proximity to the site. The water quality of the water courses is also noted. It is noted that no AA screening or ecological related report was submitted with the application. The report notes the Natura 2000 sites in proximity to the site and details the QIs of each.

The report notes that no land take within any Natura 2000 site or any indirect impact on the habitats and species for which the sites are designated for. It is further noted that the site does not represent a critical resource to ex-situ qualifying species of the identified SAC or SPA. It is considered that impacts from noise and disturbance on species will not arise. The report further indicates that the risk of surface water runoff and impacts on water quality during construction, while the operational phase will not give rise to significant negatives impacts in terms of wastewater discharges. Discharges from the WWTP are not currently impacting on water quality and it is noted that there are no issues with the WWTP, or objections to the proposed development from the Environment Officer.

The report requires that the applicant be requested to submit a revised landscaping plan which should be developed with a greater emphasis on native tree and shrub species, and which has regard to the All-Ireland Pollinator Plan.

The report concludes that further information is required.

Following the submission of the response to the FI request, the subsequent report notes satisfaction with the details submitted. The final report concludes that there is no objection to the proposed development, subject to compliance with conditions.

3.1.3. **Prescribed Bodies**

TII: No observations to make.

Irish Water: No objection to the proposed development.

3.1.4. **Third Party Submissions**

One third party submission is noted in terms of the initial planning application submitted. The issues raised are summarised as follows:

- The development if permitted will result in a development which has a total of 61 dwellings.
- Issues raised in relation to the proposed access to the site via Maryville Boreen (L90807) on the basis that the Boreen is not wide enough to provide a safety filter pathway as shown in the site plan.
- The Boreen is only 3.5m wide and to allow such an exit would be in contradiction of good planning.

4.0 **Planning History**

The following is the relevant planning history pertaining to the subject site:

PA ref 06/11967: Permission sought for the construction of 46 no. two storey dwellinghouses comprising of 39 no. four bed dwellings and 7 no. three bed dwellings, garages, car parking spaces, boundary walls and fences, estate roads, public open space and associated site works and services. Permission was granted for 39 units.

PA ref 12/6492: Permission granted to extend the duration of permission granted under PA ref: 06/11967.

PA ref 17/7224: Permission granted to extend the duration of permission granted under PA ref: 06/11967 and PA ref 12/6492.

Adjacent site:

PA ref 18/6324: Permission granted for the construction of 11 no. dwellings and garages (change of design and layout to part of residential development granted under Pl. Reg. No. 06/11967 and Extended under 12/6492 and 17/7224) and all ancillary works at Site Nos. 2-7 inclusive, 37,38 and 42-44 inclusive.

The Board will note that these units comprise the houses constructed to the front of the wider landholding, within the Moin na Ri estate.

PA ref: 03/324: Permission granted for the construction of a house within the southern area of the original wider application site.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

- 5.1.1. The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.
- 5.1.2. The NPF includes a Chapter, No. 6 entitled ‘People, Homes and Communities’. It sets out that place is intrinsic to achieving good quality of life. A number of key policy objectives are noted as follows:
- National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.
 - National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy,

re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.

5.1.3. National Planning Objective 13 provides that “in urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

5.2. **Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):**

5.2.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children’s children.

5.2.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

5.2.3. Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site, subject to the following safeguards:

- compliance with the policies and standards of public and private open space adopted by development plans;

- avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;
- good internal space standards of development;
- conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
- recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and
- compliance with plot ratio and site coverage standards adopted in development plans.

5.2.4. Chapter 6 of the guidelines deals with Small Towns and Villages and notes that in some cases, concerns have been raised about the impact of rapid development and expansion on the character of smaller towns and villages. The Guidelines specifically advise that development in smaller towns and villages must be plan led, and while higher densities are appropriate in certain locations, proposals for lower densities of development may be considered acceptable at locations on serviced land within the environs of the town or village in order to offer people, who would otherwise seek to develop a house in an unserviced rural area, the option to develop in a small town or village where services are available and within walking and cycling distance.

5.3. **Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013**

5.3.1. In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S). The

Manual seeks to address street design within urban areas (i.e. cities, towns and villages) and it sets out an integrated design approach.

5.4. **Cork County Development Plan 2014**

- 5.4.1. Section 2.3 deals with the Network of Settlements and includes objectives which set out the broad strategic aim for each group of settlements in the network. Kilworth is identified as a 'Key Village' as detailed in the Plan and Objective CS 3-2 deals with the lower order settlements within the county. The strategic aim of this objective with regard to Key Villages is as follows:

Establish key villages as the primary focus for development in rural areas in the lower order settlement network and allow for the provision of local services by encouraging and facilitating population growth at a scale, layout and design that reflects the character of each village, where water services and wastewater infrastructure is available. Supporting the retention and improvement of key social and community facilities and inter urban public transport.

- 5.4.2. Chapter 3 of the Plan deals with housing and section 3.4 relates to housing density. Objective HOU 4-1: Housing Density on Zoned Land is therefore relevant, and the subject site is located within an area where Medium 'B' density is applicable (12-25 units per ha). The objective requires as follows:

Edge of Centre Sites Within Small Towns/Villages

- Max Net Density extended to 35 dwellings/ha in smaller towns outside Metropolitan Cork.
- Normally applicable in smaller towns (less the 5,000 population).
- Can be applied in larger towns through LAP's where there is a requirement to broaden the range of house types.
- Densities less than 12 dwellings/ha will be considered where an exceptional market requirement has been identified.

- Densities between 25 and 35 dwellings/ha will be considered where an exceptional market requirement has been identified.
- Consider a lower standard of public open space provision where larger private gardens are provided.
- Must connect to public water and wastewater services.
- Broad housing mix normally required including detached/ serviced sites unless otherwise specified in relevant Local Area Plan

5.4.3. The following objectives are also considered relevant:

Objective HOU 3-1 – Sustainable Residential Communities

Objective HOU 3-2 – Urban Design

Objective HOU 3-3 – Housing Mix

5.5. Fermoy Municipal District Local Area Plan 2017

- 5.5.1. The Board will note that Kilworth is identified as a Key Village in the LAP. The overall scale of new development (houses) is indicated at 50 in terms of the growth strategy. Table 4.1 of the LAP identifies that the normal recommended scale of any individual scheme is 50. Individual schemes in excess of the recommended scale set out in the above table may be considered where it is demonstrated that the overall scheme layout reinforces the existing character of the village and the scheme is laid out, phased and delivered, so as not to reflect a residential housing estate more suited to a larger settlement.
- 5.5.2. Section 4.10 of the Fermoy LAP specifically deals with Kilworth. The vision for Kilworth over the lifetime of this plan is to strengthen the range of services available and to facilitate moderate growth ensuring that future development is of an appropriate scale, respecting the unique character of the village.

5.6. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) which is located approximately 1.3km to the east of the site. The River Blackwater Callows SPA (Site Code: 004094) lies approximately 2.1km to the south of the site.

The River Funshion, a tributary of the River Blackwater, lies approximately 750m to the south of the site.

5.7. EIA Screening

5.7.1. The application was submitted to the Board after the 1st September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.

5.7.2. Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units
- Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere.

(In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.7.3. The proposed development comprises 46 no. terraced, detached and semi-detached houses on a site of 2.4ha. The site is located on zoned lands within the development boundary of Kilworth and on a green field site. The site is located immediately adjacent to existing residential developments to the north and east and as such, might be described as ‘other parts of a built-up area’ rather than a ‘business district’. Main Street which is located approximately 350m to the east of the site and there is an existing footpath which connects the site to the village. As such, I am satisfied that the site area is substantially below the 10ha threshold for ‘other parts of a built-

up area'. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA.

5.7.4. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.7.5. Having regard to:

- (a) the nature and scale of the development,
- (b) the location of the site within the development boundaries of Kilworth,
- (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. This is a third-party appeal, from Thomas and Catriona Hanrahan, against the decision of the Planning Authority to grant planning permission for the proposed development. The grounds of appeal reflect those submitted during the PAs assessment of the proposed development and are summarised as follows:

- The plans show a 10m exit onto the L90807 local road – 2 x 2m footpaths and a 6m estate road. There is no barrier between the estate road and the L90807 and a car could leave the estate at this location by mounting the footpath.
- Given the layout of the scheme at this junction, there is suspicion that Phase 2 of the development intends to have access to the L90807 as an entrance to the estate at a future date.
- Issues raised regarding the road widths and the proximity of the bend in the local road.
- The access filter pathway from Phase 2 onto the L90807 has not been properly addressed and the drawings presented are in contradiction of good planning.
- Issues also raised in relation to the presentation of houses onto the local road which is considered to fall short of the presentation of Phase 1 to the R667 Glanworth Road.
- It is submitted that the extra houses are concentrated to the south and east of the site and the estate represents a population increase which deserves due consideration in planning for safety of access.

6.2. **Planning Authority Response**

Submission advises no further comments.

6.3. **First Party Response to Third Party Appeal**

- 6.3.1. The first party submitted a response to the third-party appeal outside of the appropriate period and was returned.

6.4. **Observations**

None.

7.0 Assessment

7.1. Introduction

7.1.1. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Compliance with National Guidelines & Standards
3. Density
4. Layout & Design
5. Roads & Traffic Issues
6. Water Services
7. Other Issues

7.2. Principle of the development

7.2.1. The Board will note that the site is located within the settlement boundaries of the key village of Kilworth as identified in the Fermoy Municipal District Local Area plan 2017. While the site has no specific zoning afforded to it, given the wider settlement boundaries, together with the planning history of the site, I am generally satisfied that the principle of the residential development can be considered acceptable.

7.2.2. Section 4 of the LAP deals with Key Villages and Section 4.2 provides details of the recommended scale of development permissible during the lifetime of the Plan, Table 4.1 refers. The general objective for key villages, set out in Objective GO-01, encourages development within the development boundary of key villages to a scale set out in Table 4.1. The general objective also provides that:

- g) Residential development in other areas shall provide for small groups of houses, detached housing, serviced sites and/or self-build options.
- l) Good pedestrian and amenity links with the village core/main street are considered to be an important part of any proposed scheme.

7.2.3. The LAP also notes that 'the settlements would benefit from a more compact form and from some regeneration of and re-use of existing properties within the village cores'. In terms of Kilworth, over the lifetime of the LAP, it is noted that it would be desirable to see the development of up to 50 dwellings. I note that there is an anomaly in the LAP in terms of the number of houses within any one scheme and I refer the Board to the comments of the SP of Cork County Council advising no objection to the proposal to provide for up to 50 units in a single scheme. I consider this approach to be acceptable.

7.2.4. Section 4.10.7 of the LAP provides that 'Most of the more recent new housing developments are of a medium and low-density suburban style and comprise of terraced, semi-detached and some detached units, the largest of which is Cois Coille. These developments are often at odds with the simple form and finishes of buildings in the traditional core.'

7.2.5. In the context of the above LAP provisions, and while I will address the overall design and layout further below in Section 7.5 of this report, I note the planning history of the site and the identified settlement boundaries of Kilworth. I consider it is reasonable to support the principle of the development potential of the subject site in accordance with the provisions of the plan. In addition, I note that the site is accessible to the amenities of Kilworth and is serviceable by public water services, being located within 400m of the village core, the development is acceptable in principle. The scale of the proposed scheme is within the parameters as detailed in the LAP.

7.3. Compliance with National Guidelines & Standards:

7.3.1. The objective of the Sustainable Residential Development in Urban Areas 2009 Guidelines, and its companion design manual, is to produce high quality, and

crucially, sustainable developments and communities through the reduction, as far as possible, of the need to travel, particularly by private car, and promoting the efficient use of land. The Guidelines, together with the companion design manual, sets out a series of 12 criteria which should be employed in the assessment of planning applications and appeals.

- 7.3.2. The proposed residential development is considered acceptable in principle, due to its location within the identified settlement boundaries of Kilworth, and therefore, in compliance with the general thrust of national guidelines and strategies. While national policy, and relevant guidelines issued, continue to support the principles of higher densities on appropriate sites in towns and cities, the Guidelines specifically advise that development in smaller towns and villages must be plan led. While higher densities are appropriate in certain locations, proposals for lower densities of development may be considered acceptable at locations on serviced land within the environs of the town or village in order to offer people, who would otherwise seek to develop a house in an unserviced rural area, the option to develop in a small town or village where services are available and within walking and cycling distance.

7.4. Density:

- 7.4.1. In terms of density, I note Circular Letter: NRUP 02/2021, dated 21st April 2021, which provides that 'it is necessary to adapt the scale, design and layout of housing in towns and villages, to ensure that suburban or high-density urban approaches are not applied uniformly, and that development responds appropriately to the character, scale and setting of the town or village. As such, it is highlighted that in certain locations, particularly at the edges of towns in a rural context, more compact forms of development may include residential densities at a lower level than would be considered appropriate in a city or large town context.'
- 7.4.2. In addition to the above, I note the requirements of SPPR 4 as detailed in the Urban Development & Building Height Guidelines 2018 which states that, in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:

1. The minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2009)” or any amending or replacement Guidelines;
2. A greater mix of building heights and typologies in planning for the future development of suburban locations; and
3. Avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.

7.4.3. The 2021 Circular notes that discretion may be applied in the assessment of residential density and that while net densities of 30-35 dwellings per hectare may be regarded as acceptable in certain large town contexts, net densities of less than 30 dwellings per hectare, although generally discouraged, are not precluded. The Circular concludes noting that towns and their contexts are not all the same and that planning policy and guidance are intended to facilitate proportionate and tailored approaches to residential development, including the flexible application of residential density at the periphery of large towns, and particularly at the edges of towns in a rural context.

7.4.4. The subject site lies within the settlement boundary of the village, approximately 400m from the centre of Kilworth, a Key Village, and as such, is within walking distances to shops and services. Section 1.7.38 of the Fermoy LAP refers to Objective HOU4-1 of the CDP and section 3.4 of the CDP sets out the housing density standards applicable. In this regard, the subject site should support medium ‘B’ density development with 12-25 dwelling units per hectare. The proposed development initially proposed 49 houses on a site covering 2.4ha which would result in a density of 20.42 units/ha. The Board will note that the current proposal increases the previously permitted density at the site from approximately 13.3 units/ha. The layout of the scheme was amended following the submission of the

response to the PAs further information request which saw the omission of 3 units which reduces the density to 19.6 units/ha.

- 7.4.5. The site is considered to be located at the 'Edge of Small Town/Village', as detailed in Section 6.12 of the Sustainable Residential development in Urban Areas Guidelines for Planning Authorities (2009). The Guidelines provide that in such locations, developments should have a density of between 15-20 units per hectare. Overall, I am generally satisfied that the density as proposed generally accords with the requirements of the national guidelines.

7.5. **Layout & Design:**

- 7.5.1. The proposed development site comprises part of a regularly shaped site, with the current application site being located to the rear of a part constructed residential estate. The Board will note the planning history of the overall site and as such, I note that the proposed layout is generally dictated by certain services which have been designed as part of the original permission. The proposed layout provides for a pair of centrally located areas of open space which will include a play area and seating area. The majority of the proposed houses will all face onto the open space.
- 7.5.2. The proposed layout provides a single vehicular access to the site from the north via the existing entrance and estate road of the houses already constructed within the Moin Na Ri estate. The Board will note that to the south of the site, where the site is bound by the local road, the L90807, the existing roadside boundary comprises a dry-stone wall with trees and hedgerows. At the southern side of the local road, and across the full length of the site, there is a high stone wall which encloses an existing residence.
- 7.5.3. It is proposed to provide a pedestrian access in this area which will include the extensive removal of the existing boundary in order to set it back and provide for a 2m footpath connecting back towards the village, as well as providing for a 5.5m wide roadway in this area. I note that there is an existing entrance to a house located between the subject site and the end of the existing footpath and as such, there is no indication as to how to connect the existing and proposed footpaths in this area of

the village. The proposed roadside boundary is to comprise a 1.8m high capped and plastered wall. I note the concerns of the planning authority in terms of the visual impact of the proposed wall, and I refer the Board to Condition 3 of the PAs notification of intention to grant planning permission. I would agree that the height of the wall should be reduced to the front of the rear walls of the houses, and I would suggest that in order to ensure that the access is used as a pedestrian access only, the 1.2m high wall should extend across the length of the grass verge, providing a 2m gap for access. This would also address the third party concerns with regard to the potential use of this access. Having regard to the nature of this area of Kilworth, and in particular, the existing stone wall to the south of the L90708, I consider that this boundary wall should be faced in stone. This can be dealt with by way of condition.

- 7.5.4. Following a request for further information, the layout of the proposed development was amended in order to improve the relationship between the proposed new houses and the existing houses to the south, as well as the relationship with the public open space. Overall, I am satisfied that the amended, and permitted, layout is acceptable.
- 7.5.5. Chapter 6 of the Sustainable Residential Development in Urban Areas, 2009 deals with Small Towns and Villages and note that 'in order for small towns and villages to thrive and succeed, their development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past.' The Guidelines indicate that development in such locations must be planned and that 'new development should contribute to compact towns and villages', where the use of backland sites is encouraged which seek to 'maximise permeability for pedestrians and connectivity to existing streets and roads, rather than creating cul-de-sacs and dead ends.'
- 7.5.6. Section 6.8 of the guidelines provides for layout and design considerations in order to ensure that new development relates successfully to the structure of the smaller town or village. In terms of overall scheme design, each residential scheme should be designed to:

- Make the most effective use of the site;
- Make a positive contribution to its surroundings;
- Have a sense of identity and place;
- Provide for effective connectivity;
- Include a design approach to public areas.

7.5.7. In the context of the above criteria, I would acknowledge that the proposed layout seeks to make the most effective use of the site, in terms of the planning history of the site and the existing infrastructure on site. I would also acknowledge that the layout has sought to create a sense of identity and place within the distinct areas of the site. I note the third-party concerns in terms of connectivity and the potential for the pedestrian access to the south to be used as a second vehicular access in the future but would accept that this matter might be addressed by way of appropriate condition as discussed above.

7.5.8. In terms of the overall design approach, the Board will note that I note that the design of the houses has sought to present a consistent architectural countenance and identity throughout the scheme. The houses will rise to two storeys in height, with gables and will be finished in painted smooth render and a slated roof. The proposed windows and doors will comprise grey uPVC. Proposed house types D1 and D2, 4-bed detached houses, include a flat roofed section to the rear and 3 units are to include detached garages. I have no objection to the proposed overall design and finishes of the houses proposed. I would also accept that the design and materials of the proposed houses would not contribute negatively to the surroundings of the site.

7.6. **Unit Mix & Typology:**

7.6.1. Following a request for further information from the planning authority, the applicant submitted a Housing Mix Statement. The development, as permitted, proposes a mix of 6 house types including 6 no. 2 bed units, 22 no 3 bed units and 18 no 4 bed units. The proposed development was amended following the submission of the

response to the PAs further information request which amended the layout of the site but did not significantly alter the unit mix or typology proposed. In terms of the permitted scheme, the houses will be provided in the form of semi-detached units and the unit types are as follows:

Unit type	Number	%
2 bed	6	13.04%
3 bed	22	47.83%
4 bed	18	39.13%

The Board will note that the proposed development seeks to construct only one type of residential unit, all being two storey own-door houses. I also note the dominance of the existing residential development in the vicinity of the subject site which includes a range of densities including detached houses on large sites, semi-detached houses and terraced houses.

7.6.2. I also note that the Housing Mix Statement sets out the arguments of the first party in terms of the proposed mix of units, and I note the increase in population between 1996 and 2016 indicated a growth of 139%. I also note the limited housing development in Kilworth in the recent past. Section 5.12 of the Statement indicates that ‘in terms of household composition, it is relevant that over half the dwellings in the settlement are couples or single parents with children.’ It is stated that the housing mix proposed ‘reflects the demographic profile of the area, inclusive of the age profile and household composition data from Census 2016 in that they will generally accommodate young families.’ The smaller units will cater for potential demand in a diverse range of households.

7.6.3. In this regard and based on the information included in the applicants Statement of Housing Mix, I note that Kilworth has a total of 387 (2016 Census) existing households, including 4 flat/apartments, with 233 units constructed between 2001-2010 and 5 having been constructed in the village since 2011. Table 7 of the documents sets out the age profile of the state, county (Cork) and Kilworth where the following breakdown is noted:

Age Group	Kilworth
0-18	326 (30.9%)
19-34	216 (20.5%)
35-64	418 (39.6%)
65+	95 (9%)
Total	1,055

While I acknowledge the information presented in the Housing Mix Statement, I note that there was no breakdown in terms of the make-up of households. I also note that the age profile of the village of Kilworth is in line with the national trend.

- 7.6.4. In acknowledging the national guidance in terms of residential density, I note the location of the subject site in close proximity to the village centre and associated amenities, including shops, schools, sports grounds and would question if the proposed development presents the most appropriate form and layout to serve the needs of the wider community in terms of housing mix and typologies. I further note the provisions of the 2018 Urban Development and Building Height Guidelines for Planning Authorities in addressing the need for more 1 and 2 bedroom units in line with wider demographic and household formation trends, while at the same time providing for the larger 3, 4 or more bedroom homes across a variety of building typology and tenure options, enabling households to meet changing accommodation requirements over longer periods of time without necessitating relocation.
- 7.6.5. I am therefore, minded to conclude that the limited housing type/mix proposed in the current scheme is such that there is only limited choice available within the scheme which might not provide for appropriate options for various stages of the lifecycle or attract an appropriate mix of households or population mix, and the proposed scheme would not meet the aspirations of a range of people or households. I would consider this to be contrary to good planning practice and not in compliance with the aforementioned ministerial guidelines and the Urban Design Manual. In my opinion, a greater variety of unit type/mix would aid an increase in density on the site and

would support a residential scheme which would attract an appropriate population mix to this area of Kilworth, which is well serviced with facilities.

- 7.6.6. However, when the wider residential offer in this area of Kilworth is taken into consideration, it might reasonably be concluded that the proposed development comprises an extension to a part completed residential estate which currently only provides for large, detached houses. The proposed introduction of 2 and 3 bedroomed terraced and semi-detached houses, comprising approximately 61% of the scheme, improves the housing mix in the area, to the benefit of the wider Kilworth village population. As such, I consider that the mix as proposed is acceptable and in accordance with the provisions of both national and local policy.

7.7. Roads & Traffic Issues

- 7.7.1. I note that the Cork County Council Area Engineer raised no significant concerns in relation to the proposed development from a roads and traffic viewpoint. The site is to be accessed via the existing estate road associated with the Moin Na Ri estate, off the regional road to the north. I note that the existing estate road is 6m in width and includes raised platforms as traffic speed control measures. The proposed development will extend this 6m road into the proposed development. The scheme also includes the provision of 2m footpaths on most sides of the proposed estate road. In terms of pedestrian access, the scheme proposes to provide a pedestrian only access to the south of the site onto the L90807. The proposed development includes the setting back of the southern boundary and the provision of a 2m wide footpath along the local road.
- 7.7.2. The Board will note that initially, the Cork County Council Area Engineer raised concerns in terms of the proposed width of the estate road, at 6m, and the further information request, item 5, sought that this be reduced to 5.5m and possibly to 4.8m in accordance with the requirements of DMURS. The request also sought that the applicant consider the incorporation of home zones. In response, the applicant has advised that given the infrastructure that must be laid within the road, the reduction of the road width to below 6m is not an option. It is also submitted that the 6m road

width is in compliance with the DoE Site Development Works Manual. This document (full title: Recommendations for Site Development Works for Housing Area) was published in 1998 and I note that the AE appears to have accepted the arguments made by the applicant in this regard.

- 7.7.3. I do not consider it appropriate that the proposed development be deemed acceptable under the requirements of the 1998 guidelines. While I acknowledge that the proposed development represents an extension to an existing, and previously permitted residential development under the 1998 guidelines, the proposed provision of 6m wide roadways is not considered appropriate and would clearly not comply with the more up to date, 2013 guidelines. It is a requirement that the scheme be considered against the Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013. This manual does not differentiate between public and private urban streets, where a 60kph speed limit or less applies, and its implementation is obligatory. Divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S), and no such consent appears to have been given.
- 7.7.4. I would also note that the DMURS guidance document has been in place for almost 9 years now, and the provision of infrastructure in scheme roads does not appear to me to have been an issue in this time. While I accept that space is required for the rising main from the pumping station, this is an engineering matter which should not supersede the consideration of public safety in terms of traffic hazards, including vulnerable road users within a residential estate, or the residential amenity of future residents of the estate, if permission is granted. DMURS assigns 'higher priority to pedestrians, cyclists without unduly compromising vehicle movement, in order to create secure, connected places that work for all members of the community', and this is considered a reasonable objective.
- 7.7.5. Section 4.4 of DMURS deals with carriageway conditions while section 4.4.1 deals with carriageway widths. I would not accept that the proposal to provide a 6m wide carriageway within the residential scheme accords with DMURS which would suggest that a carriageway of between 4.8 and 5m is appropriate for local streets. I also note that a section of the internal estate road is indicated at 5m in width in the submitted plans, so it is reasonable to conclude that a reduced width is achievable.

7.7.6. While I am generally satisfied that the site is capable of accommodating appropriate development without undue traffic hazards or obstruction of existing road users arising in principle, I do not accept that the internal estate road, as extending from the constructed estate road, should continue at 6m in width, as to do so would run contrary to the provisions of the national guidance. Should the Board be minded to grant permission in this instance, this matter should be dealt with by way of condition of permission.

7.8. Water Services

7.8.1. The Board will note that Irish Water have advised that the proposed connection to the Irish Water Network in Kilworth can be facilitated. I note that the WWTP in the village has adequate capacity to accommodate the development and that Irish Water has indicated that a connection to the relevant infrastructure can be facilitated.

7.8.2. In terms of surface water drainage, the Board will note that the development will connect to the existing storm water network. There are no objections noted in this regard. Having regard to the information available to me, I am generally satisfied that the applicant has adequately addressed the matter of surface water drainage. As such, I have no objections to the proposed development in terms of water services.

7.8.3. The Board will note that the subject site does not lie within any area which is identified as being susceptible to flood risk. I am satisfied that the proposed development is acceptable in this regard.

7.9. Other Issues

7.9.1. Archaeology & Heritage

The Board will note that an Archaeological Impact Assessment was carried out on the site following a request from the planning authority. There is 1 recorded monument noted within the development site, comprising the recorded location of a cist burial (CO027-111----) which was uncovered during infrastructural works in 1958. It is noted in the Assessment, that the monument was destroyed before it

could be investigated. The Assessment notes 3 further RMs within a 500m radius of the site.

The assessment sets out the methodology employed in the preparation of the document, which included a desktop study and a site inspection. The context of the site is described in section 3 with the legal and policy framework detailed as well as the archaeological and historical background of the area. Section 4 of the document provides a description of the site and due to the heavily disturbed nature of the site as a result of substantial groundworks and the provision of infrastructure, together with the fact that the archaeological site within the development site was destroyed in 1958, the assessment concludes that there is extremely limited potential for the survival of sub-surface archaeological remains. Archaeological testing and geophysical surveys are not considered to be suitable in this instance.

The assessment concludes however, that a licenced programme of archaeological monitoring should be undertaken within undisturbed areas of the subject site, especially the eastern portion of the development, consistent with proposed housing units nos. 8-21. The Board will note that the Cork County Archaeologist has advised no objection to the proposed development subject to the inclusion of conditions. I am satisfied that the matter can be appropriately dealt with by way of condition.

7.9.2. **Part V**

The proposed development seeks to construct 49 residential units on a site covering 2.4ha on the western edge of the village of Kilworth. The development will connect to public services. The development is subject to requirements of Part V of the Planning and Development Act 2000, as amended. A condition to this effect should be included in any grant of planning permission.

7.9.3. **Development Contribution**

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

The Board will note that the Area Engineer sought that two special development contributions be attached to any grant of planning permission for the proposed development as follows:

- €1,500 per house for the renewal of old and aged footpath surfaces in the village core, and
- €1,500 per house to fund the resurfacing of the regional road from the site entrance to the village core.

I note the comments of the Cork County Council Planning Officer and I would agree that the works referred to by the Area Engineer are not specific exceptional costs which would not be covered by the general development contribution scheme. As such, I do not consider it appropriate to include such special development contributions in the event of a grant of planning permission.

8.0 Appropriate Assessment

8.1. Introduction:

- 8.1.1. The site is not located within any designated site. The closest Natura 2000 site is the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) which is located approximately 1.3km to the east of the site. The River Blackwater Callows SPA (Site Code: 004094) lies approximately 2.1km to the south of the site. The River Funshion, a tributary of the River Blackwater, lies approximately 750m to the south of the site.
- 8.1.2. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.
- 8.1.3. The Board will note that the applicant made little reference to matters relating to AA, with section 6.4 of the submitted Planning Statement referencing the matter. The Planning Statement identifies water bodies and only the Blackwater River SPA as being proximate to the site. There is no assessment of any degree noted with the

section 6.4.3 of the Planning Statement concluding that based on the information available, it is considered that the proposed works do not require progression to Stage 2 AA. As such, no AA Screening or Natura Impact Statement (NIS) was submitted as part of documentation for permission for the proposed development to assess the likely or possible significant effects, if any, arising from the proposed development on any European site.

- 8.1.4. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site. In accordance with these requirements the Board, as the competent authority, prior to granting a consent must be satisfied that the proposal individually or in combination with other plans or projects, is either not likely to have a significant effect on any European Site or adversely affect the integrity of such a site, in view of the site(s) conservation objectives.
- 8.1.5. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:
- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
 - Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

8.2. Consultations

- 8.2.1. With regard to consultations, the Board will note that no third-party concerns were raised with the Planning Authority with regard to AA.

8.2.2. The Board will note that the Cork County Ecologist submitted a report in relation to the proposed development noting that no AA Screening or ecological related report was submitted with the application. The report also notes the proximity of the site to Natura 2000 sites as well as the details of their Qualifying Interests. Of particular note, the County Ecologist notes that there will be no land take within any Natura 2000 site and that the proposed development site does not represent a critical resource to ex-situ qualifying species of identified SAC or SPA. Ultimately, the report considers that the development is unlikely to give rise to negative impacts on water quality impacting any designated site. A revised landscaping plan, including specifications and drawings, were required to be submitted by way of further information with a greater emphasis on native tree and shrub species. Following the submission of the response to the FI request, the subsequent report notes satisfaction with the details submitted.

8.3. Screening for Appropriate Assessment

8.3.1. The purpose of AA screening, is to determine whether appropriate assessment is necessary by examining:

- a) whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of the site, and
- b) the likely effects of a project or plan, either alone or in combination with other projects or plans, on a Natura 2000 site in view of its conservation objectives and considering whether these effects will be significant.

8.3.2. The applicant did not prepare an Appropriate Assessment Screening Report as part of the subject application. The site is not located within any Natura 2000 site. The closest Natura 2000 site is the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) which lies approximately 1.3km to the east of the site. The River Blackwater Callows SPA (Site Code: 004094) lies approximately 2.1km to the south of the site. The River Funshion, a tributary of the River Blackwater, lies approximately 750m to the south of the site. In terms of AA, the Board will note that the development is not

directly connected or necessary to the management of a European Site. There are 2 Natura 2000 Sites occurring within a 15km radius of the site as described above.

8.3.3. Given the proximity of the site to the River Funshion, a tributary of the River Blackwater, I consider it appropriate to consider the following Natura 2000 sites as being within the zone of influence of the proposed development, for the purposes of AA Screening:

- Blackwater River (Cork/Waterford) SAC (Site Code: 002170)
- River Blackwater Callows SPA (Site Code: 004094).

8.4. Qualifying Interests for Natura 2000 Sites within Zone of Influence

8.4.1. The subject site lies to the west of the urban area of Kilworth, within the identified development boundaries of the village and adjacent to a primarily residential area which includes a variety of house types. The proposed development will comprise Phase 2 of an existing residential estate and I note that permission for the development was previously permitted under 06/11967. The development will connect to public services and is not located within any designated site. The site does not appear to contain any of the habitats or species associated with any Natura 2000 site.

8.4.2. The following table sets out the qualifying interests for the identified Natura site:

European Site	Qualifying Interests
<p>Blackwater River (Cork/Waterford) SAC (Site Code: 002170)</p> <p>Located approx. 1.3km to the east of the site</p>	<ul style="list-style-type: none"> • Estuaries [1130] • Mudflats and sandflats not covered by seawater at low tide [1140] • Perennial vegetation of stony banks [1220] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]

	<ul style="list-style-type: none"> • Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260] • Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] • Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] • Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] • Austropotamobius pallipes (White-clawed Crayfish) [1092] • Petromyzon marinus (Sea Lamprey) [1095] • Lampetra planeri (Brook Lamprey) [1096] • Lampetra fluviatilis (River Lamprey) [1099] • Alosa fallax fallax (Twaité Shad) [1103] • Salmo salar (Salmon) [1106] • Lutra lutra (Otter) [1355] • Trichomanes speciosum (Killarney Fern) [1421]
<p>River Blackwater Callows SPA (Site Code: 004094)</p> <p>Located approx. 2.1km to the east of the site</p>	<ul style="list-style-type: none"> • Whooper Swan (Cygnus cygnus) [A038] • Wigeon (Anas penelope) [A050] • Teal (Anas crecca) [A052] • Black-tailed Godwit (Limosa limosa) [A156] • Wetland and Waterbirds [A999]

Blackwater River (Cork/Waterford) SAC (Site Code: 002170)

8.4.3. The River Blackwater is one of the largest rivers in Ireland, draining a major part of Co. Cork and five ranges of mountains. The site consists of the freshwater stretches of the River Blackwater as far upstream as Ballydesmond, the tidal stretches as far as Youghal Harbour and many tributaries. The portions of the Blackwater and its tributaries that fall within this SAC flow through the counties of Kerry, Cork, Limerick, Tipperary and Waterford.

- 8.4.4. The site is also important for the presence of several E.U. Habitats Directive Annex II animal species, including Sea Lamprey (*Petromyzon marinus*), Brook Lamprey (*Lampetra planeri*), River Lamprey (*L. fluviatilis*), Twaite Shad (*Alosa fallax fallax*), Freshwater Pearl Mussel (*Margaritifera margaritifera*), Otter (*Lutra lutra*) and Salmon (*Salmo salar*). The Blackwater is noted for its enormous run of salmon over the years.
- 8.4.5. Overall, the River Blackwater is of considerable conservation significance for the occurrence of good examples of habitats and populations of plant and animal species that are listed on Annexes I and II of the E.U. Habitats Directive respectively. Furthermore, it is of high conservation value for the populations of bird species that use it. Two Special Protection Areas, designated under the E.U. Birds Directive, are also located within the site - Blackwater Callows and Blackwater Estuary. Additionally, the importance of the site is enhanced by the presence of a suite of uncommon plant species.

River Blackwater Callows SPA (Site Code: 004094)

- 8.4.6. The Blackwater Callows SPA comprises the stretch of the River Blackwater that runs in a west to east direction between Fermoy and Lismore in Counties Cork and Waterford, a distance of almost 25 km. The site includes the river channel and strips of seasonally-flooded grassland within the flood plain.
- 8.4.7. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for a number of species as identified above. The E.U. Birds Directive pays particular attention to wetlands and, as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds. The site is of high ornithological interest on account of its wintering waterfowl populations. Part of the Blackwater Callows SPA is a Wildfowl Sanctuary.

8.5. Conservation Objectives:

- 8.5.1. The Conservation Objectives for the relevant designated site are as follows:

European Site	Conservation Objectives
<p>Blackwater River (Cork/Waterford) SAC (Site Code: 002170)</p> <p>Located approx. 1.3km to the east of the site</p>	<ul style="list-style-type: none"> • The NPWS has identified a site-specific conservation objective to maintain the favourable conservation condition of the following habitat and species listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> ○ Austropotamobius pallipes (White-clawed Crayfish) [1092] ○ Lampetra planeri (Brook Lamprey) [1096] ○ Lampetra fluviatilis (River Lamprey) [1099] ○ Salmo salar (Salmon) [1106] ○ Estuaries [1130] ○ Mudflats and sandflats not covered by seawater at low tide [1140] ○ Perennial vegetation of stony banks [1220] ○ Salicornia and other annuals colonising mud and sand [1310] ○ Mediterranean salt meadows (Juncetalia maritimi) [1410] ○ Trichomanes speciosum (Killarney Fern) [1421] ○ Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260] • The NPWS has identified a site-specific conservation objective to restore the favourable conservation condition of the following habitat and species listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> ○ Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] ○ Petromyzon marinus (Sea Lamprey) [1095] ○ Alosa fallax fallax (Twaite Shad) [1103] ○ Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] ○ Lutra lutra (Otter) [1355]

	<ul style="list-style-type: none"> ○ Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] ○ Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] ● The status of Taxus baccata woods of the British Isles [91J0] as a qualifying Annex I habitat for the Blackwater River (Cork/Waterford) SAC is currently under review. The outcome of this review will determine whether a site-specific conservation objective is set for this habitat.
<p>River Blackwater Callows SPA (Site Code: 004094)</p> <p>Located approx. 2.1km to the east of the site</p>	<ul style="list-style-type: none"> ● The NPWS have not identified site specific conservation objectives for the SPA and the following generic conservation objective is relevant: <ul style="list-style-type: none"> ○ To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. ● To acknowledge the importance of Ireland's wetlands to wintering waterbirds, "Wetland and Waterbirds" may be included as a Special Conservation Interest for some SPAs that have been designated for wintering waterbirds and that contain a wetland site of significant importance to one or more of the species of Special Conservation Interest. Thus, a second objective is included as follows: <ul style="list-style-type: none"> ○ To maintain or restore the favourable conservation condition of the wetland habitat at Blackwater Callows SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

8.6. Potential Significant Effects

- 8.6.1. In terms of an assessment of Significance of Effects of the proposed development on qualifying features of Natura 2000 sites, having regard to the relevant conservation objectives, I would note that in order for an effect to occur, there must be a pathway between the source (the development site) and the receptor (designated sites). As

the proposed development site lies outside the boundaries of the European Sites, no direct effects are anticipated.

8.6.2. In terms of indirect effects, and with regard to the consideration of a number of key indications to assess potential effects, the following is relevant:

- **Habitat loss / alteration / fragmentation:** The subject site lies at a remove of some 1.3km from the boundary of any designated site. As such, there shall be no direct or indirect loss / alteration or fragmentation of protected habitats within any Natura 2000 site.
- **Disturbance and / or displacement of species:** The site lies within the settlement boundaries of the Key Village of Kilworth, which includes a number of residential developments to the north, south and east of the site. There is little physical development to the west of the site. The environs of the site, therefore, can be described as being a mix of urban and rural. No qualifying species or habitats of interest, for which the designated site is so designated, occur at the site. As the subject site is not located within or immediately adjacent to any Natura 2000 site and having regard to the nature of the construction works proposed, there is little or no potential for disturbance or displacement impacts to land based species or habitats for which the identified Natura 2000 site have been designated. I also acknowledge the conclusion of the Cork County Council Ecologist that the proposed development site does not represent a critical resource to ex-situ qualifying species of identified SAC or SPA.
- **Water Quality:** The proposed development relates to the construction of a residential scheme on lands within the settlement boundary of Kilworth. The development will connect to existing public water services. The existing Kilworth WWTP has been noted as having adequate capacity to accommodate the proposed development. Having regard to the scale of the proposed development together with the submission from Irish Water following the request for further information by the Planning Authority, I am generally satisfied that the principle of the

proposed development is acceptable and that if permitted, is unlikely to impact on the overall water quality of any Natura 2000 site in proximity to the site due to connection to public services or during the operational phase of the development.

The development site is not bound on any side by a water course / drainage ditch. It is proposed that surface water arising from the development will discharge to the existing storm water network in Kilworth, and I note no objections from Cork County Council Engineering Departments in this regard.

- 8.6.3. I am generally satisfied that the potential for likely significant effects on the qualifying interests of the identified Natura 2000 sites can be excluded given the distance to the sites, the nature and scale of the development and the lack of a hydrological connection.

8.7. In Combination / Cumulative Effects

- 8.7.1. Given the nature of the proposed development, being the construction of a housing scheme, I consider that any potential for in-combination effects on water quality in the Blackwater River can be excluded. In addition, I would note that all other projects within the wider area which may influence conditions in the Blackwater River (Cork/Waterford) SAC via rivers and other surface water features are also subject to AA.

8.8. Conclusion on Stage 1 Screening:

I have considered the NPWS website, aerial and satellite imagery, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude that on the basis of the information available, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the European Sites

identified within the zone of influence of the subject site. As such, and in view of these sites' Conservation Objectives a Stage 2 Appropriate Assessment is not required for these sites.

9.0 Recommendation

I recommend that permission for the proposed development be granted for the following stated reasons and considerations, and subject to the following conditions.

10.0 Reasons and Considerations

Having regard to:

- the policy objectives of the National Planning Framework,
- the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual,
- Objectives HOU 3-1, HOU 3-2 and HOU 3-3 of the Cork County Development Plan 2014 -2022,
- the provisions of the Fermoy MD Local Area Plan 2017 as it relates to Kilworth,
- the location of the site within the development boundaries of the Key Village of Kilworth,
- the layout and design of the proposed development, and
- the planning history of the site,

It is considered that, subject to compliance with the conditions set out below, the proposed development of the site would not seriously injure the residential or visual amenities of adjoining properties, would not seriously injure the residential amenities of future occupants and would be acceptable in terms of traffic safety and convenience. The proposed development of the site would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the Planning Authority on the 12th day of April 2021, 22nd day of April 2021 and 13th day of August 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission is for a total of 46 houses, as laid out on the plans submitted to the planning authority on the 13th day of August 2021. The proposed development shall be amended as follows:
 - (a) The internal access road shall be reduced in width to a maximum of 5m.
 - (b) The height of the southern boundary wall adjacent to the L-90807 shall extend to 1.8m from the rear wall of houses no. 25 and 26 to the site boundary. From the rear wall of the houses towards the proposed pedestrian access onto the L-90807, the wall shall not exceed 1.2m in height. The 1.2m high wall shall extend across the length of the grass verge providing a 2m gap for pedestrian access. This boundary wall shall be faced in stone onto the public road, the L-90807.
 - (c) Junctions shall be raised for traffic calming using tactile paving and dished kerbs.

Revised drawings showing compliance with this condition shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of traffic safety, of the residential amenity of future occupants and compliance with DMURS.

3. External finishes including all materials, colours and textures shall be in accordance with the details submitted to, the planning authority, unless otherwise agreed prior to commencement of development.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health.

5. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

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

Reason: In the interests of amenity and public safety.

8. Site development and building works shall be carried out only between the hours of 0800 and 1800 from Mondays to Fridays inclusive, between the hours of 0800 and 1300 on Saturdays, and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of protecting the residential amenities.

9. The development hereby permitted, including all roads, footpaths, and public lighting, shall be carried out in accordance with the standards and requirements of the planning authority for taking in charge. The development shall be maintained by the developer until taken in charge by the authority and shall not be operated or maintained by a private management company.

Reason: In order to comply with national policy in relation to the maintenance and management of residential estates, and to ensure that the development, when completed, can be taken in charge by the planning authority.

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

Reason: In the interest of sustainable transportation.

11. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded and landscaped in accordance with the revised Landscape Plan (Specification) and Landscape Drawings submitted to the planning authority on the 13th day of August 2021. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority. At the time of taking in charge, these open spaces shall be vested in the local authority as public open space, at no cost to the authority.

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

12. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

13. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of clarity, orderly development and amenity.

14. A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic and parking during the construction phase, the location of the compound for storage of plant and machinery and for storage of deliveries to the site.

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

15. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

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

An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

A. Considine
Planning Inspector
27th February 2022