



An
Bord
Pleanála

Inspector's Report ABP-313284-22.

Development	Construct 2 houses.
Location	Emmet Place, Scarteen Lr. Newmarket, Co. Cork
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	21/5582.
Applicant(s)	Gerard Hannon.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Kerry EHEA Region, Newmarket T/A Co-Operative Creameries Ltd.
Observer(s)	None.
Date of Site Inspection	22/09/2022.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The appeal site is located on Emmett Place to the north of Church Street in the town of Newmarket. Emmett Place is a cul-de-sac which provides access to 6 houses (3 pairs of semi-detached houses) and to the Newmarket Co-Operative Creameries Ltd. The two pairs of semi-detached houses to the west of Emmett Place provide for off road parking, while the pair of houses located to the east have their front doors onto the footpath with on-street car parking. The road surface on Emmett Place extends to approximately 6m in width with partial footpaths at its junction with Church Street to the south. There are four existing vehicular accesses also noted in addition to the houses and an existing entrance to the subject site.
- 1.2. The subject triangular site has a stated area of 0.0357 hectares and is currently unoccupied. Boundary walls and an entrance have been constructed.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the construction of 2 no. two storey dwelling houses along with all associated ancillary site works, all at Emmett Place, Scarteen Lower, Newmarket, Co. Cork.
- 2.2. The application included the following documents:
 - Plans and particulars
 - Completed planning application form
 - Part V Exemption Certificate.
- 2.2.1. The proposed development comprises the construction to a pair of semi-detached houses on the site which will extend to 2 storeys and two bedrooms. The houses will be finished in a smooth plaster and the roofs will comprise a dark slate. The houses will occupy a floor area of 79.36m² each and will rise to an overall height of 8.55m. It is proposed that the houses will connect to public services in the area and the site is accessed over the existing cul-de-sac road.
- 2.2.2. Following the request for further information, the applicant submitted an alternative site layout which provides for a parking space to be located to the front of both proposed houses. A landscaping plan is also included.

- 2.2.3. With regard to the surface water management issue, the response to the FI request submits that temporary works information etc which the Council deem necessary should be noted as a condition of a grant of permission. The submitted site layout plan includes an indicative location for a silt fence and material storage area and indicates that the soakpits indicated should be lined to attenuate any possible surface water thus preventing a hydrological link to the Newmarket Stream and the Blackwater River.
- 2.2.4. The response to the FI also submits that the applicant does not have any intention to develop the lands to the rear/south and clarifies that the area forms part of the former garage / workshop, previously operated by the applicants' father.
- 2.2.5. The Board will note that a request to extend the period to respond to the FI request by 3 months was granted by the PA.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to 14 standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

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 and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening assessment, prepared by the County Ecologist.

The Planning Report notes the concerns of the Area Engineer in terms of the proposals for dealing with surface water arising at the site and concludes that further information is required. In addition, the Planning Officers report notes that on-street parking is not appropriate at this location and requires that off street car parking be provided for the houses. In addition, a landscaping plan is required for the site.

Further information is also required with regard to the County Ecologist comments with regard to the management of surface water during the construction phase of the development. Boundary wall details are also required and the PA notes that the layout of the site will cut off access to an area of the wider landholding.

The Board will note that the above report was supported by the A/SEP who also prepared a report on the proposed development.

Following the submission of the response to the FI request, the final PO report concludes that the proposals for parking are acceptable and notes that the County Ecologist raises no further concerns in terms of AA. Landscaping planting to include native tree species is noted and the PO is satisfied that the area of land noted to be cut off is accessible via the landowners' former garage and therefore is not cut off. The report recommends that permission be granted subject to conditions and this report formed the basis of the Planning Authority's decision to grant planning permission.

3.2.2. Other Technical Reports

Area Engineer: The report notes the footpath is in poor condition locally and that no car parking has been identified by the applicant. The location of soakpits have not been identified on the site layout drawing.

The report notes no issues with the proposed connections to the public water services.

Further information required in relation to the provision of off-street parking.

Following the submission of the response to the FI request, no further objection is noted subject to compliance with conditions.

Ecology: The County Ecologist submitted a report which presents an AA Screening Report.

The report concludes that further information is necessary with regard to surface water management at construction stage in order to complete the screening.

Following the submission of the response to the FI request, no further objection is noted subject to compliance with conditions relating to landscaping and planting.

3.2.3. Prescribed Bodies

Irish Water: No objection.

3.2.4. Third Party Submissions

There is one submission by Lynch & Associates on behalf of their clients Kerry EMEA Region Newmarket T/A Newmarket Co-Operative Creameries. The issues raised are summarised as follows:

- The access road to the Cheese Plant is not suitable for residential development due to its use for heavy commercial traffic.
- This opinion is reflected in the Draft CDP zoning.
- The windows will overlook operations within the creamery.
- No details as to how surface water will be dealt with. Size and position of proposed soakpits do not appear sufficient.
- Concern that the existing creamery traffic – which runs day and night – will represent an obvious danger to children.
- No car parking is proposed to serve the houses. The presence of existing parked cars on the road already restricts the width of the access to the Creamery. Any restriction in access to the Creamery will impact production levels.
- Being one of the foremost cheese manufacturing plants in Europe, the third party is conscious that no disruption would be caused by objections from new tenants residing immediately adjacent to the Cheese Plant.

4.0 Planning History

In terms of the subject site, there is no relevant planning history.

The following is the relevant planning history pertaining to the wider area:

PA ref: 16/4895: Permission granted to Newmarket Co-Operative Creameries Ltd., for upgrade to the existing waste water treatment plant (WWTP) with proposed plant including balance tank, anoxic, anaerobic and aeration tanks, proposed clarifier tank, Dissolved Air Flotation (DAF) plant, underground effluent pumping station, culverts, control room, filters and concrete plinths. The proposed development will include the demolition of the existing 11-meter bio-tower at the Newmarket Co-Operative Creameries Ltd facility in Newmarket town, Co Cork, within the townlands of Garrannawarrig Upper, Park, Garrannawarrig Lower and Liscongill. Installation of an underground pumped pipeline to convey treated water from the facility to a discharge point on the River Dalua, 4km to the south east of the facility, utilizing the R576 road corridor, including all necessary pipeline connection, drainage and vent infrastructures. Intensification of use of the existing facility through an increase in the duration of the weekly and annual milk processing period at the Newmarket Creamery resulting in an increase in milk processing up to a maximum of 80 million gallons per annum. These changes will be subject to an amendment by EPA, of the existing site Industrial Emissions Directive Licence. An Environmental Impact Statement and Natura Impact Statement accompany this planning application. The proposed development includes work to Allen's Bridge, a recorded monument under the National Monuments Act and is located within the zone of potential for the historic town of Newmarket which has a Recorded Monument designation.

PA ref: 10/5656: Permission granted for the retention of a single storey extension to the existing salt room to Newmarket Co-Operative Creameries Ltd.

PA ref: 09/4533: Permission granted to Newmarket Co-Operative Creameries Ltd. for the construction of a single-storey storage building to rear of existing feed store & associated site works.

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. Relevant policies of the NPF seek to support the creation of high-quality urban places and to increase residential densities in appropriate locations. The following objectives are relevant in this regard:

- Policy Objective 4
- Policy Objective 6
- Policy Objective 10
- Policy Objective 11
- Policy Objective 33
- Policy Objective 35

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. The guidelines state that car parking standards need to be set at realistic levels, having regard, *inter alia*, to proximity to public transport.
- 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 a number of safeguards.

5.3. Quality Housing for Sustainable Communities, Best Practice Guidelines for Delivering Homes Sustaining Communities, DoEHLG, 2007

- 5.3.1. The purpose of these Guidelines is to assist in achieving the objectives for Delivering Homes, Sustaining Communities contained in the Government Statement on Housing Policy which focuses on creating sustainable communities that are socially inclusive in a variety of ways and to promote better homes, better neighbourhoods and better urban spaces. Section 5.3 of the guidelines deal with Internal Layout and Space Provision and Table 5.1 of the guidelines sets out the space provision and room sizes for typical dwellings.

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

- 5.4.1. 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.

5.5. Development Plan

- 5.5.1. The Board will note that the subject application was considered under the Cork County Development Plan 2014 and the provisions of the Fermoy Municipal District Local Area Plan 2017. In the interim, the Board will note that the Elected Members of Cork County Council adopted the Cork County Development Plan 2022-2028 at a full Council Meeting on the 25th of April 2022. The Plan came into effect on the 6th of June 2022. Therefore, the 2022 CDP is the relevant policy document pertaining to the subject site.
- 5.5.2. Volume 3 of the 2022 CDP deals with North Cork and identifies Newmarket as a Main Town in the Kanturk Mallow Municipal District. The town has an allocated population target of 1,206 to 2028 with 88 new residential units required. The 2022

CDP identifies the subject site as being located within the settlement boundary of the town of Newmarket and on lands zoned Existing Mixed/General Business/Industrial Uses.

- 5.5.3. Volume 1 of the Plan sets out the main policy material of the CDP and Chapter 3 deals with settlements and placemaking where it is the stated vision of the plan, to protect and enhance the unique identity and character of County Cork's towns and villages and improve quality of life and well-being through the delivery of healthy placemaking underpinned by good urban design, with the creation of attractive public spaces that are vibrant, distinctive, safe and accessible and which promote and facilitate positive social interaction and supports the needs of the community. In seeking to further the focus of the NPF, the Cork CDP notes that a new focus on urban opportunity sites, through a combination of infill lands and backlands amongst other measures. The following sections of the Plan relates to infill housing:

3.5.13 To make the most sustainable use of existing urban land within the built envelope of a settlement, the planning authority will encourage the development of infill housing on suitable sites, subject to adherence to residential amenity standards and avoiding any undue impacts on the established character of an area. The layout and design of infill schemes should respect existing building lines and should generally follow established roof profiles, buildings heights and use of materials within the street.

3.5.14 Infill housing is often suitable as starter homes or housing for older people given their size and locations in central locations close to services and amenities.

3.5.15 In general, infill housing should comply with all relevant development plan standards for residential development, however, in certain limited circumstances; the planning authority may relax the normal planning standards in the interest of developing vacant, derelict and underutilised land.

- 5.5.4. Chapter 18 of the Plan deals with Zoning and Land Use and 18.3 deals with Land Use Zoning Categories. The approach in this Plan is to designate these areas as two different categories of land uses 'Existing Residential/Mixed Residential and Other Uses' and 'Existing Mixed/General Business/Industrial Uses'. This distinguishes areas that are predominantly residential and have the potential to expand residential

development and compatible uses and areas which are predominantly employment uses (See section on Existing Mixed/General Business/Industrial Uses below). The areas identified as Existing Mixed/General Business/Industrial Uses consists of a mix of employment uses generally including long term establishments. These areas include (but not exhaustively) a large range of uses including general warehousing, manufacturing, storage, builders provider/yard, food processing facility, logistics, vehicle sales outlets, high technology manufacturing, plant and tool hire, public services, service station, vehicle servicing/maintenance garage. This zoning will protect existing uses and support expansion where appropriate of existing uses while not permitting uses that would threaten the vitality and integrity of the primary use of these areas.

5.5.5. The following policy is relevant:

- ZU 18-10: Existing Mixed/General Business/Industrial Uses

Facilitate development that supports in general the employment uses of the Existing Mixed/General Business/ Industrial Areas. Development that does not support or threatens the vitality or integrity of the employment uses of these areas shall not be permitted.

Appropriate Uses in Existing Mixed/ General Business/Industrial Uses

General warehousing, trade warehousing and distribution, manufacturing and repairs, storage, builders provider/ yard, food processing facility, logistics, fitting and business to business activity, wholesaling, vehicle sales outlets, high technology manufacturing plant and tool hire, public services, service station, vehicle servicing/maintenance garage, incubator units, childcare facilities, commercial film studio facilities.

5.6. Natural Heritage Designations

5.6.1. 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 is located approximately 1km to the west. The Stack's to Mullaghareirk Mountains West Limerick Hills and Mount Eagle SPA (Site code 004161) is located approximately 4.5km to the west. In addition to the above, the Lower River Shannon SAC (Site Code 002165) lies approximately 10.6km to the north west.

5.7. EIA Screening

5.7.1. 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.

5.7.2. The proposed development comprises the construction of 2 houses in Newmarket, Co. Cork, on a site of 0.0357ha. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA.

5.7.3. 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.

5.7.1. Having regard to:

- (a) the nature and scale of the development,
- (b) the location of the site within the development boundaries of Kinsale,
- (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 against the decision of the Planning Authority to grant planning permission for the proposed development. The grounds of appeal reflect those issues raised during the PAs assessment of the proposed development and are summarised as follows:

- The Newmarket Co-Operative Creameries Cheese Plant has been in operation for more than 40 years and use the access road directly adjacent to the proposed site.
- The cul-de-sac entrance is narrow, and the existing houses use the footpaths for parking which means it can be dangerous due to the amount of traffic entering the creamery site.
- There is no turning circle or hammerhead at the end of the cul-de-sac.
- The houses were moved eastwards and closer to the boundary with the Creamery site and concern is raised with regard to the location of the proposed car parking spaces and access to the houses.
- Issues raised regarding the soakpits.
- The site is zoned for Existing Mixed / General / Business / Industrial uses and not for residential.
- First floor windows will overlook the Creamery property and may impact on future potential operations.

It is requested that permission be refused.

6.2. First Party Response to Third Party Appeal

6.2.1. The first party has responded to the third-party appeal as follows;

- Existing residents do not drive into the factory site to turn as there is a physical barrier and security in place.
- Ample parking is to be provided.
- The issue with parking is not with residents but the general public. The proposed development will improve access for traffic to the factory as parking on the footpath will not be possible.
- If the appellants feel that the existing road is not satisfactory, then consideration should be made to prioritise the existing entrance they have on the main road.
- With regard to drainage issues, it is submitted that the assertion that water could seep from the soakpits is far-fetched.
- With regard to the zoning issue raised, it is submitted that the application was submitted under the 2014 CDP and 2017 LAP. The 2022 CDP referred to is in draft form.
- The proposed development would still satisfy the zoning objectives of the new development plan which does not specifically prohibit well considered, small dwelling developments on existing lands.
- With regard to overlooking, the windows referred to are bathrooms and bedrooms. It is farcical to claim that a bedroom window could restrict any industrial development considered in the future.
- The dwellings design complies with or exceeds the recommendations set out in The Universal Design Guide for Homes in Ireland and the garden areas exceed the minimum requirements for one and two bedroomed houses – Cork County Council Guide for Residential Estate Development.

It is submitted that the appellants concerns are unfounded, and it is requested that permission be granted.

6.3. Planning Authority Response

The PA submitted a response advising that all the relevant issues have been covered in the reports already forwarded to the Board. No further comments to make.

7.0 Assessment

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 development the subject of this application 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. Other Issues
3. Appropriate Assessment

7.1. Principle of the Development:

- 7.1.1. The proposed development seeks to construct a residential development comprising 2 houses connecting to public services close to the centre of the town of Newmarket, Co. Cork. The Planning Authority considered the proposed development under the provisions of the 2014 Cork County Development Plan and the Kanturk-Mallow MD Local Area Plan 2017. The Board will note that the Elected Members of Cork County Council made the Cork County Development Plan 2022-2028 and adopted the Plan on the 25th of April 2022. The Plan came into effect on the 6th of June 2022. It is noted that the application, the subject of this appeal, was submitted under the provisions of the previous 2014 County Development Plan and the Kanturk-Mallow MD LAP. The Board will note that the adoption of the 2022 Cork County Development Plan replaces both of these policy documents.
- 7.1.2. Volume 1 of the County Development Plan sets out the main policy material of the CDP and Chapter 3 deals with settlements and placemaking where it is the stated vision of the plan, to protect and enhance the unique identity and character of

County Cork's towns and villages and improve quality of life and well-being through the delivery of healthy placemaking underpinned by good urban design, with the creation of attractive public spaces that are vibrant, distinctive, safe and accessible and which promote and facilitate positive social interaction and supports the needs of the community. In seeking to further the focus of the NPF, the Cork CDP notes that a new focus on urban opportunity sites, through a combination of infill lands and backlands amongst other measures.

- 7.1.3. Volume 3 of the 2022 CDP deals with North Cork and identifies Newmarket as a Main Town in the Kanturk Mallow Municipal District. The town has an allocated population target of 1,206 to 2028 with 88 new residential units required.
- 7.1.4. The 2022 CDP identifies the subject site as being located within the settlement boundary of the town of Newmarket and on lands zoned Existing Mixed/General Business/Industrial Uses. The Board will note that the site the subject of this appeal, was previously zoned existing built-up area in the 2017 LAP within the settlement boundary of Newmarket. This zoning includes all lands with the development boundary of the town which do not have a specific zoning objective.
- 7.1.5. Chapter 18 of the Plan deals with Zoning and Land Use and 18.3 deals with Land Use Zoning Categories. The approach in this Plan is to designate these areas as two different categories of land uses 'Existing Residential/Mixed Residential and Other Uses' and 'Existing Mixed/General Business/Industrial Uses'. This distinguishes areas that are predominantly residential and have the potential to expand residential development and compatible uses and areas which are predominantly employment uses.
- 7.1.6. The areas identified as Existing Mixed/General Business/Industrial Uses consists of a mix of employment uses generally including long term establishments. These areas include (but not exhaustively) a large range of uses including general warehousing, manufacturing, storage, builders provider/yard, food processing facility, logistics, vehicle sales outlets, high technology manufacturing, plant and tool hire, public services, service station, vehicle servicing/maintenance garage. This zoning will protect existing uses and support expansion where appropriate of existing uses while not permitting uses that would threaten the vitality and integrity of the primary use of these areas.

7.1.7. In addition to the above, policy objective ZU 18-10: Existing Mixed/General Business/Industrial Uses is relevant and seeks to:

Facilitate development that supports in general the employment uses of the Existing Mixed/General Business/ Industrial Areas. Development that does not support or threatens the vitality or integrity of the employment uses of these areas shall not be permitted.

7.1.8. Appropriate Uses in Existing Mixed/ General Business/Industrial Uses zones are noted to include:

General warehousing, trade warehousing and distribution, manufacturing and repairs, storage, builders provider/ yard, food processing facility, logistics, fitting and business to business activity, wholesaling, vehicle sales outlets, high technology manufacturing plant and tool hire, public services, service station, vehicle servicing/maintenance garage, incubator units, childcare facilities, commercial film studio facilities.

7.1.9. While I acknowledge that the application the subject of this appeal was lodged under the previous policy framework for County Cork, Policy Objective ZU 18-10 states that 'development that does not support or threatens the vitality or integrity of the employment uses of these areas shall not be permitted'. While I would acknowledge that there are 6 residential properties located on Emmett Place, the cul-de-sac also comprises the primary entrance to the Newmarket Co-Operative Creamery. I note the third-party appeal and the concerns regarding the capacity of the cul-de-sac to accommodate further traffic and in particular, parking, and the potential impact of same on the access to the Cheese Plant. The current zoning would suggest that residential development on the subject site would contravene the zoning objective for the site as detailed in the current County Development Plan, if it does not support, or threatens the vitality or integrity of the employment use of the site.

7.1.10. As such, and notwithstanding the nominal scale of the development proposed, I am not satisfied that the principle of the proposed residential development accords with the zoning objective afforded to the subject site.

7.2. Other Issues

7.2.1. Roads & Traffic

The proposed development is to be accessed over the existing cul-de-sac road which provides access to the Newmarket Co-Operative Creameries facility as well as a small number of residential properties. The Board will note the initial concerns raised regarding the proposed development in terms of the proposal not to provide on-site car parking to serve the two new dwellings. While the amended proposal provides for 1 space per unit within the site, I would accept the third-party concerns regarding the capacity of the access road to accommodate further development given the location of the access to the Cheese Plant. I would also accept that it is commonplace for people to park on the street along Emmett Place.

I would agree that the capacity of Emmett Place is somewhat restricted, having regard to the location of the site in proximity to the centre of Newmarket, together with the amended proposals to provide 1 car parking space per unit, I would not consider it appropriate to conclude that the development, if permitted, is likely to give rise to any concerns relating to roads and traffic.

7.2.2. Water Services

In terms of water services, the Board will note that Irish Water has not raised any concerns or objections with the connection of the 2 residential units to the existing public water services networks.

In terms of surface water management at the proposed development, I note that the applicant proposes to use soak pits and following the submission of further information, Cork County Councils Area Engineer raises no objections in this regard subject to compliance with conditions.

I have no objections to the proposed development in terms of water services.

7.2.3. 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.

7.3. Appropriate Assessment

Introduction:

- 7.3.1. 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 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 is located approximately 1km to the west.

Consultations:

- 7.3.2. With regard to consultations, the Board will note that no issues relating to AA were raised by any party.

Screening for Appropriate Assessment

- 7.3.3. The proposed development will connect to the public water services in the town of Newmarket. I note no objections from IW in this regard.
- 7.3.4. The applicant did not prepare an Appropriate Assessment Screening Report as part of the subject application. 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 3 Natura 2000 Sites occurring within a 15km radius of the site, the closest one being the Blackwater River (Cork/Waterford) SAC which is located approximately 1km to the west. In addition to the above, the following sites lie within 15km of the site:
- The Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161) lies approximately 4.5km to the west.
 - The Lower River Shannon SAC (Site Code: 002165) lies approximately 10.6km to the east and 10.6km to the north-west.
- 7.3.5. I am satisfied that all of the above sites can be screened out in the first instance, as they are all located outside the zone of significant impact influence because the ecology of the species and / or the habitat in question is neither structurally nor functionally linked to the proposal site. There is no potential impact pathway connecting the designated sites to the development site and therefore, I conclude

that no significant impacts on the above-mentioned sites is reasonably foreseeable and that they can all be excluded at the preliminary stage for the following reasons:

- Sites are located entirely outside the EU site and therefore there is no potential for direct effects.
- No habitat loss arising from the proposed development.
- No disturbance to species.
- No pathways for direct or indirect effects.

In Combination / Cumulative Effects

- 7.3.6. Given the nature of the proposed development, being the construction of two houses on an urban and serviced site within the built-up area of Newmarket, I consider that any potential for in-combination effects on water quality of any of the Natura 2000 sites can be excluded. In addition, I would note that all other projects within the wider area which may influence conditions in any of the identified Natura 2000 sites via rivers and other surface water features are also subject to AA.

Conclusion on Stage 1 Screening:

- 7.3.7. 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.

8.0 Recommendation

- 8.1.1. Having regard to the information submitted in support of the appeal, together with all other matters and details on the file, I recommend that permission be refused for the development for the following reason.

9.0 Reasons and Considerations

1. Having regard to the ZU 18-10 zoning of the site in the Cork County Development Plan 2022 identified as Existing Mixed/General Business/Industrial Uses, the objective of which is to protect existing uses and support expansion where appropriate of existing uses while not permitting uses that would threaten the vitality and integrity of the primary use of these areas, and the location of the site adjoining Newmarket Co-Operative Creameries and on the access road to the Cheese Plant facility, it is considered that the proposed development, which comprises residential development, would contravene materially the said zoning objective and would be contrary to the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
06/01/2023