



An
Bord
Pleanála

Inspector's Report

ABP-313334-22

Development	Construction of a new housing development comprising of 17 dwellings.
Location	'Rathfadden Lodge', Upper Yellow Road, Waterford
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	21988
Applicant(s)	S & K Carey Ltd.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Tadhg O'Connell
Observer(s)	None on file
Date of Site Inspection	22 nd July 2023
Inspector	Sarah Moran

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	5
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	8
5.1. National Planning Policy	8
5.4. Natural Heritage Designations	13
5.5. EIA Screening	13
6.0 The Appeal	13
6.1. Grounds of Third Party Appeal.....	13
6.2. Applicant Response to Third Party Appeal.....	16
6.3. Planning Authority Response to Third Party Appeal	17
6.4. Observations	17
6.5. Further Responses.....	18
7.0 Assessment.....	18
8.0 Recommendation.....	27
9.0 Reasons and Considerations.....	27
10.0 Conditions	27

1.0 Site Location and Description

1.1. The site, stated area 0.6125 ha, is located in an established area c. 1km to the west of Waterford city centre. It is currently occupied by an existing single storey house dating to the 19th century, 'Rathfadden Lodge' and associated grounds and outbuildings. The site is overgrown and the dwelling has not been occupied for some time. A low voltage electricity line traverses the site. There is an existing stone wall along the frontage to Yellow Road, which has a vehicular access and a pedestrian gate with stone surrounds. There is also a stone wall along the western site boundary.

1.2. The site area is bound as follows:

- Frontage to Yellow Road to the south
- Two storey housing within Congress Place to the east and Rathfadden Park to the north.
- Two storey housing within Marian Park to the west, also a detached two storey house, which is occupied by a medical practice, accessed via Yellow Road.

2.0 Proposed Development

2.1. Permission is sought to demolish the existing house at the site and to construct 17 no. houses, communal open space area, connection to existing public foul and surface water drainage, new pedestrian/vehicular access to Yellow Road and associated site works, including works to the public footpath at Yellow Road. The proposed housing mix is as follows:

Unit Type	No. of Units	%
Type A 3-bed	4	24%
Type B 3-bed	12	71%
Type B 4-bed	1	5%
Total	17	

2.2. The application was accompanied by the following particulars:

- Design Impact Assessment
- Design Statement
- Housing Quality Assessment
- Drainage Report
- Traffic Impact Assessment
- Details of a Part V agreement with Waterford City and County Council (WCCC) dated 9th October 2021

2.3. The applicant submitted further particulars to WCCC on 24th February 2022 in response to a Request for Further Information (RFI) including a DMURS Compliance Statement, details of correspondence with Irish Water/ Uisce Éireann, details of house designs and a site layout indicating details of access from Yellow Road, also boundary details and contiguous elevations.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Waterford City and County Council (WCCC) issued a Request for Further Information (RFI) on 14th December 2021 in relation to the following matters:

- Applicant requested to submit a Connection Agreement from Irish Water for connection to the public foul drainage system and water supply
- Details of proposed optional sunrooms and attic conversions
- Revised site layout indicating access to Yellow Road in accordance with DMURS and DMURS Compliance Statement
- Details of western site boundary and related ground levels
- Details and sections of Site no. 17
- Details of proposed boundary to Yellow Road

3.1.2. WCCC issued a notification of a decision to grant permission subject to 24 no. conditions on 22nd March 2022. The conditions imposed do not require any

significant changes to the proposed development. The following conditions are noted in particular:

- Condition no. 2 requires the applicant to reach agreement with the WCCC District Engineer regarding the site entrance location, front boundary setback and footpath location prior to the commencement of development, along with other roads infrastructure requirements including compliance with DMURS.
- Condition no. 5 states that the permission is predicated on the developer obtaining necessary consents and complying with other conditions of Irish Water, along with other water connection and drainage requirements.
- Condition no. 24 requires the submission of a full record of Rathfadden Lodge as per the Architectural Heritage Protection Guidelines prior to the commencement of development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Report of Senior Executive Planner, 13th December 2021, recommends RFI.
- Habitats Directive Screening Assessment, undated. Concludes that, having regard to the location of the subject site and to the nature of the proposed development, and the intervening distance with the identified Natura 2000 sites, no AA issues arise in this case.
- Second report of Senior Executive Planner, 21st March 2022. Recommends permission subject to conditions.

3.2.2. Other Technical Reports

- WCCC Environment Section 8th November 2021. No objection subject to conditions.

3.3. Prescribed Bodies

- 3.3.1. Transport Infrastructure Ireland, 5th November 2021. No observations.

3.4. Third Party Observations

- 3.4.1. There is a submission on file from the above named third party appellant, which objects to the development on grounds similar to those raised in the grounds of appeal.

4.0 Planning History

4.1. Reg. Ref. 19/886 Development Site

- 4.1.1. Permission sought by the current applicant to demolish existing dwelling and construct a new housing development of 40 no. units comprising 12 no. two storey, semi-detached/terraced houses, a two storey block of 28 no. apartments and associated site development works. WCCC requested further information on 23rd January 2020 in relation to the following matters *inter alia*:

- Revised proposals for the front elevation of the apartment units (southern elevation);
- Traffic Impact Assessment, State 1/ 2 Road Safety Audit; detailed design for entrance from Upper Yellow Road in accordance with DMURS; car parking to address development plan standards;
- Revised design to address potential impacts on residential amenities, related details of proposed boundary treatments;
- Details of shared surface homezone;
- Bin storage details;
- Irish Water connection agreement;
- Provision of bicycle storage areas;
- Roadside boundary details;
- Planning authority has significant concerns regarding the layout and density of development, Development Impact Assessment requested;
- Applicant to demonstrate provision of 15% public open space;

- Report from Conservation Architect containing a full assessment, appraisal and record of Rathfadden Lodge.

The applicant did not respond to the request and the application was deemed to be withdrawn on 18th September 2020.

- 4.1.2. I note the submission on file of the Department of Culture, Heritage and the Gaeltacht in relation to reg. ref. 19/886, dated 7th January. This notes that Rathfadden Lodge is not included on the Record of Protected Structures and was not recorded by the National Inventory of Architectural Heritage. However, Rathfadden Lodge is marked on the first edition of the Ordinance Survey and recommends the following condition if permission is granted:

A full record is made of Rathfadden Lodge prior to the commencement of works with the record to meet the standards for “Recording as a condition of permission” as set out in Sections 6.7.3 – 6.7.5 of Architectural Heritage Protection – Guidelines for Planning Authorities (2011). The record should include a full set of measured elevations and plans and a high quality digital photographic survey annotated and cross-referenced with the drawings. A copy of the record should be submitted to the planning authority and to the county library.

The Department also notes that the site boundary includes a pedestrian gateway and a vehicular entrance which are likely to be removed to facilitate the development and recommends the following condition in relation to same:

The pedestrian gateway and the vehicular gateway are carefully dismantled by hand in order to prevent damage to the stone work and to facilitate the reuse of the stone work as a landscape feature on site or at an alternative location.

4.2. 19/937 Adjacent Convenience Store

- 4.2.1. Relating to a convenience store immediately across the road from the development site. Permission granted for the completion of works as granted under planning permissions Ref. No. 09/500046 & 14500070, namely the partial demolition of existing shop, re-construction of new single storey building comprising of enlarged shop at ground floor encompassing ground floor of adjacent house with the first floor of the house being used for stockroom & ancillary retail uses (the changes to the existing house being a change of use from residential to retail/commercial) & all

ancillary site works. This decision is referred to in the grounds of the third party appeal.

5.0 Policy Context

5.1. National Planning Policy

5.1.1. The following national planning policy documents are noted:

- Project Ireland 2040 National Planning Framework
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009)
- Design Manual for Urban Roads and Streets (DMURS) (2013)
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)
- Architectural Heritage Protection Guidelines for Planning Authorities (2011)

5.2. Waterford City Development Plan 2013-2019 (as extended)

5.2.1. The previous Waterford City Development Plan was in effect when the subject application was lodged with WCCC on 22nd October 2021 and when the subject decision was issued by WCCC on 22nd March 2022.

5.2.2. The development site had the zoning objective 'Developed Residential' under the City Development Plan, with the following stated objective:

To protect and improve existing residential areas and their amenities and provide for appropriate residential infill opportunities where feasible.

5.2.3. Development plan section 7.7 Recreation & Amenity states an objective to create a network of natural heritage areas and recreational open spaces and amenity areas with the strategic zoning of lands for recreational open space and natural heritage protection in association with new development areas. It also states:

The provision of public open space, recreational and community facilities, is deemed to be an integral part of the infrastructure of the neighbourhoods, and the City Council will require that proposals for the provision of such facilities are included with development proposals. The Development Contribution Scheme contains a

requirement for developments to contribute financially towards the provision of such amenities by the Council. The public open space requirement within residential areas is set down in Chapter 13 of this Development Plan. The requirements are based on a percentage of the development site area.

The related development plan policy 7.7.4 applies:

In considering applications for new development, to require the provision of appropriately located and designed open space, recreational and amenity areas.

5.2.4. Development Plan Chapter 8 relates to Housing. The following policies and objectives are noted in particular:

- Development plan section 8.4 states that 20% of land zoned in the plan for residential use, or for a mixture of residential and other uses, shall be reserved for the provision of Social and Affordable housing under Part V. Any legislative change altering the provisions of Part V shall be adhered to and incorporated into the Housing Strategy as appropriate.
- Section 8.6 states an objective to ensure that a mixture of residential unit types and sizes are developed to reasonably match the requirements of different categories of households within the city, including the special requirements of older persons and people with disabilities and other special needs.

5.2.5. Development plan Chapter 13 sets out development management standards. The following are noted in particular:

- Section 13.1 Residential Density.
- Section 13.2 Qualitative & Quantitative Design Standards refers to the Urban Design Manual. Quantitative standards including:
 - Guideline for rear gardens of between 50m²-75m²
 - General minimum distance of 22m between directly opposing first floor windows.
 - A distance of 2.3 m shall be provided between dwellings for the full length of the flanks in all developments of detached, semi-detached and end terrace houses. This area should be equally divided between the dwellings so separated. Where garages are provided as single storey annexes to

houses, the above separation may be reduced, provided a direct through access from front to rear of the dwelling is maintained.

- Public open space in residential developments on green field sites or those for which a LAP is appropriate shall be provided at a minimum rate of 15% of the total site area. In other areas, such as large infill sites or brown field sites public open space shall generally be provided at a minimum rate of 10% of the total site area. In the instance of institutional lands and ‘windfall sites’ which are often characterised by a large private or institutional building set in substantial open lands and in some cases is accessible to the wider community as an amenity area, proposals for higher density residential development must take into account the objective of retaining the open character of these lands whilst ensuring the efficient use of such land. In such instances a minimum open space requirement of 20% of the site area should be specified however this should be assessed in the context of the quality and provision of existing or proposed open space in the wider area.
- Detailed site development standards for residential development are also provided.
- Car parking standards of one car parking space per residential unit in Zone 1 (City Centre and within 250m of a public transport route).

5.3. Waterford City and County Development Plan 2022–2028

- 5.3.1. The new Waterford City and County Development 2022-2028, which replaces the previous City Development Plan, was adopted by the Elected Members of Waterford City and County Council on 7th June 2022 and came into effect on 19th July 2022.
- 5.3.2. The development site has the zoning objective RS Existing Residential with the stated objective ‘*Provide for residential development and protect and improve residential amenity*’ under the new development plan.
- 5.3.3. The following transport/ car parking objectives are noted in particular:

Trans 55 We will manage car parking as part of the overall strategic transport needs of the City and County in accordance with the parking standards set out in Volume 2.

Trans 56 We will ensure the adequate provision of appropriately located off-street car parking in urban areas to meet the needs of local residents, shoppers and businesses.

Trans 58 To ensure that the needs of people with disabilities and older people are met with regards to car parking provision within urban centres as well as in existing and new developments.

5.3.4. Development plan Chapter 7 relates to Housing & Sustainable Communities. The following policy objectives are noted in particular:

H 01 To promote compact urban growth through the consolidation and development of new residential units on infill/ brownfield sites and mews and townhouse developments and support the most efficient use of publicly owned lands for residential and mixed-use developments. This will be achieved through working in collaboration with landowners, the Land Development Agency, The Housing Agency and other statutory and voluntary agencies and by the utilisation of available funding (URDF and RRDF) for plan and nature-based infrastructure led development.

H 02 In granting planning permission, we will ensure new residential development:

- *Is appropriate in terms of type, character, scale, form and density to that location.*
- *Is serviceable by appropriate supporting social, economic and physical infrastructure.*
- *Is serviceable by public transport and sustainable modes such as walking and cycling.*
- *Is integrated and connected to the surrounding area in which it is located; and,*
- *Is designed in accordance with the applicable guidance and standards of the time:*
 - *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).*
 - *Delivering Homes, Sustaining Communities (2007). • Urban Design Manual A Best Practice (2009).*
 - *Permeability Best Practice NTA (2015); and,*

- *Design Manual for Urban Roads (DMURS) (2020) or any update thereof.*
- *National Disability Inclusion Strategy (NDIS) 2017-2022.*
- *United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).*

H 04 We will promote and facilitate sustainable and liveable compact urban growth through the thoughtful consolidation and of infill/ brownfield sites in a way which promotes appropriate levels of compactness while delivering healthier and greener urban spaces and residential amenities ...

H 20 Where new development is proposed, particularly on smaller suburban infill sites (< 1 ha in area) we will ensure that the residential amenity of adjacent residential properties in terms of privacy and the availability of daylight and sunlight is not adversely affected. We will support lower density type development at these locations. We will require that new development in more established residential areas respect and retain, where possible, existing unique features which add to the residential amenity and character of the area, such features include front walls, gates, piers, railings, and stone/brick/render work.

SC 34 To support the provision of structured and unstructured play areas with appropriate equipment and facilities, incorporating and facilitating Nature-based Play with respect to the provision of play opportunities throughout the County. These play facilities will also seek to maximise inclusivity and accessibility, to ensure that the needs of all age groups and abilities - children, teenagers, adults and older people - are facilitated in the public parks and open spaces.

SC 41 Provide a hierarchy of attractive parks and public open spaces, which vary in size and nature, are all inclusive, by being readily accessible and at a convenient distance from people's home and/ or places of work. We will also work with the Waterford Disability Network to provide where necessary inclusive communication boards in parks and other public spaces.

5.3.5. The following placemaking objectives are noted in particular, as set out in development plan Chapter 8 Placemaking:

Place 18 The design of all residential developments should ensure an appropriate mix, size, type, tenure to meet the needs of residents.

Place 19 Encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised.

- 5.3.6. Development plan Volume 2 sets out development management standards, including in relation to residential development at sections 3.0 and 4.0 and parking standards at section 7.0 and roads at section 8.0.

5.4. Natural Heritage Designations

- 5.4.1. Having regard to the nature and scale of the proposed development in an established built-up area on serviced land, and the separation distances to European Sites, I do not consider that the proposal would be likely to significantly impact the qualifying interests of European Sites during either the construction or operational phases of development. As such, I consider that no Appropriate Assessment issues arise. In conclusion, I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site. The WCCC AA Screening Assessment is also noted in this regard.

5.5. EIA Screening

- 5.5.1. Having regard to the modest scale and nature of the proposed development being five no. residential units on an infill site that has already been subject to development, I consider that the requirement for submission of an EIAR and carrying out of an EIA may be discounted at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Third Party Appeal

- 6.1.1. The third party appeal is submitted by/on behalf of the adjoining property owner at St. Philomena's, which is located at Yellow Road to the immediate southwest of the development site. This property is a detached structure, originally a dwelling that is now occupied by several GP practices. The grounds of appeal may be summarised as follows.

6.1.2. Grounds of Appeal on Car Parking and Road Safety Issues

- There is currently on-street parking at the site frontage to Yellow Road. The appellant is concerned that the development will result in the loss of on-street car parking, due to the relocation of the existing disused access to the development site and the possible implementation of measures to restrict car parking at the road frontage, such as double yellow lines. This will have a serious detrimental impact on the use of the adjoining GP practice, which has many patients with limited mobility and accessibility issues. The loss of car parking will also have an adverse impact on the convenience store across the street, which was granted permission for an expanded floor area under reg. ref. 19/937.
- The appellant states several concerns about the Traffic Impact Assessment (TIA) and related documentation submitted with the application including:
 - The TIA is based on traffic counts that were carried out when schools were closed for summer holidays and therefore does not accurately represent existing traffic conditions at Yellow Road. There is currently significant traffic congestion in the area.
 - There are details in the DMURS Compliance Statement that do not purport to the proposed development.
 - No Road Safety Audit prepared. There have been several collisions along Yellow Road including a fatal collision between a truck and a pedestrian on 27th November 2008.
 - A Construction Traffic Management Plan should have been submitted with the application.
 - The application does not include consent for proposed works to the public footpath at Yellow Road, outside the site boundary. Therefore the planning authority is precluded from granting permission for the development.
- It is submitted that a mandatory 'left turn only' traffic arrangement for traffic entering and exiting the development should be provided to improve traffic flows and address road safety issues, as provided elsewhere in the vicinity.

- The appellant suggests a condition requiring the relocation of the proposed development access eastwards, to ensure that some car parking could be retained adjacent to the GP practice, and which may also alleviate some adverse impacts on traffic and road safety.

6.1.3. Grounds of Appeal on Standards of Residential Development, Impacts on Residential Amenities

- The proposed public open space is defined by turning heads and parking spaces and does not provide any equipped children's play area. Limited planting is provided of non-native species. The small area of open space to the north of the access road is a 'left over space' with no indication of how it will function. The proposed open space provision is therefore not useable in any meaningful sense and will result in poor placemaking on site.
- The site had a significant amount of mature trees until 2019. The submitted landscaping plan does not adequately mitigate the loss of these trees.
- The proposed house no. 12 will have an overbearing impact on the rear of no. 21 Rathfadden Park.
- The urban design and site layout are poor quality. The Design Statement does not detail how the development meets development plan standards. It is submitted that the development is not of sufficient quality to warrant a grant of permission and a radical redesign of the proposal would be necessary to achieve a high quality infill residential development on this site.

6.1.4. Grounds of Appeal Other Matters

- The applicant has not submitted a Connection Agreement with Irish Water/ Uisce Éireann, even though the RFI requested a Confirmation of Feasibility letter. The Board should refuse permission on this basis.
- The application does not include a public lighting schedule.
- The application does not provide adequate details of the proposed construction and demolition.
- No invasive species survey carried out or details of same submitted.
- Proposed floor layouts are not finalised and have indicative status only.

- The Board is requested to address the above issues in a *de novo* assessment.

6.2. Applicant Response to Third Party Appeal

6.2.1. The following points are noted:

- The applicant notes that the original permission for the adjacent GP surgery, reg. ref. 02/500218 permitted a single GP surgery within the existing house and that the permitted development included the demolition of the existing garage at that property to provide four no. off-street parking spaces. This aspect of the permitted development was never carried out but would, if done so, provide sufficient parking for the permitted GP practice. The second GP practice has no entitlement to car parking.
- The appellant did not object to the application for the extension to the convenience store across the road from the development site, ref. 19/973.
- The imposition of parking restrictions at the site frontage to Yellow Road is outside the control of the applicant or appellant and is speculation in any event.
- The suggestion of moving the vehicular access eastwards is not acceptable to the applicant. The Area Engineer and TII did not object to the current proposed location. This relocation would not create any further off street parking opportunities and would bring the access closer to the junction of Congress Place and Yellow Road.
- The TIA acknowledges limited survey data due to Covid restrictions. A Road Safety Audit is required by condition. Limitations of the DMURS compliance statement are acknowledged but it is submitted that these did not detract from its findings, which were accepted by the planning authority.
- The suggested left turn access was considered and discounted by the planning authority as it would result in a traffic hazard due to likely illegal maneuvering at the junction of Kearn's Road / Upper Yellow Road and Cleaboy Road.
- It is common practice that Construction Management Plans are required by condition.
- The proposed works on the public road are within the applicant's folio.

- The proposed public open space area is functional and meets development plan requirements.
- The development meets reduced car parking requirements in the new (then draft) development plan. A condition to provide reduced car parking provision in accordance with new car parking standards could be imposed if permission is granted, to increase open space provision within the site.
- The provision of a public play area within such a small development would introduce potential public safety concerns and potential anti-social behaviour issues. The proposed landscaping is acceptable to the planning authority. The 'leftover space' allows for landscaping to increase the overall amenity of the development.
- No objection from adjacent property at no. 21 Rathfadden Park. High trees at the development site, which previously overshadowed that property, have been removed (photo submitted) and the development is therefore an improvement on the previous situation at that residential property as regards overshadowing.
- It is submitted that the current proposal represents the best possible scale and design, reflects existing surrounding development and will have reduced traffic and parking impacts from the previous proposal at this site as per reg. ref. 19/886.
- It is common practice for the planning authorities to condition connection agreements with Irish Water/ Uisce Éireann.
- The sunrooms and attic conversions are exempted development even if carried out when the houses were occupied. It is submitted that development contributions should not be applied to these possible additional works.

6.3. Planning Authority Response to Third Party Appeal

6.3.1. None on file.

6.4. Observations

6.4.1. None on file.

6.5. Further Responses

6.5.1. Further submission of the third party appellant in response to the above applicant response to the third party appeal. The following points are noted:

- The fact that the planning authority did not take issue with various aspects of the application does not mean that the proposed development can be considered acceptable.
- The appellant's historic permission is irrelevant to the assessment of the current proposed development and is not a material consideration for the Board.
- The development will result in the loss of several car parking spaces from public use, which meet the needs of the appellant's patients, also local residents and customers of the adjacent convenience store, with adverse impacts on the local community.
- Permission was granted for an extension to the convenience store on the basis that on-street parking was available, ref. 19/937. It is not relevant that the appellant did not object to that development.
- Notes that the TIA methodology attempted to compensate for a reduction in traffic due to Covid restrictions. It is submitted that the measures employed are not robust or satisfactory and do not accurately assess current traffic conditions at Yellow Road, e.g, supplementary 2019 traffic counts could have been used.
- Permission should not be granted for 'optional' floor plans.
- The provision of an appropriate level of play areas is a requirement of the Waterford City Development Plan 2013-2019 and should be provided in this instance as the development includes family sized homes.

7.0 Assessment

7.1. I have read through the file documentation and the relevant provisions of both the Waterford City Development Plan 2013-2019 (as extended), which was in force when the subject application was lodged with Waterford City and County Council (WCCC) on 22nd October 2021 and decided on 22nd March 2022 and the new Waterford City and County Development Plan 2022-2028, which came into effect on

19th July 2022. I have also carried out a site inspection. I consider that the main issues are those raised in the grounds of appeal. Overall, I am satisfied that no other substantive issues arise. The proposed infill development on residentially zoned lands is acceptable in principle with regard to national and local planning policy on compact urban development and the appellant does not object in principle to residential development at this location. The proposed demolition is also considered to be acceptable in principle with regard to relevant policies and given that the existing dwelling at the site is not a protected structure or located in a Residential Conservation Area and noting also the comment of the DOEHLG on the previous application at the development site, ref. 19/886, as summarised above. The planning authority has stated satisfaction regarding the proposed residential density and housing mix and I see no reason to revisit those issues here. The submitted Housing Quality Assessment is noted and neither the planning authority nor the appellant raise any significant concerns in relation to the quality of residential accommodation at individual units. The applicant has also submitted Part V proposals to the satisfaction of the planning authority. The site is not located in a flood zone.

7.2. I therefore consider that the assessment should be limited to the matters raised in the grounds of appeal, notwithstanding the comments of the appellant that the development should be considered *de novo* by the Board.

7.3. The relevant issues can be dealt with under the following headings:

- Design and Layout of Residential Development
- Impacts on Adjacent Amenities
- Roads and Traffic Issues
- Site Services
- Other Matters

These issues may be considered separately as follows.

7.4. **Design and Layout of Residential Development**

7.4.1. The grounds of appeal raise concerns in relation to the size and quality of the public open space at the development and to the loss of mature trees at the site, also the proposed internal roads layout. The application includes a Design Impact

Assessment, a Design Statement and a Housing Quality Assessment, which have been taken into consideration in the following assessment, along with the site inspection and the submissions, the technical reports on file and relevant local and national planning policies.

- 7.4.2. The proposed site layout provides a new frontage to Yellow Road with a new pedestrian/vehicular entrance and a terrace of four no. houses and associated gardens/ pedestrian accesses facing the street. The existing stone wall along the Yellow Road frontage is to be reduced and rebuilt and the existing stone entrance and piers will be reused as part of the entrance design. The internal layout is centred on a public open space with four pairs of two storey semi-detached houses along the eastern side of the site and five no. terraced/ semi-detached houses along the northern side of the site. The roads are to be laid out as shared spaces with visitor/ communal car parking perpendicular to the street. The development will retain existing shared boundary walls with properties at Yellow Road and Marian Park to the east and at Rathfadden Park to the north, with a new boundary wall to be constructed at the eastern boundary, to the rear of properties at Congress Place.
- 7.4.3. I am satisfied that the proposed new frontage to Yellow Road will provide visibility of the open space and landscaping and will provide a new interface with the public realm, which will enhance the overall appearance of the area. The proposed quantitative provision of public open space (15%) will meet the standards of the current and previous development plans. I also note in this regard that the documentation on file indicates that there are several substantial public open spaces in the area including Ballybricken Green and the People's Park, however there are limited play facilities. The primary public open space within the development has a central location and is well overlooked. I accept that the communal/ visitor car parking areas eat into the space and that there are limited landscaping proposals. These matters may be resolved by the agreement and implementation of a detailed landscaping scheme by condition, as is standard practice.
- 7.4.4. The appellant submits that the development should include a play area. This is contested by the applicant, who states that such a facility may result in anti-social behaviour at the development and is in any case unnecessary given the limited scale of the development. I note section 7.7 of the 2013 development plan and the related development plan policy 7.7.4, as set out above, which require the provision of public

open space, recreational and community facilities with development proposals and also refer to the section 48 Development Contribution Scheme in this context. Chapter 7 of the 2022 development plan addresses residential development and community facilities and provides related objectives as set out above. There is no quantitative requirement for the provision of play areas at residential developments in either development plan. The lack of a play area in the proposed development is considered acceptable given that it provides an adequate quantum of public open space as per development plan standards and subject to the submission of adequate landscaping proposals by condition, along with the payment of development contributions towards the provision of such facilities at strategic level in the wider area. It is considered that these measures will result in a satisfactory contribution to the public realm at this location as well as provide adequate amenity for residents of the development.

- 7.4.5. I note the comments in the third party appeal regarding the 'leftover space' at the northern end of the site. I agree that this space is marginal and will have limited functional value, however there is an adequate quantum of public open space within the development overall. The space is well overlooked and will provide some amenity within the development if it is adequately landscaped, as may be required by condition.
- 7.4.6. I am satisfied that the details of landscaping proposals and public lighting scheme may be resolved satisfactorily with the planning authority by condition, as is common practice in the case of such residential developments. It is evident that trees have been removed at the site, as submitted by the appellant, I consider that the implementation of an adequate landscaping scheme to the satisfaction of the planning authority can ameliorate this loss.

7.5. Impacts on Adjacent Amenities

- 7.5.1. The appellant submits that house no. 12 within the proposed development will have an overbearing impact on the rear of no. 21 Rathfadden Park to the north. The applicant submits that trees at this location, which overshadowed houses in Rathfadden Park, have been removed to facilitate the development of the subject site, and that the proposed development therefore will ultimately result in less overshadowing at that location (supporting photograph submitted). The

documentation on file does not include a detailed technical assessment of potential sunlight or daylight impacts on adjacent properties as a result of the development. However, given the two storey scale of the proposed houses and the intervening distances to adjacent residential properties and facades, I do not consider that the development would result in any significant loss of residential amenities due to loss of daylight or sunlight at adjacent properties, beyond that which would result from any development of this zoned and serviced site. Similarly, and with regard to the detailed design of the proposed individual house types as well as proposed boundary treatments, I am satisfied that there would be no significant adverse impacts by way of overshadowing or visual obtrusion at adjacent properties.

- 7.5.2. The appellant comments that the applicant has not provided any construction management proposals. I am satisfied that this issue may be resolved by conditions regulating hours of construction and construction works on site, also the submission and agreement of a Construction Management Plan, and details of construction and demolition waste and traffic management, as is standard practice and as per the decision of the planning authority.

7.6. Roads and Traffic Issues

- 7.6.1. The appellant submits that the proposed access to Yellow Road should be relocated eastwards to facilitate the retention of existing on-street car parking at this location, which serves the appellant's GP practice and a convenience store across the street, also that the development provides inadequate car parking. The appeal also states concerns about traffic congestion and road safety and submits that the proposed roads layout does not comply with DMURS. These issues may be considered separately as follows:

7.6.2. Traffic Impacts

The application includes Traffic Impact Assessment (TIA) dated July 2020. The TIA is based on a traffic count carried out at the following locations on 30th June 2020:

- Marian Park/ Upper Yellow Road/ Keane's Road/ Cleaboy Road mini roundabout
- Congress Place/ Upper Yellow Road/ Árd na Greine signalised junction
- Keane's Road/ Slievekeale mini roundabout

The TIA notes that the recorded traffic flows are low due to Covid 19 restrictions. The TIA takes into account a traffic count carried out at the Keane's Road/ Slievekeale mini roundabout in 2019, pre Covid 19, and traffic flows at the other two junctions were factored up to reflect flows under normal operational conditions without Covid 19 restrictions and with schools open. I note third party concerns regarding the basis of the TIA, however this is a common approach to traffic counts carried out during Covid 19 restrictions that has been accepted by the Board in recent times.

The TIA models future traffic flows for an opening year and design years 5 and 15 years after opening. The project figures indicate the following for the above road junctions:

- The development access to Yellow Road will operate within capacity for all scenarios.
- The Marian Park/ Upper Yellow Road/ Keane's Road/ Cleaboy Road junction will be operating above capacity for all scenarios both with and without the development. The TIA notes that the development will result in minimal increases in queues and delays at this junction.
- The Congress Place/ Upper Yellow Road/ Árd na Greine junction currently operates within capacity and will operate within capacity for all scenarios both with and without the development.

Having regard to these findings and given the limited scale of the proposed residential development and noting that neither the planning authority nor Transport Infrastructure Ireland states any concerns in relation to traffic impacts, I am satisfied that the development would not result in adverse traffic impacts such as would warrant a refusal of permission.

7.6.3. Roads Layout and Access to Yellow Road

The site has an existing access to Yellow Road, which is within the 50 kph zone. The development involves the provision of a new pedestrian /vehicular access, roughly at the centre of the frontage to Yellow Road. The internal roads layout provides a shared space with footpaths and in-curtilage car parking for most house, also areas of communal/visitor parking. The application includes a DMURS Compliance Statement dated February 2022. The Yellow Road access is designed to provide

adequate 49m sight distances for a bus route within the 50 kph zone with regard to DMURS Table 4.2. While I accept that there are some shortcomings in the DMURS Compliance Statement, as discussed in the grounds of appeal, I am satisfied overall that the development is generally consistent with DMURS, noting also that neither the planning authority nor TII states any objection to the vehicular access or roads layout.

The applicant's response states that the possibility of a left turn access was considered and discounted by the planning authority as it would result in a traffic hazard due to likely illegal manoeuvring at the junction of Kearn's Road / Upper Yellow Road and Cleaboy Road. I consider the submitted layout to be satisfactory as is with regard to the above assessment. The appellant also comments that the development does not include a Road Safety Audit. I note that the information provided in the TIA from the Road Safety Authority website indicates that there are no collisions recorded at the proposed access, however there are minor collisions recorded along Yellow Road. Given that the proposed vehicular access and internal roads layout are generally acceptable, I consider that a RSA may be required by condition, subject to agreement with the planning authority prior to the commencement of development.

The appellant comments that the application does not include consent for proposed works to the public footpath at Yellow Road, outside the site boundary and submits that the planning authority is therefore precluded from granting permission for the development. The applicant submits that the proposed works on the public road are within the applicant's folio, which is satisfactory.

7.6.4. Car Parking

The proposed site layout indicates 30 no. spaces to serve the houses with two no. in-curtilage spaces provided for houses nos. 5-17 and a communal parking area of four no. spaces for houses nos. 1-4, also 8 no. visitor parking spaces. These figures are drawn from drawing no. FI-01 as I note that TIA section 6 provides incorrect parking figures. This provision exceeds the car parking standards of both the current and previous development plans which state a standard of one space per residential unit at this location. I am therefore satisfied that the development includes ample car parking provision.

There is currently existing informal on-street parking at both sides of Yellow Road at this location. I note the concerns stated by the appellant regarding the loss of on-street parking as a result of the proposed new vehicular access, with consequent adverse impacts on the operation of the appellant's GP practice and the convenience store across the street. While I accept that the development will result in the loss of a limited amount of on-street parking, I do not consider that same will result in significant adverse traffic impacts or traffic hazard. While I accept that the provision of accessible car parking is necessary for patients of the GP practice, I also note and accept the point made by the applicant that there is scope for the creation of same within the curtilage of the practice if required. In addition, any future regulation of on-street parking by the local authority in this area is outside the scope of this assessment and cannot be anticipated at this stage.

7.6.5. Construction Traffic Impact

The applicant has not provided any details of construction traffic management. However, as discussed above in relation to construction impacts on residential amenities, I consider that this issue may be resolved by condition. I am satisfied that, subject to the implementation of a final Construction Traffic Management Plan, the construction traffic associated with the development will not have any significant adverse impacts on adjacent residential areas or adverse traffic impacts.

7.6.6. Roads and Traffic Issues Conclusion

To conclude, I am satisfied that, subject to conditions, the development would not result in any significant traffic hazard, will not have any significant adverse traffic impacts and that it includes adequate car parking provision.

7.7. **Site Services**

- 7.7.1. The application includes a Drainage Report dated October 2021 which details the proposed connection to the public sewer and water supply. The proposed surface water drainage design will attenuate run off to current rates and the WCCC technical reports state no concerns in relation to surface water drainage. The applicant has submitted a Confirmation of Feasibility from Irish Water dated 31st July 2019, which was issued for the 40 unit scheme previously proposed at the site under 19/886. The RFI issued by WCCC requested the applicant to submit an Irish Water Connection Agreement for connection to the public sewer and water supply. The applicant's

response provides a copy of correspondence with Uisce Éireann and a new pre-connection application dating to February 2022, however no further details are provided. Given that Confirmation of Feasibility has been issued for 40 units at the development site, I consider it acceptable that permission may be granted subject to a condition requiring that the developer meet all requirements of Irish Water/ Uisce Éireann, as per the permission issued by the planning authority.

7.8. Other Matters

- 7.8.1. The submitted plans indicate 'optional sunrooms and attic conversions'. The RFI issued by WCCC sought clarification on these areas. The applicant's FI response states that the areas are an optional choice for each homeowner. The planning report on file states that development contributions shall be applied to the larger floor area. The appellant comments that the layouts are not finalised. The applicant's response to the appeal submits that development contributions should not be applied to these areas as they would be exempted development even if carried out when the houses were occupied. These works are considered acceptable in principle and will not have any significant additional impacts in terms of site services or residential amenities. The standard conditions is recommended below, which states that details of the application of the terms of the section 48 Development Contribution Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.
- 7.8.2. The applicant has not provided a Public Lighting Scheme. This may be required and agreed by condition.
- 7.8.3. As raised by the appellant, there is a possibility that invasive species may be present at the development site given its current overgrown condition. The submission and agreement of an invasive species management plan may be required by condition.

7.9. Planning Assessment Conclusion

- 7.9.1. Having regard to the above assessment, I conclude that permission should be granted for the proposed development subject to the conditions set out below.

8.0 Recommendation

8.1. Having read the appeal and submissions on file, had due regard to the provisions of the Waterford City Development Plan 2013-2019 (as extended) and the Waterford City and County Development Plan 2022-2028, carried out a site visit and all other matters arising. I recommend that permission is granted subject to the conditions set out below.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Waterford City Development Plan 2013-2019 (as extended) and the Waterford City and County Development Plan 2022-2028, to the residential land use zoning of the site, the nature of the proposed development and to the pattern of development in the surrounds, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and as submitted as further information on 24th February 2022, 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.	Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an

	<p>agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
3.	<p>A full architectural survey and record of Rathfadden Lodge shall be carried out and shall be submitted to the planning authority prior to the commencement of development with the record to meet the standards for “Recording as a condition of permission” as set out in Sections 6.7.3 – 6.7.5 of Architectural Heritage Protection – Guidelines for Planning Authorities (2011). The record should include a full set of measured elevations and plans and a high quality digital photographic survey annotated and cross-referenced with the drawings.</p> <p>Reason: In order to facilitate the conservation, preservation and recording of the architectural heritage of the site.</p>
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Final details of all proposed site boundary treatments shall be agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of visual and residential amenities.</p>
6.	<p>The boundary planting and areas of communal open space shown on the lodged plans shall be landscaped in accordance with a landscape scheme which shall be agreed in writing with the planning authority prior to the commencement of development, unless otherwise agreed in writing with</p>

	<p>the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation.</p> <p>Reason: In order to ensure the satisfactory development of the open space areas, and their continued use for this purpose.</p>
7.	<p>Prior to commencement of any works on site, the developer shall submit and agree in writing with the planning authority a comprehensive Invasive Species Management Plan, and dispose of any contaminated material by either its destruction or burial in sealed cells on site, or its removal off site under licence from the National Parks and Wildlife Service of the Department of Housing, Local Government and Heritage for its disposal or destruction in an approved facility.</p> <p>Reason: To ensure the eradication from the development site of invasive plant species and to protect biodiversity.</p>
8.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
9.	<p>The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development. A Confirmation of Feasibility for connection to the Irish Water network shall be submitted to the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>
10.	<p>Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting.</p>

	<p>Such lighting shall be provided prior to the making available for occupation of any house.</p> <p>Reason: In the interests of amenity and public safety.</p>
11.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
12.	<p>The internal road and vehicular circulation network serving the proposed development, including turning bay, parking area, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
13.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
14.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives</p>

	<p>acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
15.	<p>Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, drawings showing all development works to be taken in charge designed to meet the standards of the Planning Authority.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
16.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of all intended construction practice for the development, including measures for protection of existing development and boundary walls, construction traffic routing and management, construction parking, materials storage, site compound, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
17.	<p>Construction and demolition waste shall be managed in accordance with a final construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and</p>

	<p>locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
18.	<p>Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
19.	<p>Prior to commencement of development, the developer 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.</p> <p>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.</p>
20.	<p>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</p>

	<p>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.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
21.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Sarah Moran
Senior Planning Inspector

11th September 2023