



An
Bord
Pleanála

Inspector's Report

ABP-313873-22

Development	Construction of 3no. 4 bedroom, 2 storey detached dwelling houses.
Location	Coxtown, Dunmore East, Co. Waterford.
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	22269
Applicant(s)	Bernadette Hurley
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Bernadette Hurley
Observer(s)	Michael and Hilary Griffin
Date of Site Inspection	8 th of June 2023
Inspector	Angela Brereton

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1.0 Site Location and Description

- 1.1. The application site (c.0.23ha) is located on the northern side of the Convent Road, on the southwestern side of the village of Dunmore East. It is to be accessed via the L4202 (Convent Road) which is adjacent to a number of other vehicular entrances including an access road to 3no. houses to the west. There are single storey type houses along the road frontage and housing developments within the vicinity are generally low density.
- 1.2. The application site is greenfield as is the adjoining land to the southeast. It is to be taken off the larger field area. The site is gently sloping north with the lowest part of the site being along the frontage to Convent Road. There is a hedgerow and footpath along the site frontage. There is also a hedgerow along the western site boundary.
- 1.3. There is housing to the northwest of the site and on the opposite side of an access road alongside the site. Vehicular accesses in the vicinity include those serving a number of houses. This includes a backland site where permission has recently been granted by the board for retention of site works and completion of residential sites (Ref. ABP- 309410-21 refers) to the southeast on the opposite side of the road.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of 3no. 4 bedroom, 2 storey detached dwelling houses to include new entrance walls and piers, new internal access road, driveways, boundary treatments, landscaping and all associated siteworks at Coxtown, Dunmore East, Co. Waterford.
- 2.2. Documentation submitted with the application includes the following:
 - A Design Statement by Fewer Harrington and Partners is included with the application.
 - A Roads and Access Report by Coakley Consulting Engineers.

3.0 Planning Authority Decision

3.1. Decision

On the 25th of May 2022, Waterford City and County Council refused planning permission for the proposed development for 3no. reasons. These in summary include the following:

- They note the number of vehicular entrances in the area and provide that the proposed development would be prejudicial to road safety by way of traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.
- In the absence of a masterplan and layout for the entire larger landbank zoned residential, the proposed development would negatively impact on and impede the overall development of the residentially zoned lands to which this site forms a part and thus would be contrary to the proper planning and sustainable development.
- The design and layout of the proposed development would negatively impact on the residential and scenic amenities of the area and be contrary to the policy objectives of the Waterford County Development Plan 2011-2017, as varied and extended and the proper planning and sustainable development of the area.

A copy of the Council's decision (in full) is included on file.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner had regard to the locational context of the site, planning history and policy and to the internal reports and the submissions made. Their assessment included the following:

- The location of the site forms part of a larger landbank zoned for New Residential purposes in the Waterford CDP 2011-2017 as varied and extended. In the absence of a masterplan for the development of the entirety

of residentially zoned landbank, they consider that the proposed development is premature.

- They have concerns regarding the proposed design and layout but consider the overall density on this small site to be acceptable. The proposed two storey houses on this prominent site would be overly visible and out of character with the predominately single storey dwellings in the area.
- They note that the Roads Section recommended refusal relative to the number of vehicular entrances in the area and road safety concerns.
- It is noted that the application site is not located within any designated Flood Zone area.
- They carried out a Habitats Screening Assessment which concludes no likely significant effects on Natura 2000 sites.

3.3. Other Technical Reports

Road and Transportation

They have reviewed the drawings and note that the proposed entrance will introduce a traffic hazard due to the proximity of the existing entrance adjoining. They recommend that the entrances should be combined into a single entrance/access or the new entrance moved to the opposite side of the site.

Environment Section

They have no objection subject to a condition relative to construction and demolition waste management.

3.4. Prescribed Bodies

No Reports noted on file.

3.5. Third Party Observations

Submissions from local residents and others, note concerns regarding the impact of the proposed development which include the following:

- The siting and design, height, scale and massing of the proposed development for the two storey houses, will impact adversely on the character and pattern of development in the area.
- Taking into account the topography of the site, the proposed development will be visually obtrusive and not integrate well with the predominantly single storey housing in this scenic area.
- It will be detrimental to the amenities of local residents and impact on privacy be overbearing and cause overlooking for adjacent residents.
- The proposal will not comply with planning policy or with the Waterford City and County Council Landscape and Seascape Character Assessment.
- It will impact adversely on the public road network and cause congestion – issues include access, traffic management, parking and road safety.
- Consideration needs to be given to the future development of the adjoining landholding. This proposal would set undesirable precedent for two storey build. Public open space needed.
- Landownership issues – invalid application.
- Material Contravention of the Development Plan.
- The village is already experiencing an explosion of development which is detrimental to its setting.
- The build of these 3 dwellings will overlook the neighbouring properties causing loss of privacy and restrict their panoramic views of Hook Head.
- Impact on ecology and the environment. An EIAR should have been submitted.
- Lack of capacity in the sewage treatment plant.
- The development needs to be assessed for compliance with the Habitats Directive and the Water Framework Directive.
- Construction works will impact adversely on the residential amenity of the area.

4.0 Planning History

The Planner's Report has regard to the Planning History of the site and adjoining landholding. This includes the following:

- Reg.Ref. 18/798 – Permission granted subject to conditions by the Council to Dunmore Advisors Limited for in summary, the Erection of a fully serviced, five bedroomed two storey house (ground floor and basement) guest house with a shared entrance at ground floor level, external garage, terraces, storage area, leisure areas, provision of new vehicular entrance, landscaping and services connections together with associated site works.

This was subsequently refused by the Board (Ref. ABP-304972 refers) in summary by reason of low density and non-compliance with planning policies and objectives, having regard to the location of the site on R1 zoned and serviced land within the development boundary of Dunmore East. Including: *“That the low density would be contrary to the Ministerial Guidelines and to the National Planning Framework which aims to achieve compact growth through effective density and consolidation rather than more sprawl of urban development.”*

- Reg.Ref.06/154 Permission granted subject to conditions by the Council to McInerney Homes Ltd for 32no. houses, new entrance, car park, internal road layout, new boundary treatment and all associated site works.

This was subsequently refused by the Council for 2no. reasons in summary:

- Premature pending the construction and commissioning of a new public sanitation services system in Dunmore East, being prejudicial to public health.
- Design and layout and inadequate quality of public open space would seriously injure the residential amenity of future occupiers and the amenities of the area.

Copies of these Board decisions in full are included in the History Appendix to this Report.

Dwelling to the west

- Reg.Ref. 19/704 – Permission granted subject to conditions by the Council for construction of a single storey extension and blocking up of 1no. existing vehicular entrance to the front of the existing dwelling, the construction of a new 1.5m high well to the East and North side of the dwelling, associated drainage, and ancillary site works.

Condition no. 3 concerned the vehicular entrance.

- Reg.Ref. 20/305 – Retention Permission granted by the Council subject to conditions to rebuild cottage as previously existing on site, indefinite retention of building works to the extensions as construction on site in accordance with Reg.Ref. 19/704 and full planning permission to complete building works together with all associated site works.

Condition no. 2 concerns the vehicular entrance, set back and sightlines.

5.0 Policy Context

5.1. National and Regional Policy

- Project Ireland 2040: National Planning Framework, 2018
- Regional Spatial and Economic Strategy for the Southern Region, 2019
- Design Manual for Urban Roads and Streets, 2019 ('DMURS')
- Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, 2009
- Urban Design Manual: A Best Practice Guide, 2009
- Quality Housing for Sustainable Communities – Best Practice Guidelines, 2007

5.2. Waterford City and County Development Plan 2022-2028

The new Waterford City and County Development Plan was adopted on 7th June 2022 and took effect on 19th July 2022. The application was considered under the previous Waterford County Development Plan, which has now been superseded.

Volume one - Housing Policies and Objectives

Chapter 7 in summary:

H01 – To promote compact urban growth through the consolidation and development of new residential units on infill/ brownfield sites...

H02 - In granting planning permission, to seek to 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 (these are listed).

H04 – This seeks to 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.

A number of additional points support integrated and sustainable residential development.

H17: This seeks to encourage the establishment of attractive, inclusive and sustainable residential communities in existing built-up areas and new emerging areas including by:

- Ensuring a suitable variety and mix of housing and apartment types, and sizes/tenures is provided in individual developments to meet the lifecycle adaptation of dwellings and the differing needs and requirements of people and families.

This supports housing mix and integrated and sustainable residential development.

H18 – This requires that all new residential development incorporates measures to enhance climate change.

A number of measures are referred to and this includes regard to utilising SuDS.

H20: Where new development is proposed, particularly on smaller suburban infill sites (< 1 ha in area) this seeks to ensure that the residential amenity of adjacent residential properties in terms of privacy and the availability of daylight and sunlight is not adversely affected.

This includes to support lower density type development at these locations. To 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....

Volume 2 contains development management standards for residential development.

Section 3 – Residential Development

The following policies are of note:

Development Management DM 04 includes:

Applications will be required to adhere to the guidance contained in the 'Urban Design Manual - A Best Practice Guide' (Department of the Environment, Community and Local Government, 2009). ...

Criteria include regard to: The overall character and scale of the settlement, Infrastructure capacity such as water/wastewater and surface water disposal available, areas susceptible to floodings, car parking, traffic safety and pedestrian movements, the protection of residential amenity of existing adjacent dwellings in the area etc.

DM 05 – Supports increases in residential densities in appropriate sustainable locations.

DM 06 – Supports variety in house/dwelling types.

Section 3.4.2 refers to General Residential Development Design Standards –

Table 3.1 provides the criteria for New Residential Development in Urban Areas.

Regard to design and layout includes reference to the following:

- 'Pedestrian and Vehicular Movement' and to compliance with DMURS.
- Private Open Space Provision (Table 3.2 refers): *It should be noted that housing developments which provide private open space at the minimum standard throughout the scheme will be discouraged.*
- Privacy: *Privacy can be ensured by attention to the alignment of new residential buildings and their relationship to each other.*
- Minimum Separation distances of 22m between directly opposing above ground floor windows: *A reduction in this 22-metre separation distance may be considered appropriate where there is an innovative design approach to house and site layout design.*
- Screen walls – rendered blockwork capped and plastered – 1.8m in height.
- *A minimum of 2.2 meters shall be provided between the side walls of detached, semi-detached and end of terrace dwellings.*

Section 4.7 refers to Off-street Parking in Residential Areas. This includes regard to the need for permeable surfaces and notes: *Proposals for off street parking in existing front gardens in residential areas, therefore need to be balanced against loss of amenity (visual and physical) and communal spaces.*

Development Management Policy DM 10 refers to the criteria for drive-ins/front garden parking.

Section 8.6 provides Sightline Requirements in accordance with DMURS. Table 8.1 refers. This gives a requirement bases on category D – 50km/h Built Up Areas -70m.

Section 8.7 refers to Sightline Provisions for clear unobstructed sightlines.

Section 8.8 refers to DMURS : *In urban areas inside the 60km/h urban speed limit, developers should also have regard to the best practice standards set out in the Design Manual for Urban Roads & Streets (DMURS) 2020.*

Policy DM 47 refers.

Section 8.9 to Hedgerow Protection – Policy DM 48 refers.

Section 7.0 includes the Parking Standards – Table 7.1 refers.

5.3. Natural Heritage Designations

There are none proximate, the following Natura 2000 sites are within c.5kms of the subject site:

- 000764 Hook Head SAC, Co. Wexford is c.3km east of site on other side of the bay.
- 0021262 Special Area of Conservation: River Barrow And River Nore SAC is c.3.6km of the site.
- 004027 Tramore Back Strand SPA is c.4.8km to the west of the site

5.4. EIA Screening

Having regard to the nature and relative small scale of the proposed development, which comprises the construction of 3 no. detached houses, the nature of the receiving environment, and proximity to the nearest sensitive location, 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

Peter Thompson Planning Solutions has submitted a First Party Appeal on behalf of the Applicant Bernadette Hurley, which includes regard to the site context of the proposed development – project description and to planning history and policy. The Grounds of Appeal are summarised under the following headings:

Development Plan Zoning and Density

- The proposed site is currently zoned as 'Residential' and is a prime location for low density development to add to the area.
- The proposed development is in accordance with the 'Residential' zoning of Waterford City and County Development Plan 2011-2017 (as amended and

extended) and with the zoning and density guide of the Draft Waterford City and County Development Plan and is acceptable.

- The development has taken into account and complies with the DoEHLG published design guidelines for sustainable residential developments in urban areas. They include a list of those of relevance.

Design and Layout and Impact on the Character and Amenities of the Area

- The proposed houses will not be out of scale and character with the predominant pattern of development in the area. While the houses are described as 2 storey dwellings, they have the scale and characteristics of dormer style dwellings.
- They refer to the planning history of the site including that of previous appeals to An Bord Pleanála and note the reasons for refusal were not that they were in opposition to 2 storey houses on this site.
- The proposed house designs use the existing site levels and they refer to the drawing showing Site Sections. Minimal cut and fill will be required to create the level foundation.
- There is potential for future residential development on the zoned lands to the east, which are currently in ownership of S&K Carey. They have offset the houses at a minimum of 11m from their site boundary so that their first floor level windows are in accordance with planning guidelines so as not to impede development.
- The proposal has been designed to avoid overlooking or loss of privacy to adjoining sites.
- The two existing houses accessed off the laneway immediately to the west are built on the level with minimal cut and fill and are set at levels that generally reflect the original ground levels of the south-north contours.
- The houses are considered appropriate for this location and they note the palette of external finishes. Many of the houses in Dunmore East have similar finishes.

- They submit that An Bord Pleanála have previously accepted the principle of 2 storey housing on the site. That the proposal is modest in scale and height. They would fit better onto these constrained sites, than a larger single storey footprint.

Masterplan

- They note concerns that the development of the site maybe premature pending the design of the entire landholding and that a single access to serve the entire site would be preferable. However, they note that the parcels of land that form the entire landholding are in separate ownerships.
- It has also been clarified that the private right of way over the proposed site would not provide access to the other lands.
- The applicant has no control over neighbouring land or precisely how it might be designed and developed in the future.
- They refer to the previous Board refusal on this site Ref. PL93.304962 refers. This included an overall masterplan when the entire residentially zoned field was in single ownership. They note the Inspector's comments on low density-for serviced lands. Noting that a masterplan was considered to be of little value as it did not form part of that application.
- They note the owner of the balance of the original landholding has not made a submission on the current application. The adjoining landholder has advised them that they have no immediate plans to develop the site.
- In the current application the planning authority has offered no objection to the layout of the 3 houses per-se, save for concern being expressed about the proposed entrance relative to adjoining properties to the west. They provide that this is addressed in their response.
- For completeness the project architect has produced an indicative layout plan that may be of assistance to the Board. This has reference to the access issues and regard to as previously and currently proposed.

Public Open Space

- The provision of public open space relative to the current application does not arise. It generally is applicable to larger estate type developments and not smaller developments such as proposed. They refer to other smaller permitted developments where there was no demand for public open space.
- The Board is advised to have regard to the proposed layout and design of the garden of the southernmost house which has a semi-open garden onto Convent Road which has public visual amenity value.
- Photomontages by Fewer Harrington & Partners have been submitted to show before and after views.

Access and Traffic Safety

- They have regard to the Council's reason for refusal and consider that their grounds do not now reflect the existing situation in respect of the proposed access road relative to existing entrances.
- They note that there is now (since the implementation of Reg.Ref. 19/704) only one existing vehicular entrance serving houses immediately to the west.
- They have regard to the Roads Department Report as quoted in the Planner's Report and note that the proposed development is not part of a larger development block of the balance of the original landholding to the east.
- Coakley Consulting Engineers were engaged by the appellant to review and redesign the proposed entrance road and examine road safety implications of the revised entrance on neighbouring entrances and on a possible entrance to serve the future development of the balance of the original landholding to the east. They provide that their Report takes into account relevant design details, including DMURS and that the development itself would generate negligible traffic flows.
- The proposed access will not impact any future access to these lands to the east. This was not a concern in previous relevant appeals (ABP Refs. PL24.221804 or ABP 304962-19).

Conclusion

- The proposed development conforms with the current and proposed residential zoning for the site and the required housing density.
- The appellant does not own the adjacent land to the east which is owned by a local building company which has no immediate plans to develop houses.
- In view of ownership issues, the applicant is not in the position to prepare a masterplan for adjoining lands.
- It has been demonstrated on the indicative layout plan and in the Coakley Consulting Report that the proposed development will not compromise the future development of the adjoining lands.
- The design and layout have been carefully thought out so as to ensure that the proposed development does not adversely impact on neighbouring property and land.
- They request that the Board overturn the Council's decision and grant permission.

6.2. Planning Authority Response

There is no response from the Planning Authority noted on file.

6.3. Observations

An Observation has been received from local residents Michael and Hillary Griffin.

This includes regard to the following:

- At present there are 15 single storey dwellings adjoining the boundary of this entire site. Their single storey design and appearance is sympathetic in approach to the landscape, seascape and skyline of this coastal road.
- On the approach road from Coxtown West direction not more than 100m of the proposed development are 3 Housing developments.
- They provide details of single storey developments including in estates in the area. The appearance and design of the proposed development will not be character with surrounding development.

- It will detract from the natural and visual beauty of the area.
- The proposed development overlooks their property to the west and northwest with 4no. windows on the second floor.
- They ask the Board to take their points into consideration in the evaluation of this appeal.

7.0 Assessment

7.1.1. This is a First Party Appeal against the Council's decision to refuse permission for the proposed development. Having regard to the documentation submitted, to planning history and policy, the issues raised in the First Party Grounds of Appeal, and to my site visit, I would consider that the issues primarily centre on:

- Policy Considerations
- Density, Design and Layout
- Impact on the Character and Amenities of the Area
- Access and Right of Way
- Masterplan issues
- Landownership issues
- Drainage issues
- Appropriate Assessment

7.1.2. It is noted that this proposal was considered by the Council, under the Waterford County Development Plan 2011-2017 and that their Assessment and that of the First Party Grounds of Appeal, includes reference to a number of policies and objectives made under this plan. This has now been superseded by the policies and objectives of the current Waterford City and County Development Plan 2022-2028, and those of relevance have been noted in the Policy Section above and further in the Assessment below.

7.2. Policy Considerations

- 7.2.1. Regard is had to national and regional planning policy documents, including the National Planning Framework (2018) (NPF) and Regional Spatial and Economic Strategy for the Southern Region (2019) (RSES). This includes that the NPF seeks to make better use of under-utilised land and buildings, including infill, brownfield, and under-occupied buildings, with higher densities, better serviced by existing facilities and public transport. The NPF specifically targets a greater proportion of future housing development to be within and close to the existing ‘footprint’ of built-up areas.
- 7.2.2. Note is also, had of the ‘Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities’ (DoEHLG 2009). Section 5.9 (d)(i) has regard to Infill residential development and includes: *In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.*
- 7.2.3. As shown on the Land Use Zoning Map in Volume 4 of the Waterford City and County Development Plan 2022-2028, the site, which is currently greenfield, is located within the settlement boundary of Dunmore East. The zoning objective for the site is ‘New Residential Phase 1’ which is to *‘Provide for residential development in tandem with the provision of the necessary social and physical infrastructure.*
- 7.2.4. As shown on this Map Objective DO6 applies specifically to the site and to the undeveloped lands to the east and provides: *Development proposed on this site shall be required to have regard to the topography of the site and shall have an appropriate/sympathetic approach to design which utilises the existing contours and respects the established pattern of development in the vicinity.*
- 7.2.5. I note that there are local policies and objectives with the current Development Plan which support more compact forms of residential development, particularly where sites are within a short walking distance of an existing urban settlement and public transport links. Also, that allow for infill residential development that reflects the established character of the area in which it is located. This is an elevated site with views to the sea and Dunmore East and it is considered important that any

development in this coastal landscape, would not detract from the character and visual amenities of the area.

- 7.2.6. While the principle of a residential development is acceptable on this site, the issue in this case is whether the Council's reasons for refusal can be overcome so that the proposal could be considered, to be in accordance with the proper planning and sustainable development of the area. These issues are discussed further in this Assessment below.

7.3. Density, Design and Layout

- 7.3.1. The site is approx. 0.235ha and is rectangular in shape. The Site Layout Plan shows that it is proposed to site the 3no. houses, one behind the other on the site. The proposed development is to be served by an access road in the western part of the site with a new access to serve the overall development to Convent Road.
- 7.3.2. The submitted documentation notes that a density of 17.12 units per ha is achieved and provides that this corresponds with the 'Sustainable Residential Development in Urban Areas Guidelines' 2009. Section 6.12(c) refers to developments with densities of 15-20 dwellings on the edge of small towns/villages. The Planner's Report notes that this is a net calculation and omits the proposed entrance and internal road.
- 7.3.3. 3no. 2 storey, 4 bedrooomed detached dormer type dwellings are proposed. These are shown on the plans as House Type A which is proximate to the road frontage and House types B(1) and B(2) to be sited to the rear. Details include:
- House Type A – g.f.a 239.25sq.m. c. 7.5m to ridge height
 - House Types B(1) and B(2) – g.f.a 152.30sq.m. c.7.2m to ridge height. It is noted that as shown on the plans these two houses are shown to be similar house types.
- 7.3.4. The Floor Plans provide the room dimensions, and it is noted that these comply with the 'Quality Housing for Sustainable Communities Guidelines' DCHLG (2007). Table 5.1 of these guidelines provide 'Space provision and room sizes for typical dwellings'.
- 7.3.5. Proposed external finishes include selected ridge tiles and painted render finish and an element of shiplap cladding. The fenestration includes more traditional type

dormer windows. The house types vary, with type 'A' being the larger property facing the street. As noted in the Design Statement submitted private amenity open space standards appear to have been met and exceeded.

- 7.3.6. As shown on the Site Layout Plan, I note that the private open space, which is to be provided in garden areas, exceeds the requirements of Table 3.2 – Minimum Private Open Space Requirements for Dwelling Units. Although it is noted that house types B(1) and (2) will have the majority of their private open space in their eastern side garden areas. Two no. onsite parking spaces are to be provided per dwelling. This is in accordance with current standards. These spaces are to be accessed off the private access road.
- 7.3.7. While I would consider the design of the proposed house types to be generally acceptable, I would have some concerns about their two-storey height and massing, taking into account their proposed siting and the topography i.e. the elevated nature of the subject site. As noted in the documentation submitted, there is a 3.5m difference between Convent Road and the top of the site.

Overlooking

- 7.3.8. The Design Statement provides that the proposed buildings have been designed to omit the risk of overlooking into neighbouring buildings. There are two no. neighbouring buildings that are accessed off a separate access road to the west. It is noted that House Type A is on a similar building line to the house to the west and is set c.14.4m to the east. House Type B (2) is off-set c. 27.5m to the south-east of the gated house to the north-west. In view of the design and layout, it is submitted that the proposed design provides that there will be no adverse overlooking of these properties on the opposite side of the road to the west and north west.
- 7.3.9. I would note that having regard to the development site the proposed houses are to be front to back facing and sited close to one another (in particular house types B(1) and (2)). In this respect it does not appear that they would comply with minimum separation distances as per Volume 2 of the Waterford City and County Development Plan 2022-2028. Section 3.4.2 provides the General Residential Development Design Standards and Table 3.1 includes: *Between directly opposing above ground floor windows, a separation distance of 22 metres should generally be*

observed for new, reciprocal overlooking housing, although this will also be informed by considerations such as typography, design, and housing type and mix.

- 7.3.10. It is also provided in the Design Statement that they have offset the proposed development by 11m i.e. the side elevations facing the land zoned 'New Residential Phase 1' to the east. That this is to ensure their first floor level windows are in accordance with the planning guidelines so as not to impede on any future development of the adjoining lands.
- 7.3.11. Therefore, I would consider that while the proposed design and layout endeavours to limit overlooking to adjacent properties, in view of proximity, site levels and orientation it will result in some north/south overlooking between the proposed houses on the development site. If the Board decides to permit, I would recommend, to include conditions about external finishes, boundary treatment and landscaping.

7.4. Impact on the Character and Amenities of the Area

- 7.4.1. The Council's third reason for refusal in summary concerns that the proposed two storey design where the predominant pattern of development is single storey at this elevated location, would be contrary to planning policies and is not appropriate/sympathetic to the established pattern of development in the area.
- 7.4.2. The First Party provide that the scale and modest height and the design of their proposed houses provide a development that is not out of keeping with other housing in the vicinity, utilises existing ground levels and is at a density that is in compliance with the Development Plan, Draft Plan, and the current residential density guidelines. They have submitted Photo Montages which include before and after views of the site. I would consider that these show that the two storey houses will appear conspicuous in the landscape, which includes sea views to the south east towards Dunmore East bay.
- 7.4.3. It is noted that the Observers are also concerned that the proposal should be single storey to reflect the general pattern of development in the area and the topography of the site and to prevent overlooking. Housing in this area is predominantly single storey.
- 7.4.4. Volume 3, Appendix 8 of the Waterford CDP 2022-2028 contains the Landscape and Seascape Character Assessment. This also has regard to Scenic Routes and

Protected Views. Map A8.1 provides the Landscape Character Types. Dunmore East is located in a Coastal Landscape, shown on MapA8.2 'Landscape Units' as within IA2 and IA3 – Lower Waterford Estuary.

Section 3 has regard to Landscape Capacity and Sensitivity and includes:

Areas of elevated topography, with low growing or sparse vegetation, with little existing development should have a low potential to absorb new development.

- 7.4.5. Map A8 3 shows that the Coastal Area lies within the Most Sensitive Landscape. *Applications for development in these areas must demonstrate an awareness of these inherent limitations by having a very high standard of site selection, siting layout, selection of materials and finishes.* It is noted that as the existing site is elevated and the adjoining lands to the east are not developed that the proposed two storey development will appear more prominent in the landscape.

7.5. Access and Right of Way

- 7.5.1. The site is located off Convent Road, in Coxtown, approx. 500m from the village centre. There is an existing field entrance into the site from the road and a public footpath from the site to the village centre. It is within the 50km/h urban speed limits. It is proposed to provide a new entrance and internal access road to serve the proposed development. As shown on the Site Layout Plan, the latter is to be located along the western boundary of the site, adjacent to but not adjoining the access road that serves the houses to the west. Boundary treatment is proposed along the western site boundary so that the existing and proposed access roads will be separated. Therefore, as shown on the plans the proposed entrance will not adjoin the existing access road entrance but is to be offset further to the east along the site frontage.
- 7.5.2. Reference is had to the Coakley Consulting Engineers Report who were commissioned by the applicant to prepare a Roads and Access Report to support the planning application with site access via an existing Right of Way (ROW) – Figure 1.1 refers of this Report refers. It is provided that the ROW extends the entire length of the site's western boundary (approx. 60m) from a field gate access on Convent Road. That the northern end of the existing ROW is proposed to remain a

cul de sac as part of the application and therefore does not allow for access to adjoining 'third' party lands.

- 7.5.3. This also notes regard to the Site Layout Plan submitted and to compliance with DMURS guidelines. They note that the proposed site access meets and exceeds sightlines requirements contained in DMURS Sections 4.4.4 and 4.4.5 and Table 4.2. In this respect I would also note that Section 8.6 of the Waterford City and County Development Plan 2022-2028 provides the Sightline Requirements, where there is a minimum distance of 70m in 50km/h built up areas.
- 7.5.4. The Engineering Report provides details to Improvements to the existing Right of Way. It notes that as shown on the Site Layout Plan submitted, it is proposed to create a new site access junction onto Convent Road thereby separating and providing a sufficient distance of approx. 13m between the proposed site access junction location and the existing 'third party' lands. That due to legal requirements the existing ROW will be retained. Also, that the existing field gate will be retained in its current location but will not be used for vehicular access to the proposed 3no. dwellings.
- 7.5.5. They also submit that the proposed site access junction would not impact upon a potential future access junction to the adjacent 'third party' lands on the Convent Road. That a potential future access to these lands is likely to be located midway along the roadside boundary, thereby ensuring a separation distance of approx. 90m which is considered more than sufficient in an urban area.
- 7.5.6. The Council's Road Section considered that the proposed entrance would introduce a traffic hazard due to the proximity of the existing entrance to the west. That traffic movements and pedestrian movements at the parallel entrances would become unsafe and confusing. That drivers would be required to have regard for two-way traffic on the main road together with any traffic in the adjoining/parallel entrance as well as taking into account any pedestrians. They recommended that the entrances should be combined into a single entrance/access or the new entrance moved to the opposite side of the site.
- 7.5.7. The Council's first reason for refusal relates to these issues including concerning the new access onto the Coxtown Road (L4202) which is adjacent to two no. vehicular

entrances, one of which directly adjoins the currently proposed entrance. That the proposal would be prejudicial to road safety by way of traffic hazard.

7.5.8. The First Party note that since the implementation of planning permission 19/704 for an extension to the adjoining house immediately to the west of the application site and relocation of the vehicular entrance off Convent Road to the existing laneway to the side of the house, there is only one existing vehicular entrance serving houses immediately to the west. In addition, I would refer to the Retention Permission Reg.Ref. 20/305 relative to the property to the west as noted in the Planning History Section above. As noted on site the vehicular access to this property is now from the access road to the west of the site, which serves two houses, rather than from Convent Road.

7.5.9. However, having visited the site and seen the number of entrances in the area, I would consider that the proposed access directly adjacent to the existing entrance and access road, is not optimum in the interests of traffic safety and will add to the proliferation of vehicular accesses in the area. I note that the Council's Road Engineer advised that it would be preferable, in the interests of reducing the number of separate entrances in close proximity to the public road, if the applicants were to have a joint access with the access road to the west or the access moved to the opposite side of the site. This would, however, be a different concept to the current layout and would involve consent to access via third party lands. It is not the subject of the current application.

7.6. **Masterplan issues**

7.6.1. The issues regarding design and layout and access for the proposed development have been discussed above. It is noted in the Council's reasons for refusal, no.2 is concerned about the lack of preparation of a masterplan relative to the layout for the entire site i.e to include the landbank of residentially zoned land to the east and north of the site. As has been noted in the Policy Considerations Section above, and as shown on Map 2, Volume 4 of the current Development Plan, Objective DMD06 is relative to the undeveloped landbank area as a whole which includes the rectangular strip which relates to the subject site.

- 7.6.2. The Council's concerns that the development maybe premature pending a masterplan for the entire landholding and that a single access to serve the greater landholding would be preferable are noted. The First Party note that the applicant has no control over neighbouring land or precisely how it might be designed and developed in the future. That the owner of the adjoining landholding has advised that they have currently no immediate plans to develop this site. That the proposed development will not compromise the development of the adjoining lands.
- 7.6.3. They provide that for completeness the project architect has produced an indicative layout plan that may be of assistance to the Board. This demonstrates the access position previously proposed under planning application Reg.Ref. 18/798 (ABP-304962-19 refers) which was then deemed acceptable and safe and which the project engineer for the current proposal has demonstrated is sufficiently removed from the access to the three proposed houses not to give rise to traffic concerns. The layout also highlights 3 potential pockets of land within the site suitable for clusters of houses, subject to detailed design.
- 7.6.4. I would consider that a coordinated development of this residential landbank close to the centre of Dunmore East, would be preferable to the piecemeal approach as per the subject application. As noted in the documentation submitted the landholding as an entity has separate landowners. That, therefore, without their consent, it would not be in the scope of this application to pursue the concept of a masterplan. However, I would be concerned that the design and layout of the proposed development and in particular the location of the proposed access would have the potential to impact adversely on the future development of the adjoining lands.

7.7. Land ownership issues

- 7.7.1. The issues of Access, Right of Way and Land Ownership have been discussed in the documentation submitted and noted in this Assessment above. The Design Statement includes Section 3.02 which refers to site ownership, noting the separate landowners relative to the greater landholding.
- 7.7.2. Having regard to issues including access and boundary issues and relevant to the development of a masterplan for the wider area, it must be noted that any issue of encroachment, or alterations to the site boundaries is a civil matter, and the applicant

is advised that in the event of encroachment or any dispute regarding easements concerning the adjoining property, the consent of the adjoining property owner is required. It is of note that the issue of ownership is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of s.34(13) of the Planning and Development Act: *“A person shall not be entitled solely by reason of a permission under this section to carry out any development”*.

- 7.7.3. Under Chapter 5.13 ‘Issues relating to title of land’ of the ‘Development Management - Guidelines for Planning Authorities’ (DoECLG June 2007) it states, inter alia, the following: *“The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...”* In other words, the developer must be certain under civil law that he/she has all the rights in the land to execute the grant of permission.

7.8. Drainage issues

- 7.8.1. The Planning application notes that the proposed development is to connect to the public sewer and public mains. A database of wastewater treatment facilities and capacities in each of the settlements is set out in Volume 1: Chapter 6 – Table 6.1. ‘Water and Wastewater Capacity – Settlements in Waterford County (Source: Irish Water April 2022. This notes that Dunmore East is within the East Waterford Regional Water Resource Zone (WRZ). The Water source/treatment capacity update for the town includes: *Currently it is envisaged that capacity is available to cater for proposed population targets in GDP. Storage requirements are being assessed through the National Water Resource Plan Full Options Assessment process, which is due to be completed in Q3 2021.*
- 7.8.2. The First Party note that a technical issue was raised by the Water Services Section of the Council in respect of soakaways and they consider that this can be addressed by condition requiring on-site attenuation capacity in the gardens of each house to regulate discharge to ground rates. Rainwater harvesting can also be included to address this issue.
- 7.8.3. They consider that issues raised by the Council’s Water Services Section in respect of soakaways and on-site attenuation can be addressed on site, by way of condition.

Rainwater harvesting can also be included. If the Board decides to permit it is recommended that an appropriate water services condition be included to include regard to surface water drainage and incorporating SuDS.

7.9. Appropriate Assessment

- 7.9.1. Having regard to the nature and scale of the proposed development located within an existing serviced urban area, and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered 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.

8.0 Recommendation

- 8.1. I recommend that permission for the proposed development be refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. As shown on the Land Use Zoning Map in Volume 4 of the Waterford City and County Development Plan 2022-2028, the subject site is on land zoned 'New Residential Phase 1' and Objective DO6 provides that regard be had to the topography and the established pattern of development in the vicinity. It is considered that the height, design and layout, including the backland nature of the proposed development and the provision of two storey houses on this elevated site, with views to the sea within the coastal landscape area of Dunmore East would be contrary to Specific Development Objective – DM06, and to Housing Policy Objectives H02 and H20 of Volume 1 of the said plan. As such it would be contrary to the proper planning and sustainable development of the area.
2. The proposed development would result in the creation of a new vehicular entrance and increase in traffic movements to and from the site, adjacent to the existing entrance and access road to the west onto this busy local road. In view of the configuration of the proposed access and proximity to the existing

access it has not been demonstrated in the documentation submitted to the satisfaction of the Board that the proposal would not lead to confusion for road users and to traffic hazard. In addition, that it would not adversely impact on access to the future development of the residentially zoned land to the east of the site. The proposal would therefore be contrary to the proper planning and sustainable development of the area.

3. The proposed development would be piecemeal and premature pending the provision of a masterplan for the entire landbank area as shown with the DMDO6 Specific Objective on the Land Use Zoning Map in Volume 4 of the Waterford City and County Development Plan 2022-2028. It has not been demonstrated to the satisfaction of the Board that the proposed development would be integrated and connected to the surrounding area in which it is located. As such it would be contrary Housing Policy Objective H02 of the said plan and to the proper planning and sustainable development of the area.

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.

Angela Brereton
Planning Inspector

7th of July 2023