



An  
Bord  
Pleanála

## Inspector's Report ABP-314371-22

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<b>Development</b>	Changes to previously granted planning permission Register Reference Number 20200617/ABP-308060-20 comprising the construction of 6 additional houses.
<b>Location</b>	Upton, Kilmuckridge, Gorey, Co. Wexford
<b>Planning Authority</b>	Wexford County Council
<b>Planning Authority Reg. Ref.</b>	20220719
<b>Applicant(s)</b>	Green DCBM Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Green DCBM Limited
<b>Observer(s)</b>	None on file
<b>Date of Site Inspection</b>	07/11/2023
<b>Inspector</b>	Sarah Moran

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## 1.0 Site Location and Description

- 1.1. The site is at the centre of the village of Kilmuckridge, approx. 18km south of Gorey and 20km east of Enniscorthy, Co. Wexford. Kilmuckridge is located on the Regional Road R742, the main north Wexford coast Courtown Gorey road. The site comprises c. 0.25 ha of lands within a larger development as permitted under ABP-308060-20 (see planning history below and blue line site boundary in documentation on file), which is currently under construction as Upton Meadow. The overall development, as per the blue line site boundary, is on the western side of the R742 and is accessed via an existing road from same that serves the adjoining Chestnut Walk housing estate. The development is bound to the north by the Chestnut Walk estate, to the east by open agricultural land and to the south by the Morriscastle Road. There is an existing retaining wall along the western and southern site boundaries, referred to as the famine wall in documentation on file, and some mature trees close to the southern and western boundary walls of the overall landholding.
- 1.2. The site is located within the 50 kph speed zone. There is a footpath along the southern side of the Morriscastle Road and along the western side of the R742.

## 2.0 Proposed Development

- 2.1. The proposed changes to the development permitted under ABP-308060-20 comprise the construction of four no. additional two storey three bed houses and two no. additional two storey four bed houses. The proposed houses are to be constructed within the overall Upton Meadow development, at the location of previously proposed apartment / duplex units which were required to be omitted by condition no. 2 of ABP-308060-20.
- 2.2. The documents submitted with the application include:
- Outdoor Lighting Report dated 21<sup>st</sup> June 2021;
  - Part V Agreement in Principle with Wexford County Council Housing Section dated 26<sup>th</sup> May 2022;
  - Correspondence with Irish Water / Uisce Éireann, dated 30<sup>th</sup> May 2022, relating to a pre-connection enquiry to Irish Water, which states that IW / Uisce Éireann can facilitate the proposed connection.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.2. Wexford County Council (WCC) issued a notification of a decision to refuse permission on 22<sup>nd</sup> July 2022, for the following stated reasons:

1. *It is considered that the proposed additional residential element of the proposed development would contravene materially condition no. 2 of the grant of governing planning permission issued by An Bord Pleanála 308060-21 and would therefore be contrary to the proper planning and sustainable development of the area.*
2. *Having regard to the design and layout, it is considered that the proposed development constitutes a poor design response in relation to the provision of useable open space. The proposed open space is both secluded and is not overlooked, it is considered that a more innovative layout would eliminate such spaces in favour of a more appropriate better useable public open space, the proposed development would therefore be contrary to the proper planning and sustainable development of the area.*
3. *The proposed pedestrian link with Chestnut Walk is not in compliance with Section 1 Technical Document M 2010 Building Regulations and would therefore be contrary to the proper planning and sustainable development of the area.*

### 3.3. Planning Authority Reports

#### 3.3.1. Planning Reports

WCC Executive Planner report dated 20<sup>th</sup> July 2022. Recommends refusal for the reasons set out above.

#### 3.3.2. Other Technical Reports

Report of WCC Senior Executive Scientist (Environment), dated 1<sup>st</sup> July 2022, recommends that further information be requested in relation to (i) a Construction and Environmental Management Plan and (ii) details and specifications of silt traps to be installed on the surface water drainage system.

### 3.4. Prescribed Bodies

3.4.1. None on file.

### 3.5. Third Party Observations

3.5.1. None on file.

## 4.0 Planning History

4.1. The following recent planning history relates to the development site. See WCC planning report on file for details of historic applications dating to before 2010.

### 4.2. Reg. Ref. 20200617 ABP-308060-20

4.2.1. Permission sought by Green DCBM Ltd to construct 56 no. dwellings at the development site comprising 41 no. two storey houses and two no. two storey apartment blocks with 15 no. apartments. The development also involved:

- Vehicular access via the existing access road serving Chestnut Walk;
- Three no. pedestrian links with two links to Chestnut Walk to the north and one to the Morriscastle Road to the south;
- Provision of public open space in the form of a linear park along the southern site boundary, stated area 0.18 ha;
- 91 no. car parking spaces;
- New connections to IW / Uisce Éireann infrastructure. Surface water drainage system including a surface water attenuation tank at the lower southern end of the site.

4.2.2. WCC refused permission for the development on 4<sup>th</sup> August 2020 for the following reasons:

1. *The layout of the proposed development is considered to present overlooking concerns namely to the north-western units no's 42 and 43 with only 7 m between opposing bedroom windows.*

2. *Inadequate information has been provided with regard to demonstrating the agreement from Irish Water to allow the connection of the proposed 56 units into the public sewer and water network.*
3. *The proposed development by reason of design and layout is considered deficient as it fails to provide the necessary bicycle parking, and communal bin storage for the apartment and duplex units.*
4. *The orientation of the House Type 4 units presents overlooking between opposing first floor windows and the adjoining private garden spaces associated with these units so as to render their gardens deficient of privacy.*

4.2.3. The Board issued a decision to grant permission on 23<sup>rd</sup> February 2021, subject to the following Condition no. 2, which required amendments to the development:

*The proposed development shall be amended as follows:*

*Units numbers 37 to 51 inclusive shall be omitted, so that the proposed development shall consist of a total number of 41 units. This area shall be landscaped, and details of the landscaping shall be agreed in writing with the planning authority.*

*Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.*

*Reason: In the interests of visual and residential amenity.*

The stated Reasons and Considerations set out in the Board Order of ABP-308060-20 state in the following in relation to the required amendments:

*The Board had regard to the topography of the site, and the location, design and layout of the duplex units and considered that the single aspect ground floor units in particular, would be substandard in terms of daylight and would seriously injure the residential amenity of future occupants and that these units should be omitted in their entirety by condition.*

Condition no. 11 of ABP-308060-20 also required the following:

*Prior to commencement of development, the following shall be submitted to, and agreed in writing with, the planning authority:*

- a) *A detailed design for a new footpath along the full length of the site adjoining Morriscastle Road. The design shall include public lighting.*
- b) *A detailed design for a continuation of the proposed footpath at the entrance to the scheme to the existing footpath to the north inside the entrance to Chestnut Walk estate, and to the south connecting to the R742.*
- c) *Details of the design, implementation, costing, and phasing of these works. The cost of the design and implementation of these works shall be at the developer's expense.*
- d) *The agreed new area of footpaths shall be constructed and implemented prior to the occupation of the development.*
- e) *The gradient of the access drives shall not exceed 3% for the first seven metres adjacent to the carriageway.*

*Reason: In the interests of pedestrian and traffic safety.*

Condition no. 22 required the following:

*The area identified as 'future community development site' on Site Plan drawing number A1 Rev. No. E lodged with the application dated 12<sup>th</sup> June 2020, which is outlined in blue and within the applicants ownership, shall be ceded to the planning authority for the development of a play area and community use, prior to commencement of development.*

*Reason: In the interest of proper planning and sustainable development.*

The remaining conditions imposed under ABP-308060-20 did not involve any significant changes to the development.

## **5.0 Policy Context**

### **5.1. National Planning Policy**

5.1.1. The following relevant national planning policies, including section 28 guidelines, are noted:

- Project Ireland 2040 National Planning Framework

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) and the associated Circular Letter: NRUP 02/2024
- Design Manual for Urban Roads and Streets (DMURS) (2019 update)
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)

## 5.2. Development Plan

- 5.2.1. The Wexford County Development Plan 2013-2019 was in force when the subject decision was issued on 22<sup>nd</sup> July 2022. See WCC planning report on file and the Inspector's report of ABP-308060-20 for details of relevant policies and objectives of the previous development plan.
- 5.2.2. The current Wexford County Development Plan 2022-2028 came into effect on 25<sup>th</sup> July 2022. The following policies and objectives of same are noted in particular.
- 5.2.3. Kilmuckridge is located within an Area Under Strong Urban Influence as per development plan Map 1: Rural Area Types and is identified as a Core Strategic Settlement in Figure 3.1 Core Strategy Map. It is on the third tier of the county settlement hierarchy. Development plan section 3.6.4 sets out the development approach for eight no. Level 3b Strategic Settlements, including Kilmuckridge, noting that they are important contributors to economic activity at sub-county level and perform important functions including retail, commercial, education, residential, service and amenity functions for wide sub-county hinterlands, generally far in excess of that required to support their own population.
- 5.2.4. Development plan Chapter 4 Sustainable Housing and Chapter 5 Design and Place-making in Towns and Villages sets out strategic housing objectives with reference to national planning policy, including residential density and house types / unit mix and the design and layout of residential developments. Development plan Chapter 11 Landscape and Green Infrastructure and Chapter 14 Recreation and Open Space Strategy provide objectives on green infrastructure and public open space.
- 5.2.5. Development plan Volume 2 sets out development management standards for residential development including Table 2-1 Key Urban Design Criteria to be considered in Residential Schemes and Other Developments, with reference to the



12 criteria specified in the Section 28 Guidelines for Sustainable Residential Development in Urban Areas (2009). Also note in particular section 2.3.1 regarding DMURS, section 2.8 in relation to open space and green infrastructure and section 3.12 Multi-Unit Residential Schemes in Towns and Villages, section 6.3 in relation to car parking and section 7.4.2 Landscape Plans.

### **5.3. Natural Heritage Designations**

5.3.1. The development site has the following distances to designated sites within 15 km:

- 2.8 km to the Seas off Wexford SPA (004237)
- 4.3 km to the Cahore Marshes SPA (004143)
- 9.8 km to The Raven SPA (004019)
- 4.1 km to the Cahore Polders and Dunes SAC (000700)
- 2.3 km to the Kilmuckridge-Tinnaberna Sandhills SAC (001741)
- 7 km from the Blackwater Bank SAC (002953)

### **5.4. EIA Screening**

5.4.1. See Appendix 1 – Form 1: EIA Pre-Screening. Having regard to the nature, size and location of the proposed development, comprising of the construction of six no. additional houses within a permitted and partially constructed residential development at a serviced site and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

## **6.0 The Appeal**

### **6.1. Grounds of First Party Appeal**

6.1.1. The main points made in the grounds of the first party appeal may be summarised as follows:

- The proposed development does not seek to alter a condition attached to the Board decision of ABP-308060-20 but seeks to alter the previously permitted development by adding four no. additional residential units.
- The development presents no legislative issue regarding the right of the planning authority to alter or amend a permission granted by the Board. The proposed additional units constitute development as defined by the Planning Act and should be considered by the planning authority on their merits in the context of proper planning and development.
- It is accepted that the proposed amendments to the permitted development constitute a “material alteration”, however that in itself is not a justifiable reason for refusal. The planning authority has an obligation to consider the development on its merits in the context of development plan policy.
- The units omitted by Condition no. 2 of ABP-308060-20 were single aspect duplex units. The justification for their omission is clearly set out in the Board Order. The reasoning of the Board’s decision to omit the duplex units was not as a result of a shortfall or an inadequacy of open space provision, but instead was due to an assessment that the duplex units were not acceptable. The purpose of the subject application is to provide for additional units which are acceptable and are not substandard in terms of daylight.
- The proposed development should be considered on its merits and in this context represents the following:
  - Increased density provision (30.8 units/ha or 45 units on a total site of 1.46 ha)
  - More economic use of land
  - Infill site
  - Within the built up settlement footprint
  - Consistent with the development plan Core Strategy which promotes compact growth and strengthening rural economies and communities

- The appeal notes the designation of Kilmuckridge as a Level 3b Strategic Settlement under the development plan settlement hierarchy, along with related policies to prioritise development of these settlements.
- The WCC planning report does not refer to the applicant's proposal to provide a 0.5 ha site to WCC for provision of a play area / community gain between the development site and the public road. The Board accepted this provision in lieu of active open space in its consideration of ABP-308060-20, ref. section 7.9.13 of the Inspector's Report of same. It is submitted that the development will therefore result in the provision of useable public open space.
- The applicant / first party appellant does not accept that the current proposed design and layout represent a poor design response due to a lack of overlooking of the remaining open space. The proposed development seeks to provide for a more economical and sustainable use of land while responding to site constraints. The area between no. 55 Chestnut Close and the proposed house no. 41 is not developable or suitable for active open space, due to site contours. The applicant accepts that this area would not have natural surveillance and now proposes to incorporate it into the private garden space of house no. 41. The Board is requested to impose a condition accordingly.
- The overall development has an area of 1.66 ha including the community playground site (0.2ha), which constitutes 12% of the applicant's landholding. The proposed development does not result in a reduction in useable active open space. The omission of the duplex units resulted in 20% of the overall development site (1.46 ha) as open space. The proposed additional four houses will reduce this by 5% resulting in 15% open space on top of the 12% of the overall development site put aside for the community play area. This will result in a development with 15% of internal open space plus the adjoining community play area. Poor provision of open space is not a justifiable reason for refusal in this instance.
- Details regarding the design and layout of the pedestrian connection to Chestnut Walk have already been agreed in full with the planning authority in accordance with condition no. 9 (c) of ABP-30806-20. It is also noted that the pedestrian link

to Chestnut Walk is outside the red line site boundary and does not form part of the subject application.

## **6.2. Planning Authority Response**

6.2.1. None on file.

## **6.3. Observations**

6.3.1. None on file.

## **6.4. Further Responses**

6.4.1. None on file.

## **7.0 Assessment**

7.1. I have read through the file documentation and the relevant provisions of the Wexford County Development Plan 2022-2028 and have carried out a site inspection. The main issues are those raised in the planning report on file and in the grounds of appeal. Overall, I am satisfied that no other substantive issues arise. I note in this regard that the development site is located within a larger permitted residential development on serviced lands, that Irish Water / Uisce Éireann states that proposed connections can be facilitated and that the site is located in Flood Zone C as per the Strategic Flood Risk Assessment of the current development plan. In addition, while I note the recommendation for a further information request in the report on file of WCC Senior Executive Scientist, dated 1<sup>st</sup> July 2022, I am satisfied that the issues referred to therein could be addressed by way of condition given that the development site is within an already permitted residential development and that the issues raised do not relate to fundamental site servicing issues, e.g. infrastructure capacity. I also note that the application includes a Part V Agreement in Principle with WCC Housing Section, dated 26<sup>th</sup> May 2022.

7.2. I consider that the relevant issues can therefore be dealt with under the following headings:

- Condition no. 2 of ABP-308060-20

- Public Open Space Provision
- Connection to Chestnut Walk
- Appropriate Assessment

These issues may be considered separately as follows.

### 7.3. **Condition no. 2 of ABP-308060-20**

- 7.3.1. Refusal reason no. 1 of the WCC decision considers that the proposed additional residential units within the larger permitted development would materially contravene condition no. 2 of ABP-308060-20. Condition no. 2, as set out in full above, required the omission of two duplex blocks (identified as Blocks A and B in the drawings on file ABP-308060-20) at the north eastern corner of the overall Upton Meadow development, adjacent to the interface between Upton Meadow and Chestnut Walk. Condition no. 2 also specified that the resultant undeveloped area shall be landscaped with details of same to be agreed with the planning authority. The stated reason for Condition no. 2 is “In the interests of visual and residential amenity”. The Reasons and Considerations set out in the Board Order of ABP-308060-20 state that the Board considered that the single aspect ground floor units within the proposed blocks would be substandard in terms of daylight and would seriously injure the residential amenity of future occupants and that these units should be omitted in their entirety by condition.
- 7.3.2. The first party appeal submits that the current proposal does not seek to alter a condition attached to the Board decision of ABP-308060-20 but seeks to alter the previously permitted development by adding four no. additional residential units and should be considered on its merits in the context of local and national planning policy. It is also submitted that the proposed revised layout seeks to address the issue raised in the Board Order regarding single aspect duplex units by providing a revised residential layout that is not substandard in terms of daylight, also that the proposed additional residential units within the overall Upton Meadow development would be in accordance with national and local planning policy to achieve compact urban development within established settlements, given that the proposed revised development would result in an overall density provision of 30.8 units/ha or 45 units on a total site of 1.46 ha at an infill site within the footprint of the settlement of Kilmuckridge.

7.3.3. The core strategy and residential density policies of the current Wexford County Development Plan 2022-2028 refer to the National Planning Framework and the section 28 Sustainable Residential Developments in Urban Areas Guidelines for Planning Authorities (2009). Development plan Table 4-5 Indicative Density and Scale states that the appropriate scale/number of units for developments within Level 3 (b) settlements will be determined based on the scale and characteristics of the individual settlement, with the combined permitted residential development of each settlement not to exceed 20% of its 2016 population during the lifetime of this Plan. The 2009 Guidelines have recently been superseded by the new Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024). The new Guidelines set out a tiered approach to residential development within various settlement types in the context of national planning policy. Having regard to the guidance provided in section 3.3 of the 2024 Guidelines, I consider that Kilmuckridge would correspond with the 'rural towns and villages (<1,500 population)' settlement type identified. Section 3.3.5, Table 3.7 of the 2024 Guidelines states a policy and objective that development in rural towns and villages is tailored to the scale, form and character of the settlement and the capacity of services and infrastructure (including public transport and water services infrastructure), with residential density at such locations to respond in a positive way to the established context. I consider that the overall residential density at the Upton Meadow development would generally be in accordance with this guidance, given that the proposed house types integrate with the permitted development layout and with regard to the discussion of public open space provision below, in view of the criteria for assessment of residential density as provided in section 3.4 of the 2024 Guidelines.

7.3.4. I consider that the design and layout of the proposed six no. additional houses are also generally in accordance with the standards for housing provided in section 5.3 of the 2024 Guidelines with regard to separation distances, private open space provision and to the guidance provided in the Design Checklist set out in Appendix D of the Guidelines. The proposed additional units represent a coherent addition to the permitted development and, given their orientation, scale and separation distances, are not considered to create any significant potential for adverse impacts on adjacent residential amenities by way of overlooking, overshadowing or adverse visual

impacts. The proposed houses also address the issues raised in the Board Order of ABP-308060-20 as there are no single aspect units. The documentation submitted with the applicant does not provide any assessment of daylight and sunlight levels at the proposed units, however, given their design and orientation, I am generally satisfied that they will have adequate levels of residential amenity in this regard.

7.3.5. I therefore consider that proposed alterations to the development permitted under ABP-308060-20 are acceptable in principle, notwithstanding condition no. 2 of same.

#### **7.4. Public Open Space Provision**

7.4.1. Refusal reason no. 2 of the WCC decision considers that the development would represent a poor design response in relation to the provision of useable open space as the proposed open space is both secluded and is not overlooked. The first party appeal submits that the applicant proposes to provide a 0.5 ha site at the southern end of the overall Upton Meadow development to WCC for provision of a play area / community gain between the development site and the public road, noting that the Board accepted this provision in lieu of active open space in its consideration of ABP-308060-20, resulting in an adequate provision of public open space at the development overall.

7.4.2. Chapter 14 of the current development plan provides objectives on the provision of public open spaces and play facilities for rural settlements. Section 14.5.3 notes that many settlements within the county that do not have a Local Area Plan (including Kilmuckridge), will have no formal hierarchy of open space and provision will be considered on a case-by-case basis. Table 14-1 Hierarchy of Public Open Spaces indicates that residential developments will generally allocate 15% of the total site area as public open space, with neighbourhood parks to account for 10% of this allocation. It is envisaged that neighbourhood parks will provide active playing fields, a playground, outdoor gym equipment and seating areas. The remaining 5% public open space allocation is to be provided in the form of pocket parks. These objectives are generally in accordance with Policy and Objective 5.1 of the 2024 Guidelines, which states that statutory development shall require public open space provision of at least 10% of net site area and not more than a minimum of 15% of net site area save in exceptional circumstances.

- 7.4.3. The overall Upton Meadow development site permitted under ABP-308060-20 had a total stated area of 1.46 ha within the red line site boundary, with an additional area of 0.2 ha at the southern end of the site within the blue line site boundary (applicant's landholding). The permitted site layout provided two principal areas of public open space (i) at a linear area along the southern site boundary, where existing trees are to be retained, and (ii) at an area adjoining the proposed access to Chestnut Walk at the north eastern corner of the site, adjacent to the currently proposed houses. Section 7.9 of the Inspector's report of ABP-308060-20 notes that the grounds of that first party appeal included a proposal to provide a community play area on the lands at the southern end of the site within the blue line site boundary. The overall provision of public open space was considered acceptable in this context and condition no. 22 of ABP-308060-20 requires that this area shall be ceded to WCC for the development of a play area and community use, prior to commencement of development.
- 7.4.4. The current site layout indicates a community play area at the frontage to the R742, which has a stated area of 0.18 ha. It is submitted that this provision, along with the smaller areas of public open space described above, will result in a total public open space provision of c. 15% of the red line site area of ABP-308060-20, in addition to the provision of the community play area adjoining the development, with the remaining open space areas unchanged from those previously permitted.
- 7.4.5. The red line site boundary of the subject application does not include the community play area or any of the open spaces serving the overall Upton Meadow development. However, the subject proposal would be granted subject to a condition requiring that it shall be carried out and completed in accordance with the terms and conditions of ABP-308060-20, including provision of the community play area and public open spaces. I note separately that the grounds of appeal also include a proposal that an area at the boundary between Upton Meadow and Chestnut Walk (outside the current red line site boundary) shall be incorporated into the side garden of proposed house no. 41, as it is not overlooked and is steeply sloping and therefore unsuitable for use as public open space. This proposal is considered acceptable and would not result in a de facto reduction in public open space provision at the overall development, noting the guidance on public open space provided in the development management standards set out in development plan Volume 2, section 3.12.4, which



states that areas not suitable for development or recreational use such as sloping areas or narrow pieces of open space must be excluded from public open space calculations.

- 7.4.6. Having regard to the above, I consider overall that the development will therefore result in the provision of an adequate quantum and quality of public open space for the overall Upton Meadow development.

#### **7.5. Connection to Chestnut Walk**

- 7.5.1. Refusal reason no. 3 of the decision issued by WCC states that the proposed pedestrian link to Chestnut Walk does not comply Section 1 Technical Document M 2010 Building Regulations. The first party appeal states that the detailed design and layout of the pedestrian connection to Chestnut Walk have already been agreed in full with the planning authority in accordance with condition no. 9 (c) of ABP-308060-20. It is also noted that the pedestrian link to Chestnut Walk is outside the red line site boundary and does not form part of the subject application. These points are considered reasonable and any permission for the proposed additional units would be subject to compliance with the conditions of ABP-308060-20, including the provision of a pedestrian connection to Chestnut Walk and the detailed treatment and landscaping of the associated public open space.

#### **7.6. Appropriate Assessment**

- 7.6.1. The site is 2.8 km to the Seas off Wexford SPA (004237); 4.3 km to the Cahore Marshes SPA (004143); 9.8 km to The Raven SPA (004019); 4.1 km to the Cahore Polders and Dunes SAC (000700); 2.3 km to the Kilmuckridge-Tinnaberna Sandhills SAC (001741) and 7 km from the Blackwater Bank SAC (002953). Having regard to the nature and scale of the proposed development being six no. additional houses within an existing/permitted housing development on serviced land, and the separation distances to the European sites from the subject site, I do not consider that the proposal would be likely to significantly impact the qualifying interests of the 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.

## 8.0 Recommendation

8.1. Having read the appeal and submissions on file, had due regard to the provisions of the Wexford 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 Wexford County Development Plan 2022-2028, to the existing / permitted residential development at 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.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on 23<sup>rd</sup> February 2021 under ABP-308060-20, and any agreements entered into thereunder.</p>

	<p><b>Reason:</b> In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.</p>
3.	<p>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 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><b>Reason:</b> 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>
4.	<p>A revised layout for the public open space between the proposed development and the boundary with Chestnut Walk, along with landscaping details, shall be agreed in writing with the planning authority prior to the commencement of development and shall be carried out in full.</p> <p><b>Reason:</b> In order to ensure a satisfactory standard of development.</p>
5.	<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><b>Reason:</b> In the interest of visual amenity.</p>
6.	<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><b>Reason:</b> In the interest of visual and residential amenities.</p>
7.	<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><b>Reason:</b> In the interest of public health.</p>

8.	<p>The developer shall enter into water supply and wastewater connection agreements with Uisce Éireann (formerly Irish Water) prior to commencement of development. A Confirmation of Feasibility for connection to the Uisce Éireann network shall be submitted to the planning authority prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
9.	<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. Such lighting shall be provided prior to the making available for occupation of any house.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
10.	<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><b>Reason:</b> In the interest of amenity and of traffic and pedestrian safety.</p>
11.	<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><b>Reason:</b> 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>
12.	<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><b>Reason:</b> 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.

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Sarah Moran  
Senior Planning Inspector

15<sup>th</sup> February 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-314171-22			
<b>Proposed Development Summary</b>	Changes to previously granted planning permission Register Reference Number 20200617/ABP-308060-20 comprising proposed construction of 6 additional houses			
<b>Development Address</b>	Upton, Kilmuckridge, Gorey, Co. Wexford			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	<b>Yes</b>	X		
	<b>No</b>	No further action required		
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>		Class.....	EIA Mandatory EIAR required	
<b>No</b>	X		Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>		N/A		No EIAR or Preliminary Examination required
<b>Yes</b>	X	Class 10(b)(i): Construction of more than 500 residential units.		Proceed to Q.4

		Proposal is for 6 no. units and site development works, and is therefore below the stated threshold.		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: \_\_\_\_\_

Date: \_\_\_15<sup>th</sup> February 2024