



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315058-22

<b>Development</b>	Construction of 31 no. dwellings and all associated site works.
<b>Location</b>	Ashgrove, Church Road, Aghada, Midleton, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	216873
<b>Applicant(s)</b>	Whitegate Plant Hire Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Brendan and Eibhlin Murray Sean and Samantha O'Keeffe Kieran and Mary O'Hanlon Gerard and Teresa Looney
<b>Observer(s)</b>	Mary Rogers Joseph and Margaret Savage

**Date of Site Inspection**

February 26<sup>th</sup>, 2024

**Inspector**

Lorraine Dockery

## **1.0 Site Location and Description**

- 1.1. The site, which has a stated area of 3.6 hectares, is located within the settlement boundary of the key village of Aghada, approximately 300m south of the Regional Road R630, Co. Cork. The village is located approximately 12km south of Midleton.
- 1.2. This is an elevated site that is currently under grass (three separate fields). The lands are surrounded by low density housing. There are two existing entrances to the site, namely through the Ashgrove estate to the south-west of the site, which would allow access to the majority of the development lands while access to the north would serve a small number of detached houses (six proposed dwellings).

## **2.0 Proposed Development**

- 2.1. The proposal comprises the construction of 31 no. dwellings and associated site works to include new vehicular entrance from Church Road and realignment, widening and upgrade works to the existing 'Ashgrove' estate vehicular entrance roadway and footpath, together with all ancillary site development works.
- 2.2. The development is broken into two sections:
  - (i) Lower Northern section- 6 detached houses accessed from Church Road
  - (ii) More elevated Southern section- 25 detached/semi-detached houses accessed through Ashgrove development
- 2.3. Proposed density is 9 units/hectare.
- 2.4. An indicative masterplan is submitted for a third later phase, which in its totality (if permitted) would give rise to a total of 68 units on the site as outlined in red.
- 2.5. The application is accompanied by a letter from Cork County Council (Architecture and Urban Design) (dated 08/10/2021) which states that the site includes lands in the charge of Cork County Council, specifically lands indicated on attached drawing. The letter confirms that Cork County Council gives consent to the making of the planning application but does not in any way imply or commit to a grant of planning permissions and cannot be construed as a commitment by the Council to disposing of this property to the applicants or any other party.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Permission GRANTED, subject to 55 no. conditions

Further Information was requested by the planning authority in relation to (i) General Layout (ii) Surface Water (iii) Access/Traffic (iv) Part V (v) Servicing (vi) Archaeology (vii) Public Lighting

Clarification of Further Information was requested by the planning authority in relation to (i) wider footpath connections/improved linkages (ii) sightlines (iii) Part V

#### Condition 1(b)

This permission authorises the development of 25 dwellings only, i.e proposed for the southern section of the site. Units 1-6 and associated works accessed from Church Road are not authorised.

Reason: In the interests of clarity and traffic safety

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

- Senior Planner- Reflects decision of planning authority; recommends grant of permission with the omission of 6 units proposed to be accessed from Church Road (northern section)
- Case Planner- Recommends a split decision reflecting recommendation of Engineering section

##### 3.2.2. Other Technical Reports

Engineering Section- Recommended permission be refused for proposed northern entrance due to insufficient sightlines; recommends permission be granted for remainder of development, conditions recommended (05/10/2022)

Water Services- No objection, subject to conditions (17/05/2022)

Archaeology Section- No further archaeological input required (11/05/2022)

Housing Section- No objection, subject to conditions (30/09/2022)

Estates Section- No objection, subject to conditions (06/05/2022)

Public Lighting- No objection, subject to conditions (09/05/2022)

Ecology Section- No objection, subject to conditions (26/09/2022)

### **3.3. Prescribed Bodies**

Uisce Eireann: No objections, subject to conditions. Confirmation of Feasibility has issued which states that both water and wastewater connections are feasible without infrastructure upgrade by Uisce Eireann. Proposed connection to the Uisce Eireann network can be facilitated at this time (dated 16/03/2022)

Inland Fisheries Ireland: requests that Uisce Eireann signify that there is sufficient capacity in the system so as not to overload either hydraulically or organically existing treatment facilities or result in polluting matters entering waters

### **3.4. Third Party Observations**

The planning authority received a number of observations which raised issues similar to those contained in the third-party appeals.

## **4.0 Planning History**

### PL04.234394

Permission REFUSED on appeal for amendment to residential development permitted under 03/6162, to include alterations to layout, reduction in density to 77 houses, childcare facility and all associated site works. The four reasons for refusal related to (i) threat of water pollution, prejudicial to public health due to discharge of treated effluent into Cork Harbour (ii) setting of precedent for use of privately operated wastewater treatment plants; adverse impacts on water quality (iii) endangerment of public safety by reason for traffic hazard and (iv) overlooking and creation of poor quality environment (decision date 2010).

### 03/6162

Permission GRANTED for construction of 83 houses, childcare facility with apartment overhead, upgrading of site access and all ancillary site works. Third party appeal WITHDRAWN

## 5.0 Policy Context

### 5.1. National Planning Policy

#### Section 28 Ministerial Guidelines

The following list of section 28 Ministerial Guidelines are considered to be of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities
- Urban Development and Building Heights, Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets
- The Planning System and Flood Risk Management (including the associated Technical Appendices)
- Childcare Facilities – Guidelines for Planning Authorities
- Architectural Heritage Protection, Guidelines for Planning Authorities
- Appropriate Assessment Guidelines for Planning Authorities
- Climate Action Plan

#### Other policy documents of note:

- National Planning Framework
- Regional Spatial & Economic Strategy for the Southern Region

### 5.2. Local Planning Policy

#### **Development Plan**

The Cork County Development Plan 2022-2028 applies.

Aghada is designated as a Key Village in the Settlement Hierarchy. It is located within the East Cork Growth Corridor and Whitegate/Aghada is identified as one of four Strategic Locations.

Whitegate / Aghada has a specialist role in the storage and processing of strategic energy resources being home to three power stations and an oil refinery. This Plan supports the continued role of Whitegate / Aghada as a Strategic Employment Location and Energy Hub.

Whitegate and Aghada- The population target of 2,341 will require the delivery of 60 units for the plan period.

#### Table 4.1: Settlement Density Location Guide- Aghada

##### Objective (WG-R-02)

Medium C (5-20 units/ha)- applicable in a limited amount of circumstances not exceeding 20% of the new housing requirements as an alternative to one off housing

##### Objective WG-DB-01

Within the development boundary of Whitegate and Aghada encourage the development of up to 60 houses during the plan period.

Section 3.8.4- It is considered that the bulk of the required housing will be provided around the existing housing and community facilities available at Aghada.

Opportunities for residential development in Whitegate village itself will be limited.

Zoning: Residential

### 5.3. Natural Heritage Designation

The nearest designated sites- Cork Harbour SPA (Site Code 004030) is located approximately 30m from the proposed northern entrance to the site and approximately 365m north of the development area of the subject site.

### 5.4. EIA Screening

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

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

The proposed development is for 31 dwellings on a site c. 3.6 ha. The proposed development is considered to be sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 (as amended). Accordingly, it does not attract the need for a mandatory EIA. The site is located within a designated development area of Aghada village, on lands zoned for residential purposes. Furthermore, as this proposal would fall below the relevant threshold, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

### 5.5 Appropriate Assessment Screening

- 5.6 Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/or a hydrological connection, the potential of likely significant effects on European Sites



arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

Four third-party appeal submissions were received, with similar issues raised in all submissions. Three of the four appeals are from residents of Ashgrove. The submissions received may be broadly summarised as follows:

- Traffic and Transport Matters: access road and footpaths through Ashgrove must be upgraded and widened; not wide enough for two vehicles to pass; lack of clarity on what is proposed within Ashgrove in terms of road/footpath widths; inadequate space for landscaping; concerns regarding HGV manoeuvres; Road Safety Audit concerns.
- Object to use of Ashgrove as entrance for construction vehicles; alternative proposal put forward.
- Church Road not capable of accommodating additional traffic- too narrow, steep, number of bad bends, poorly aligned, no footpaths nor public lighting; lack of visibility on Church Road; safety hazard for pedestrians and vehicles; welcome provision of new footpath by CorkCoCo but have concerns regarding lack of clarity regarding timelines for its provision; better connectivity required; proposal premature until such time as road network in area is improved.
- Safety concerns- nothing has changed since previous refusal of ABP with increased risks to public safety in the interim due to additional development permitted
- Residential and Visual Amenity Matters: overlooking, impacts on privacy, distance from boundary, height, design and layout, open space layout, density; new lighting columns visible, visual impacts; dominate skyline on visually sensitive site.
- Drainage concerns: capacity of existing infrastructure; surface water concerns leading to increased flooding.

- Other Matters: Public lighting concerns; lack of clarity in drawings; lack of clarity on future plans for northern portion of site, compliance with Building Regulations; ABP should rezone lands for lower density housing; consultation with local residents; ownership matters.
- Proposal contrary to proper and sustainable development of this area

## 6.2. Applicant Response

A response was received on behalf of the applicant, which may be broadly summarised as follows:

- Refutes grounds of appeal
- Subject site is located within a key village adjoining existing residential areas; zoned site that will help meet housing targets in recently adopted CDP for this settlement.
- Notes Objective WG-DB-01 which seeks to provide an additional 60 dwellings up to 2028 within this settlement boundary and that ‘the bulk of housing will be provided around the existing housing and community facilities available at Aghada’ (Section 3.8.4 of CDP- South Cork Volume)
- Zoned for ‘Medium C Density Residential Development (Objective WG-R-02) with a prescribed density of between 5-20 units/ha
- Masterplan approach and overall layout was supported by the planning authority, which will result in an appropriate form, layout and density.
- In terms of wastewater disposal, a water supply and wastewater connection are both feasible without an infrastructure upgrade by IW. In terms of water supply, IW state that watermain upgrades are required to be funded by developer. Confirmation of Feasibility issued.
- In terms of surface water drainage, Condition 23 and 49 of PA decision noted. All surface water will adhere to principles of SuDS and shall be contained within the site and piped to the public system. No surface water is permitted to flow onto the public road. Condition No. 48 stipulates that agreement with PA is required in relation to road surface water drainage layout, prior to

commencement of development. Any existing issues is not caused or exacerbated by the proposed development in any way.

- In terms of traffic and pedestrian safety, noted that Condition No. 55 requires payment of €29,525 to planning authority a special development contribution for the provision of footpath connectivity to Upper Aghada, together with €53,459 (of which €35,500 is attributable to road improvements). Notes that without these contributions there is no funding available to improve the existing roads/footpaths in the area. Therefore roads/footpaths/pedestrian safety is better with this development, than without it.
- In terms of pedestrian connectivity outside the site, PA made it clear that focus should be on pedestrian movements (not road widening) and that they would be responsible to carry out such works which would be funded through special development levy.
- In terms of construction traffic, a CMP was submitted as part of planning application and approved by PA. Section 3.4 of CMP included comprehensive suite of measures to ensure that there will be no adverse impacts on residential amenities in the area. Condition No. 22 deals with this matter.
- In terms of previous decision on site, this was for a much larger development of 77 houses with childcare facility. No special development levy was attached to that PA decision. In this instance, there is a specific plan for the provision of footpath connectivity to the wider area.
- Proposal should be considered appropriate precedent in terms of heights/scale; modest dwellings compared to large footprint of appellants homes.
- In terms of issues raised in relation to overlooking, proposal was amended at FI stage; no overbearance; minimal heights difference.
- In terms of inclusion of part of Church Road within red line boundary, this was to include provision for foul and surface water sewers. Letter of consent provided by Cork CoCo.

### **6.3. Planning Authority Response**

No further comment to make, all relevant issues have been covered in the technical reports.

### **6.4. Observations**

Two observations were received with many of the matters of concern largely contained within the appeal submissions and outlined above. In the interests of brevity, I will not reiterate but will refer the Board to same. I shall expand on matters raised within the main body of my report.

### **6.5. Further Responses**

None

## **7.0 Assessment**

7.1. The proposed development comprises the construction of 31 dwellings and all ancillary site development works. A mix of detached, semi-detached and terraced dwellings are proposed of maximum two-storey in height. I note that Condition No. 1(b) of the grant of permission which issued from the planning authority authorised 25 dwellings only, namely those on the southern portion of the site, accessed through the Ashgrove residential development. The six proposed dwellings at the northern end of the site, accessed from Church Road, were omitted due to issues of inadequate sightlines and in the interests of traffic safety. I am therefore assessing the proposal as permitted, for 25 no. dwellings.

7.2. Having examined the application details and all other documentation on file, including the reports of the planning authority and prescribed bodies, all appeal documentation received, observations received, together with having inspected the site, I consider that the main issues in this appeal are as follows:

- Principle of proposed development/policy context
- Traffic and transport issues
- Residential and visual amenity issues

- Drainage matters
- Other matters

7.3 The Board is advised that a development was previously refused permission by An Bord Pleanála on this site (PL04.234394) in 2010. This was an amendment to a previous application which included for reduction of units to 77 no. houses, childcare facility and associated site works with no proposals for footpath upgrades. It was refused permission for four no. reasons (see planning history above). I consider the current proposal to be materially different from that previously refused on the site and contrary to the opinion of some of the third parties, do not consider that this decision sets a precedent on this site. In any event, each application is assessed on its own merits.

Principle of proposed development/policy context

- 7.4 Aghada is designated as a Key Village in the Settlement Hierarchy and the subject site is located within the settlement boundary. It is located within the East Cork Growth Corridor and Whitegate/Aghada is identified as one of four Strategic Locations. It has a specialist role in the storage and processing of strategic energy resources being home to three power stations and an oil refinery. This Plan supports the continued role of Whitegate / Aghada as a Strategic Employment Location and Energy Hub.
- 7.5 The subject site is zoned for residential development and Objective WG-DB-01 of the operative County Development Plan states that ‘Within the development boundary of Whitegate and Aghada... encourage the development of up to 60 houses during the plan period’. Section 3.8.4 of the Plan continues by stating that ‘the bulk of the required housing will be provided around the existing housing and community facilities available at Aghada. Opportunities for residential development in Whitegate village itself will be limited’. This would imply that the majority of future residential development, within the Plan period, is envisaged by the planning authority to be in the built-up area of Aghada. Given the locational context of the site, immediately adjacent to existing residential development, close the services and amenities within Aghada, I am satisfied that the principle of residential development is acceptable on this site and that the proposal would aid in achieving targets for

residential development within the settlement. I consider the proposal to be in compliance with Objective WG-DB-01 of the operative County Development Plan.

### *Density*

- 7.6 Some of the third-party submissions received raise concerns regarding the density proposed and state that An Bord Pleanála should rezone the lands so as to provide for a lower density of development on the site. This is not a function of An Bord Pleanála. I highlight to the Board that the operative County Development Plan is relatively recently adopted and came in effect in June 2022. Such matters would have been examined during the Development Plan process. Objective WG-R-02 applies to the subject site, which gives a Medium C density to the lands, namely between 5-20 units/ha.
- 7.7 The stated area of the subject site is 3.6 hectares- this includes for the entire masterplan area, including areas for which no development is currently proposed. With a site area of 3.6 hectares, the density of development was 9 units/hectare (as proposed with 31 units) while a permitted development of 25 units would give a density of 7 units/ha. It goes without saying that the density of development has been lowered by virtue of the fact that six dwellings were omitted from the grant of permission. I note that a non-statutory masterplan has been submitted with the application documentation, which the planning authority have not raised concerns with. This shows an indicative layout of development for the remainder of the site, currently not part of this proposal. I consider the headline figure of 7 units/hectare to be somewhat misleading in that the entire masterplan lands have been included in the figure of 3.6 hectares, although the current permitted element of 25 units forms only a portion of that area. I measure the current area on which the 25 units have been permitted to represent approximately 1.5 hectares of the total of 3.6 hectares (rough calculation). On this basis, it would give a density figure of approximately 16 units/hectare. I highlight that no further development element of the masterplan has been permitted on the site, aside from the subject 25 dwellings the subject of this current appeal. Without prejudice to any future application on the site, I acknowledge that any further grant of permission on the remainder of the lands may increase the density on the overall site. I highlight to the Board that I do consider this density as permitted to be low, however a density of 7 units/hectare is in compliance with Objective WG-R-02 of the operative County Development Plan

7.8 I note that the most recent census information (2022) cites a population figure of 1,159 persons in the Aghada-Rostellan area. In terms of national guidance, I note the recently published Sustainable and Compact Settlements, Guidelines for Planning Authorities (2023) and as per these Guidelines, consider that Aghada would be defined as a Rural Towns and Villages (<1500 population). Table 3.7 sets out density ranges for such rural towns/villages and states that it is a policy and objective of these Guidelines 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). Lands zoned for housing at the edge of rural towns and villages at locations that can be integrated into the settlement and are connected to existing walking and cycling networks can offer an effective alternative, including serviced sites, to the provision of single houses in the countryside. The density of development at such locations should respond in a positive way to the established context. I consider that the proposal is broadly in compliance with these Guidelines in this regard. I consider that a development such as that proposed can offer an alternative to one-off housing in the rural hinterland. The adopted Development Plan seeks to encourage compact growth and seeks to make the most sustainable use of existing urban land within the built envelope of a settlement. I consider that this is being achieved in this instance and I consider the proposal to be in compliance with both local and national policy in this regard.

#### Traffic and Transport Matters

- 7.9 I highlight to the Board that this is one of the main issues raised in the appeal submissions namely concerns regarding capacity of existing infrastructure; pedestrian and vehicular safety and additional traffic movements generated by the proposed development.
- 7.10 As stated previously, 25 dwellings were permitted by the planning authority with the remaining six dwellings omitted by Condition 1(b) in the interests of traffic safety. Inadequate sightlines were cited within the planning authority departmental reports. I note that the planning authority, in arriving at their decision, requested both Further Information and Clarification of Further Information from the applicant in relation to traffic and transport matters. A Stage 1/2 Road Safety Audit was submitted as part of the Clarification of Further Information request.

7.11 I again highlight to the Board that a development was previously refused permission by An Bord Pleanála on this site (PL04.234394) in 2010 for 77 dwellings and childcare facility. One of the reasons for refusal related to endangerment of public safety by reason for traffic hazard. As I have stated, that previously refused development is considered to be materially different from that current on appeal, due primarily due to differences in the overall scale of development, together that no levy was applied by the planning authority for the provision of improved pedestrian facilities.

7.12 Vehicular access is proposed from an existing cul-de-sac road Ashgrove which runs to the east of Church Road and accommodates four no. dwellings. Church Road is an extremely narrow road (less than 5 metres in places), with continuous rising gradient and acute bends. There are no footpaths and a narrow grass verge is provided in places. There is virtually continuous frontage development of individual dwellings. The speed limit is 50 kmph. During my site visit, I noted that traffic levels on Church Road were low. Speeds were also low, due in part due to its relatively poor condition. Within the Ashgrove development, there is a narrow footpath on the northern side of the roadway, a grass verge on the southern side and public lighting is in place. Traffic volumes on Ashgrove are low, given that it serves only four no. dwellings.

7.13 As stated above, there is a significant amount of linear development along Church Road. It is narrow in width, in poor condition and pedestrian connectivity is poor. The proposal would generate an increase in traffic movements along Church Road in either direction. The planning authority raised concerns regarding this lack of pedestrian connectivity to the main settlement core, including the school. The applicants responded by stating that there are significant lengths of roadway where it is not possible to provide a new footpath alongside the existing carriageway without incursion into private property. Due to the width of the carriageway, the option of reducing the carriageway width to provide such a footpath is also not a viable option. The first party are of the opinion that any such linkages would therefore need to be delivered by the local authority. The planning authority are open to providing this footpath and are of the opinion that a new link could be created between the Ashgrove entrance and Upper Aghada core, which contains the school. This footpath link would also serve other residentially zoned lands in the vicinity, that have



not yet been developed. It would be funded by this and future development. I note that it would also serve existing development. Two contributions have been applied by the planning authority to facilitate such works, namely Condition No. 55 requires payment of €29,525 to the planning authority as a special development contribution for the provision of footpath connectivity to Upper Aghada. The planning authority would undertake these works. A second general contribution is also applied to the grant of permission of €53,459 (of which €35,500 is attributable to road improvements). The first party response to the appeal notes that without these contributions there is no funding currently available to improve the existing roads/footpaths in the area. Therefore roads/footpaths/pedestrian safety is better with this development, than without it. I would not disagree with this assertion of the first party.

7.14 In terms of proposals within the Ashgrove development, it is proposed to provide a 2m wide footpath on the northern side of the roadway, a 5.5m carriageway and 2m footpath on the southern side, where achievable. This will be provided by the applicants. It is acknowledged in the documentation that the provision of 2m width on the southern side is not achievable for its full length and will be reduced in width to what is available. This appears reasonable to me. The width of the proposed footpath is questioned in some of the appeal submissions. However, given the variable width of the carriageway, I am satisfied that the footpath width on the southern side of the carriageway reflects the available space. The planning authority state that the carriageway width is not to be reduced to less than 5.5m in length and this matter is dealt with by means of condition. I consider that these works will result in a superior situation than what currently exists within Ashgrove and I welcome such improvements.

7.15 These proposed footpaths (both within Ashgrove and to the main settlement core) will greatly improve accessibility/pedestrian facilities for all and this is to be welcomed. I am satisfied that this footpath will provide a valuable pedestrian facility, for not only future residents of this proposed scheme, but also for the numerous residents that currently live along this roadway. It will be a planning gain for the entire community. While I acknowledge the issues with Church Road in terms of its narrowness, acute bends and condition, I consider that given the overall scale of development proposed, it has capacity to absorb this development. Traffic volumes

appear low, as are speeds. The planning authority are satisfied in this regard. I am generally satisfied. I note that some of the third-parties welcome provision of new footpath by CorkCoCo but have concerns regarding lack of clarity regarding timelines for its provision. It is correct that such information does not appear to be attached to the file, however it can only be provided once the development contribution has been paid upon any final grant of permission. I recommend that if the Board is disposed towards a grant of permission, that a condition be attached which stipulates that no dwelling be occupied until such time as footpaths have been constructed. This would give some clarity to the matter.

7.16 Concerns have been raised by some of third parties regarding concerns for HGV movements within the proposed development. This matter has been addressed by the planning authority in their technical reports and I am satisfied in this regard.

7.17 I have no information before me to believe that the proposal would lead to the creation of a traffic hazard or obstruction of road users. I consider that the proposal is substantially in compliance with DMURS and other government guidance, together with local policy. Under the Design Manual for Urban Roads and Streets (DMURS), the needs of pedestrians and cyclists are to be prioritised. I am satisfied in this regard.

#### Residential and Visual Amenity

7.18 I note that the third-party appeal submissions raise concerns in relation to residential amenity, both for existing residents and proposed occupiers in terms of the quality/location of public open space provision. Concerns raised include issues of overlooking, impacts on privacy and height of proposed development. In terms of impacts on residential amenity, I am cognisant of the relationship of the proposed development to neighbouring properties. Having examined the proposal, I am of the opinion that separation distances typical of what would normally be anticipated within such an established, urban area are proposed with existing properties. This will ensure that any impacts are in line with what might be expected in an area such as this. In terms of overlooking, I note that the Dwelling No. 14 was amended at Further Information stage to address the planning authority concerns in relation to overlooking. Windows on the rear elevation (to bathrooms) at first floor level are comprised of obscure glazing. I am satisfied with the heights proposed and consider

that they would integrate well with existing development in the immediate locality. Given the height and design of the proposed dwellings, I am of the opinion that the proposed houses would not unduly overbear, overlook or overshadow adjoining properties, and would not seriously injure the amenities of property in the vicinity of the site. I am satisfied that impacts on privacy would not be so great as to warrant a refusal of permission. There is an acknowledged housing crisis and this is a serviceable site, in an established urban area, where there are adequate services, facilities and employment in close proximity.

7.19 In terms of construction impacts, this matter was addressed by the planning authority in their request for Further Information when a Construction Management Plan was sought and duly submitted by the applicant. Section 3 provides details of traffic and transport measures, with haulage routes outlined which includes for construction traffic through the Ashgrove development. It is stated that in terms of works to the public road to service the proposed development, the traffic management for these works will be by a specialist traffic management contractor. I acknowledge that there will be some disruption during the course of the construction works, particularly for the residents of Ashgrove, however this disruption is anticipated to be short-lived in duration. The planning authority were satisfied in this regard and attached Conditions No. 22 and 48(b) to their grant of permission, which deals with the matter of construction management. I consider that any negative impacts arising from construction traffic would not be so great as to warrant a refusal of permission. I recommend that the matter of construction management be dealt with by means of condition, if the Board is disposed towards a grant of permission.

7.20 In terms of visual amenity, I note that this has been raised as a concern in some of the third-party submissions received, including the proposal being visually dominant at this sensitive location, would dominate the skyline and the fact that lighting columns associated with the proposal would be visible from existing properties. I am generally satisfied with the design approach put forward in this instance. In terms of lighting columns being visible from existing properties, I note that this is an urban area and visible lighting columns are part of living in such an urban environment. I do not have any concerns in this regard. Lighting details have been submitted as part of the application documentation and the planning authority have dealt with the matter by means of condition. Generally, I do not consider the proposal to be

excessively dominant, overbearing or obtrusive in its context and I consider that the subject site has capacity to accommodate a development of the nature and scale proposed, without detriment to the visual amenities of the area. The height and scale reflects existing development in the area. I do not consider the proposal to be out of character with existing development in the vicinity nor does it represent over-development of the site. I am satisfied that the proposed development is in accordance with the operative Development Plan in this regard. The planning authority have not raised concern in this regard.

7.21 In terms of the quality of development proposed, I am satisfied in this regard. Some of the third-party submissions received raised concerns in relation to the public open space provision/layout. The proposed development maintains the significant setback from the main spine road, which reflects the layout of the existing development in Ashgrove. A central area of public open space is proposed, which is overlooked and accessible. The planning authority dealt with the matter of quantum of open space/play facilities in their request for Further Information. A Landscaping Plan was submitted as part of the Further Information response. The operative County Development Plan states that generally, at least 12% to 18% of a site for development excluding areas unsuitable for house construction should be allocated to the provision of public open space. However, a lower standard of public open space provision will be considered where larger private gardens are provided within Medium C zoned lands. I note that large private rear/side gardens are proposed dwellings. The proposal is considered to meet the standards of the operative County Development Plan in this instance. The planning authority are satisfied in this regard. Details of the landscaping of this area could be dealt with by means of condition if the Board is disposed towards a grant of permission.

#### Drainage Matters

7.22 Some of the third-party submissions raise concerns in relation to drainage matters, in particular the capacity of existing infrastructure, surface water and flooding concerns. In response the first party state that in terms of wastewater disposal, a water supply and wastewater connection are both feasible without an infrastructure upgrade by Uisce Eireann. I note the report of Uisce Eireann that has no objections to the proposal, subject to condition. Uisce Eireann notes that both water and wastewater connections are feasible without infrastructure upgrade by Uisce Eireann and that

the proposed connection to the network can be facilitated at this time. They do note that some watermain upgrades are required to be funded by developer. A Confirmation of Feasibility has issued. I note that the planning authority requested Further Information in relation to this matter and were satisfied with the response received.

7.23 In terms of surface water drainage, Condition 23 and 49 of the planning authority decision is noted. The matter also formed part of the Further Information request which issued from the planning authority. The first party state that all surface water will adhere to principles of SuDS and shall be contained within the site and piped to the public system. No surface water is permitted to flow onto the public road. Condition No. 48 stipulates that agreement with the planning authority is required in relation to road surface water drainage layout, prior to commencement of development. The first party further state that any existing issues is not caused or exacerbated by the proposed development in any way. I have no information before me to believe otherwise.

7.24 Having regard to all of the information before me including the reports of the planning authority and Uisce Eireann, I have no information before me to believe that the existing infrastructure does not have capacity to deal with the proposal. An examination of the OPW website does not indicate any flooding in the immediate area. Infrastructural capacity would have been taken into account by the planning authority in the zoning of the land and the objective to provide for an additional 60 dwellings within the settlement, during the Development Plan process. I have no information before me to believe that the proposal would be prejudicial to public health. I am satisfied in this regard.

#### Other Matters

7.25 One of the third-party submissions received relates to the red line boundary shown along Church Road on lands outside of the applicants control. I highlight to the Board that there is a letter of consent attached to the file from Cork County Council (Architecture and Urban Design) (dated 08/10/2021) which states that the site includes lands in the charge of Cork County Council, specifically lands indicated on attached drawing. The letter confirms that Cork County Council gives consent to the making of the planning application but does not in any way imply or commit to a

grant of planning permissions and cannot be construed as a commitment by the Council to disposing of this property to the applicants or any other party. The first party in their response state that this was included to provide for foul and surface water sewers and they note the letter of consent provided by Cork CoCo in this regard. I am satisfied that the applicant has demonstrated sufficient legal interest to make this application. I note that matters of ownership/boundary are legal matters, outside the remit of this planning appeal. If the Board is disposed towards a grant of permission, I recommend that a note be attached to any such grant advising that a person is not entitled solely by reason of a permission to carry out any development.

- 7.26 Matters relating to boundary treatment could be adequately dealt with by means of condition.
- 7.27 It is stated by third parties that there is lack of clarity on future plans for northern portion of site. The current proposal thereon was omitted by the planning authority in this grant of permission. Any future plans for this plot of land are outside the remit of this current appeal.
- 7.28 The matter of compliance with Building Regulations is also outside the remit of this planning appeal.
- 7.29 While consultation with local residents is welcomed and often beneficial for all parties, I note that there is no obligation in legislation for the applicants to consult with local residents prior to submission of a planning application.
- 7.30 Lack of clarity in the information submitted by the first party has been raised in some of the third-party submissions. I am satisfied that there is adequate information on file for me to undertake a comprehensive assessment of the proposed development.
- 7.31 I highlight to the Board that Condition No. 4 of the planning authority decision to grant permission restricts all houses and duplex units permitted to be first occupied by individual purchasers, namely not a corporate entity, as per Section 47 of the Planning and Development Act 200, as amended. Given the locational context of the site, I do not consider this condition necessary in this instance. I do not consider this to be a new issue.
- 7.32 I am generally satisfied with the remainder of the proposal, subject to compliance with conditions. The proposal will be an attractive addition to the area at this location

and would contribute to the residential mix in the area, in accordance with the zoning objective for the area. The public gain from the proposed pedestrian enhancements will be a benefit to the wider community. The proposal is considered to be generally in compliance with relevant policies and objectives of the operative Development Plan and the proper planning and sustainable development of the area.

### Conclusion

7.33 Having regard to the layout, height and design solution put forward, together with the enhanced pedestrian facilities proposed (some of which are to be provided by the planning authority) which will improve pedestrian connectivity with the village for all residents along their route, I am satisfied that the proposed development is in accordance with the zoning objective of the Development Plan, is in keeping with the pattern of development in the area and is in accordance with the proper planning and sustainable development of the area.

## **8.0 Recommendation**

8.1. I recommend that the decision of the planning authority be UPHELD and that permission be GRANTED, subject to the following conditions.

## **9.0 Reasons and Considerations**

Having regard to the pattern of development in the area and its residential zoning under the Cork County Development Plan 2022-2028, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity, would provide an adequate standard of residential amenity to future occupiers and would be acceptable in terms of traffic safety and convenience. 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, as amended by Further Information received by the planning authority on 28<sup>th</sup> April 2022 and 21<sup>st</sup> September 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>This grant of permission authorises 25 no. dwellings only, namely those located within the southern section of the site, accessed through the Ashgrove development. Units No. 1-6 on the northern portion of the site (accessed from Church Road) and associated infrastructure, are not permitted.</p> <p><b>Reason:</b> In the interests of clarity and traffic safety</p>
3.	<p>Prior to the commencement of any works on site, the applicant shall submit the following for the written agreement of the planning authority,</p> <p>(a) details of proposed boundary treatments</p> <p>(b) details of proposed compensatory planting to offset the loss of trees/hedgerows to facilitate the proposed development</p> <p><b>Reason:</b> In the interests of proper planning and sustainable development</p>
4.	<p>No residential dwelling permitted shall be occupied until such time as the proposed infrastructural works along the Ashgrove residential development and provision of footpath to the main settlement core in Upper Aghada is fully completed to the written satisfaction of the planning authority.</p> <p><b>Reason:</b> In the interests of clarity and the proper planning and sustainable development of the area</p>



5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed buildings 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>The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:</p> <p>(a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.</p> <p>(b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;</p> <p>(c) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works,</p> <p>(d) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site</p> <p><b>Reason:</b> In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0800 to 2000, Mondays to Fridays inclusive, between 0800 to 1600 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional</p>

	<p>circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</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><b>Reason:</b> In the interest of public health and to ensure a satisfactory standard of development.</p>
9.	<p>The applicant shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
10.	<p>(a) The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.</p> <p>(b) Removal of scrub, hedgerows and trees shall only take place outside the bird breeding season (March 1<sup>st</sup>- August 31<sup>st</sup>)</p> <p><b>Reason:</b> To ensure a satisfactory completion and maintenance of the development in the interests of residential amenity and in the interests of protecting the environment</p>
11.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of</p>

	<p>which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting.</p> <p><b>Reason:</b> In the interests of amenity and public safety</p>
12.	<p>Proposals for the development 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 signs, and apartment 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 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><b>Reason:</b> In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
13.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide, inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise and dust management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
14.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to</p>

	<p>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.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
15.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> In the interest of orderly development and the visual amenities of the area.</p>
16.	<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 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p><b>Reason:</b> To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
17.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall: (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and (b) employ a suitably-qualified archaeologist</p>

	<p>prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues: (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material. A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
18.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</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>

19.	<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 of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion 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><b>Reason:</b> To ensure the satisfactory completion of the development.</p>
20.	<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>
21.	<p>The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and</p>

	<p>Development Act 2000, as amended, in respect of works proposed to be carried out for the provision of footpath connectivity to Upper Aghada, which benefits the proposed development. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.</p> <p><b>Reason:</b> It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.</p>
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Note: The applicants are advised to note section 34(13) of the Planning and Development Act, 2000 (as amended) which states that a person shall not be entitled solely by reason of a permission to carry out any development.

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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Lorraine Dockery  
Senior Planning Inspector

25<sup>th</sup> March 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála</b>	ABP-315058-22		
<b>Case Reference</b>			
<b>Proposed Development Summary</b>	Construction of 31 no. dwellings and all associated site works.		
<b>Development Address</b>	Ashgrove, Church Road, Aghada, Middleton, Co. Cork		
<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>	x	N/A	No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....	Proceed to Q.4



4. Has Schedule 7A information been submitted?		
No	x	Preliminary Examination required
Yes		Screening Determination required

**Inspector: Lorraine Dockery      Date: 25<sup>th</sup> March 2024**