



An
Bord
Pleanála

Inspector's Report

ABP-315303-22

Development	Construction of Nursing Home, retirement village and all associated works.
Location	Cloonlough, Mitchelstown, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	224420
Applicant(s)	Charleville Homecare Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Charleville Homecare Ltd.
Observer(s)	N/A.
Date of Site Inspection	21 st of February 2024.
Inspector	Stephanie Farrington

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	17
3.4. Third Party Observations	18
4.0 Planning History.....	18
5.0 Policy Context.....	19
5.1. Development Plan.....	19
5.2. Natural Heritage Designations	25
5.3. EIA Screening	26
6.0 The Appeal	27
6.1. Grounds of Appeal	27
6.3. Planning Authority Response	31
7.0 Assessment.....	31
8.0 Recommendation.....	51
9.0 Reasons and Considerations.....	51
Appendix 1 – Form 1: EIA Pre-Screening	
Appendix 2 – EIA Preliminary Examination	

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 4.99ha, is located along the R-513 regional road, to the south-west of the settlement core of Mitchelstown. The site is greenfield and overgrown and described as an agricultural holding within the application documentation. The site is adjoining by the R513 Fermoy Road to the east and the R 639 Mitchelstown Relief Road to the south. Access to the site is currently provided via a gated entrance from the R513.

2.0 Proposed Development

2.1. The proposed development, as revised in response to Cork County Council's request for further information, includes the following key elements:

- Block 1 - Construction of two storey nursing home to cater for 105 residents.
- Blocks 2 and 3 – 2 no. 2 storey apartment blocks consisting of 8 no. 2 bed apartments for staff accommodation.
- Construction of 40 no. 2 bedroom houses (Retirement Village).
- Medical Centre unit and Management Unit.
- Access to the development is proposed via the R513, Fermoy Road.
- Provision of 176 no. car parking spaces.
- Open Space 0.757 ha (15%).
- The development includes connection to main foul sewer via on site foul sewage treatment/pump station with a connection to the public main water network.

2.2. The following documentation was submitted in conjunction with the application:

- Design Statement
- Planning Application Form and Public Notices
- Architectural and Engineering Drawings
- Engineering Services Report

2.3. The following documentation was submitted in response to Cork County Council's request for further information:

- Revised Drawings
- Aerial Views and Verified Photomontages
- FI Response Cover Letter
- Stage 1 Road Safety Audit
- Design Statement
- Engineering Report – FI Response
- Reports from Tricel Environmental including: Pump Proposal, Wastewater Treatment System Proposal, Wastewater Treatment
- Lighting Details
- Landscape Planning Statement
- Infiltration Testing

2.4. The following documentation was submitted in conjunction with the applicant's response to Cork County Council's request for clarification of further information:

- Updated Engineering and Architectural Drawings
- Public Lighting Layout
- Tree Removal Survey
- Outdoor Lighting
- Arboricultural Impact Assessment
- Engineering Surface Water Services Report

3.0 Planning Authority Decision

3.1. Decision

Cork County Council issued a notification of decision to refuse the development in accordance with the following reasons and considerations:

1. Having regard to the scale, extent, layout and disconnected, peripheral location of the site of the proposed nursing home and independent living units within the 'Greenbelt', it is considered that the proposed development does not constitute an appropriate compendium of quality residential care accommodation within close proximity to local services and facilities and would compromise the protection of the Greenbelt surrounding Mitchelstown. The proposed development would therefore conflict with Policy Objectives HOU 4-3, RP 5-19 and SC 6-9 of the Cork County Development Plan 2022 and would be contrary to the proper planning and sustainable development of the area.
2. The subject site is located on lands that are deemed to be of High Value Landscape and adjacent to a designated Scenic Route as set out in the County Development Plan, 2022. It is considered that the proposed development, by virtue of its scale, extent, form and massing, loss of mature trees and tree groups and the inadequacy of proposed landscaping, would represent an incongruous form of development that would negatively impact on the visual character of this particular high value landscape. The proposal would therefore conflict with Policy Objectives HE 16-21 and Objective GI 14-9 of the Cork County Development Plan, 2022, and would be contrary to the proper planning and sustainable development for the area.
3. The Wastewater Treatment Plant serving the Mitchelstown agglomeration is overloaded and is non-compliant with the Urban Wastewater Treatment Directive, 2017. In the absence of an assessment of the remedial works being implemented at the Wastewater Treatment Plant, it is not possible to prepare an AA screening assessment and as such it is not possible to determine that there will be no adverse effects on water quality and the integrity of the Natura 2000 site, and it is therefore considered that the proposed development is premature and would be contrary to objective WM 11-9 of the County Development Plan 2022, as it relates to the Water Framework Directive and Habitats Directive, and contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Area Planner's Report (22/04/2022)

The initial planner's report recommends a request for further information. The following provides a summary of the key points raised:

- There is no objection to the principle of the development having regard to the location of the site within the development boundary of Mitchelstown as defined under the Fermoy Municipal District Local Area Plan, 2017 to which the specific zoning objective MH R-12 applies: Nursing home and ancillary accommodation. The housing shall be low density and single storey only.
- The report refers to the greenfield nature of the selected site, the lack of any pedestrian linkages back to the town centre, the absence of any on site services to cater for the needs of the future residents and absence of detail on the type and model of retirement community proposed at this location. The report outlines that there is a concern that the proposal would not constitute a desirable type of development at this location.
- The report outlines that the adjoining road to the east is a designated scenic route (S3 – road between Moorepark and Mitchelstown encompassing views of the Galtee, Nagle, Kilworth and Knockmealdown Mountain Ranges) and the receiving environment is also designated as a High Value Landscape. It is stated that the application is not accompanied by a sufficient level of detail, illustrating the visual impact of the proposed development, particularly from along the adjoining public road to the east which is a designated scenic route and having regard to the elevated nature of the subject site. Further information is accordingly sought.
- The report outlines that the proposal which includes a total of 184 no. parking spaces incorporates a car-centric environment with no pedestrian linkages to the settlement provided. The report raises concern in relation to the connectivity of the site with Mitchelstown town centre and the limited integration across the site with much of the proposed independent living units are at a distance from the site entrance (of up to 500 metres).

- The report outlines that greater elaboration on the model of care being proposed for the retirement village is required together with justification for the suburban style nature of housing proposed.
- The report cross refers to and summarises the contents of the internal reports from the Area Engineer, Water Services and Ecologist and the recommended requests for further information set out therein.
- In terms of EIA Screening the report outlines that: *“In this instance, the subject site comprises a tract of land zoned for residential development along the southern end of the settlement of Mitchelstown. It is considered that the development would not be likely to have significant effects on the environment. An environmental impact assessment report for the proposed development is therefore not required”*.
- The report recommends a detailed request for further information in relation to the following:

Planning/ Landscaping/ Ecological Considerations:

- (1) Justification for scale and type of development proposed.
- (2) Submission of verified photomontages from viewpoints along the R513 regional road to the east, from at the roundabout to the south-east of the site, and from along the R639 regional road. Revised design and layout is requested in the instance of an undue adverse visual impact.
- (3) Revised Site Layout Plan which provides a more appropriate layout for the proposed nursing home model.
- (4) Submit proposals for a pedestrian link from the proposed site to the settlement core including proposals to extend footpaths and public lighting. This should incorporate a 2m wide footpath and drainage along the road frontage.
- (5) Submission of a biodiversity led Landscaping Plan which illustrates the retention of all mature trees on site.

Engineering Considerations: Items 6 -9

- (6) Submission of a Stage 2 RSA

(7) Surface Water Details

(8) Details of percolation tests

Irish Water: Item 9 & 10

(9) Uisce Éireann Pre-Connection Enquiry

(10) Details of agreed discharge to be agreed with Irish Water/Uisce Éireann.

Waste Water Considerations: Items 11-17

- Details and specifications for the proposed WWTP.

Public Lighting: Items 18-21

Senior Executive Planner's Report (22/02/22)

- Recommends a request for further information in accordance with the Area Planner's recommendation.

Area Planner's Report (02/06/2022)

The report provides a summary and assessment of the applicant's FI response. The report recommends a request for clarification of further information. The following provides a summary of the key points raised:

- The report outlines that the applicant's FI response does not clearly indicate the model of accommodation proposed for the retirement village and questions the ancillary nature of the proposed housing units. The applicant should be requested to clarify and submit a detailed written justification clearly demonstrating the proposed model (for example 'independent living model') and how it is consistent with the LAP zoning objective pertaining to the lands "*Nursing home and ancillary accommodation*".
- The report raises concern in relation to the accuracy of the photomontages submitted and outlines that there is a real likelihood that the proposal will give rise to significant adverse visual effects. The report outlines that the architectural design, bulk and massing of the nursing home may require further consideration having regard to the prominent location on a busy approach road to the settlement and on a designated scenic route.

- The report questions the relationship between the proposed residential units and nursing home and outlines that the applicant should be requested to confirm that the proposed retirement village will have access to services and facilities within the nursing home and that they will remain in ownership of management company and not sold to private individuals as habitable dwellings.
- The report outlines that the provision of a public footpath to the front of the site and a connection to the L-5671-0 local road is welcomed and required for the development.
- The report cross refers to the internal reports which recommend clarification of further information.

Senior Executive Planner's Report (02/06/2022)

The report outlines that the applicant's further information response is unsatisfactory in relation to the majority of the items raised. Clarification is recommended in accordance with the area planners' recommendation.

Area Planner's Report (15/11/2022)

The report recommends that permission is refused for the development.

- The report refers to the changing policy context pertaining to the site on foot of the adoption of the Cork County Development Plan 2022-2028. In terms of the principle of the proposal the report outlines that the subject site, by nature of its distance from the settlement core, and lack of any meaningful connection, fails to deliver a high-quality development that is integrated into a community setting. Such development would not be in keeping with the overarching land use zoning policies provided for older person accommodation in addition to the zoning associated with the town greenbelt setting.
- The report refers to the siting of the development within a rural area that forms part of the town greenbelt for Mitchelstown. The receiving environment is characterised as a High Value Landscape with the adjoining regional road to the east forming part of a designated scenic route.
- The report outlines that the proposed development will have a negative impact on this rural landscape. The proposed development would have a detrimental

impact on the visual amenities of the receiving environment and would accordingly be contrary to Policy Objective GI 14-9 and Policy Objective HE 16-21 of the Cork County Development Plan 2022.

- The report cross refers to the internal report received from the Wastewater operations. It is noted that the wastewater solution for the development is to treat the wastewater on site and to pump the treated effluent to the public sewer, with further treatment at Mitchelstown Public Wastewater Treatment Plant. As noted in the previous Planner's Reports, and in the internal reports on file.
- The report outlines that the request for further information and the clarification on same sought to identify the feasibility of connecting to the Mitchelstown WWTP and the discharge limits to be achieved by the treatment unit with Irish Water. The request for agreement of the discharge limits with Irish Water has not been dealt with in the respective responses from the applicant and no confirmation that the discharge limits could be achieved by the existing Irish Water infrastructure as sought is provided.
- The report outlines that an interim solution to address the issues with the Mitchelstown WWTP that is being progressed which seeks to bring the fourth percolating filter back into service. Works relating to same were completed on the 30th of September 2022 with the filter currently being seeded to allow the necessary build-up of bacteria on the stone media prior to being brought into operation. The report from the wastewater operations section on file notes that monitoring of these works only recently commenced and it will be a number of weeks before a full understanding and data is available to confirm if there has been an improvement in the performance of treatment at the primary discharge. Based on the outcome of the assessment, there will be nominally 800 PE capacity available for growth.
- The report outlines that Cork County Council's priority has been to release current planning applications already approved in the system and to increase housing supply for the settlement. In this respect, there is notably 56 no. units permitted under active planning permissions (planning ref. nos. 16/6142 and 18/5485) and permission currently being sought for the redevelopment of the former Mart site in the settlement to provide for an additional 51 no. units

(planning ref. no. 22/4751). As it is unclear what available capacity will be created from the current remedial works, the application is considered premature pending the completion of the assessment of the interim works as recently undertaken at the Mitchelstown WWTP.

Senior Executive Planner's Report (15/11/2022)

The report recommends that permission is refused for the development. The following provides a summary of the key points raised:

- The report outlines that the applicant's CFI response has been wholly unsatisfactory in relation to providing a justifiable rationale for the proposed nursing home and ancillary unit elements both as individual components and together as a residential care accommodation package. The model proposed is for 40 independent living units as part of a 'retirement village' which benefit from the nursing home services (not specifically defined) if they so wish through a service level agreement, with no commitment to a common ownership of the scheme elements going forward and a distinct lack of an evidence basis in relation to the stated 'current and future trends' for the demand for such a package of residential care for the proposed qualifying end users in this location (aged 55 years or older in the case of the units).
- The layout and positioning of the units within the site with associated parking and private gardens is also considered to be out of keeping and inappropriate for the nature of development applied for. Ultimately, the proposal for independent living units is not considered to be either 'ancillary' in keeping with the spirit of the former zoning objective nor appropriate in this peripheral location which is entirely insular and divorced from the main settlement, notwithstanding the site's location within the Greenbelt under the current County Development Plan 2022 for which a development of this nature is incompatible.
- The report refers to the expanded policies of the applicable County Development Plan 2022 in relation to Planning for Ageing (chapter 6.6), in particular Policy Objective SC 6-9 Cork an Age Friendly County, which seeks to support the implementation of the Cork Age Friendly County Programme and the Age Friendly Principles and Guidelines for Planning Authorities 2021, as

mentioned in the 'Housing Options for Our Ageing Population' Policy Statement by the DoHPLG and the DoE in 2019, including a commitment to the principle of sustainable communities and the provision of appropriately design residential care homes in areas with access to transport and amenities (Action 4.12 of Age Friendly Principles and Guidelines for the Planning Authority). In this regard, it is notable that Mitchelstown is one of eight current Age Friendly towns in County Cork and as such is a promoter of such policy objectives. The current proposal represents a significant departure from same. Reference is also made to the Age Friendly Document 'Preplanning Guidance for Residential Care Homes' 2021, in particular standard 2.7 which seeks that the design and layout of the residential service is suitable for its stated purpose, which is not considered to be the case in this instance.

- The report refers to the capacity constraints with the existing WWTP and outlines that further information was sought throughout the application process including for evidence of a Pre -Connection Agreement with Irish Water and details of agreed discharge limits (report dated 25/04/22). It is noted in the subsequent Water Services report dated 02/06/22 that correspondence from Irish Water may not reflect the current condition of the Treatment Plan and that further engagement would be prudent.
- The report refers to the final report of the Water Services Directorate. It is stated that the proposed development is therefore considered to be premature pending the completion of the assessment of the interim works recently undertaken at Mitchelstown WWTP in accordance with the report of Water Services.

Conclusion

- Based on the information provided, and notwithstanding the inadequacies of the proposal as presented in terms of site specific issues and key infrastructural deficits, the Planning Authority is not satisfied that this proposal for a nursing home and 48 additional units represents an appropriate or justifiable specialised residential accommodation package in this location outside the settlement of Mitchelstown, having regard to the pertaining development plan policies and objectives which have regard to Age Friendly Principles and

Guidelines for the Planning Authority 2021 and clearly seek to locate such development to be integrated in a meaningful way within close proximity to existing services and facilities. Refusal is recommended on this basis.

Senior Planner's Report (16/11/2022)

The Senior Planner's report recommends a refusal of permission. The following points are raised:

- The 2022-2028 County Development Plan has been adopted during the planning application process. The purpose of the Core Strategy is to articulate a medium to longer term strategy... for the spatial development of the County. The central focus... is on Residential development and in ensuring that there is an acceptable equilibrium between the supply of zoned, serviced land for the projected demand for new housing, over the lifetime of the Plan.
- The Core Strategy of the 2022 Plan sets out targets for the settlements/ towns of the County including Mitchelstown. The population target is 4,674 persons under the 2022 Plan, in comparison to 5,346 persons under the 2014 Plan /LAP 2017. This equated to 1040 units under former Plan, reduced to 357units under current Plan.
- Current zoned landbank (19ha of zoned res land, and 4.5ha of res additional provision) facilities a provision of 447 residential units (allowing for additional provision, 20- 25%).
- Infrastructural constraints for the settlement(s) are set out in Appendix D which prescribes that an upgrade of WWTP is required to provide adequate capacity to accommodate development in Mitchelstown (Table D3, Page 215)
- I note the content of the Water Services Report highlighting the potential future capacity (800PE) on foot of interim works to the WWTP and that this capacity should be prioritised for permitted residential development within the settlement. I note the content of the Ecology report and the inability to carrying out an AA Screening Assessment and therefore determine effects on the water quality (Water Framework Directive) and effects on the SAC, (Habitats Directive) and would be contrary to Objective WM 11-9 Wastewater Disposal.

- Growth targets seek to ensure that growth would be sustainable... ensures the capacity to accommodate the additional growth without damage to the settlements character and the carrying capacity of their environment and infrastructure.
- Given the significantly reduced core strategy growth targets for Mitchelstown in the current Plan, and the revised and reduced residential zoned landbank, and the lack of wastewater treatment capacity, it is considered that this significant development proposal on designated 'Greenbelt' would contravene the Core Strategy of the Plan, the National Planning Framework (NPF) and Regional Spatial and Economic Strategy, (RSES).
- The report refers to the specific requirements of Objectives HOU 4-3, RP 5-19 and SC-6-9 of the Cork County Development Plan 2022-2028.

3.2.2. Other Technical Reports

- *Initial Reports*

Area Engineer (21/04/2022) – The report recommends a request for further information. The report outlines that there is a lack of sufficient detail accompanying the planning application with respect to traffic volumes, pedestrian safety, sightlines and vehicular turning movements. A Stage 2 Road Safety Audit is requested. The report recommends the provision of a footpath and drainage along the road frontage of the proposed site to enable pedestrian access to the town. Details of percolation tests and surface water proposals are also requested together with details of a pre connection agreement with Irish Water.

Environmental Section (15/03/2022) – no objection subject to conditions.

Part V Officer (10/03/2022) – no objection.

Public Lighting (24/03/2022) – further information is recommended in relation to public lighting details.

Wastewater Services (22/04/2022) – The report recommends a request for further information in relation to a pre-connection agreement from Irish Water, provision of emergency wastewater storage, clarification on the pump station boundary treatments, detail of the level of treatment provided, design of hydraulic and organic loadings, and design of treated effluent parameters to be achieved. The report also

seeks detail in relation to future maintenance of the pump station / WWTP and detail in relation to construction and layout of a new head manhole.

Ecology Unit (21/04/2022) – The report recommends a request for further information including a biodiversity led landscaping plan. The report cross refers to the operational issues within Mitchelstown WWTP, the submission from Inland Fisheries Ireland and the report from the Area Engineer which recommends a request for further information. The report outlines that a habitats directive screening assessment will be carried out once further information has been received.

- *Further Information Reports:*

Area Engineer (30/05/2022) – The report recommends that clarification of further information is submitted including an updated site layout plan which illustrates the incorporation of measures set out within the Road Safety Audit and clarification of surface water proposals together with local authority/landowners for surface water discharge.

Estates Officer (12/05/2022) – late report on original application submission. The report cross refers to and agrees with the Area Engineer's report. The report also recommends the submission of a Landscaping Plan.

Environmental Section (13/05/2022) – no further comments.

Public Lighting (16/05/2022)– applicant has not addressed all items requested in the public lighting report submitted and deferral is sought.

Water Services (30/05/2022) – The report recommends a request for clarification of further information including submission of Connection Agreement from Uisce Éireann for proposed wastewater disposal and agreed discharge limit and confirmation of the boundary treatment and access to the proposed WWTP / Pump Station.

Ecology Unit (31/05/2022) – further information/clarification is sought in relation to the submission of a Landscaping Plan and Tree Survey Report.

- *Reports Prepared in Response to Applicant's response to Clarification of Further Information*

Area Engineer (08/11/2022) – The report recommends further information in relation to surface water proposals.

Area Engineer (11/11/2022) – The report refers to insufficient time to request further information. The report recommends a grant of permission subject to conditions.

Estates Officer (10/11/2022) – The report raises no objection, subject to conditions.

Environmental Section (01/11/2022) – no further comments on foot of response to request for clarification. Conditions set out in initial report are recommended.

Public Lighting (02/11/2022) – The report recommends further information in relation to proposals for lighting along the public roads and details of specification for internal lighting.

Public Lighting (07/11/2022) – The report outlines that the timeframes for further deferral are too tight and recommends a grant of permission subject to conditions.

Wastewater Operations (undated) – The report recommends a refusal of permission on grounds that the application is premature pending the completion of the assessment of the interim works recently undertaken in the Mitchelstown WWTP.

Ecology Report (with header of Engineering Report) (15/11/2022)

- The report raises concern in relation to the proposal from a tree loss perspective and wastewater treatment proposals and supports the recommended reasons for refusal made by the AP and Wastewater Services, subject to the inclusion of tree loss within the proposed Landscaping Refusal Reason.
- In terms of AA Screening the report outlines that the primary concern in relation to this development in relation to European Sites, is the potential for water quality impacts to the Blackwater River SAC and Blackwater Callows SPA associated with wastewater discharges. The report cross refers to the lack of Feasibility of Connection from Irish Water in relation to the proposed development and cross refers to the recommendations of the Water Services Department. The report concludes that, without confirmation that the issues associated with the Mitchelstown WWTP are overcome, it is not possible to complete Appropriate Assessment Screening in relation to the proposed development.
- The report recommends that permission is refused for the development in accordance with the following considerations:

The subject site is located on lands that are deemed to be of High Value Landscape and adjacent to a designated scenic route as set out in the Cork County Development Plan, 2022. Objective HE 16-21: Design and Landscaping of New Buildings seeks to encourage new buildings that respect the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape and requires the appropriate landscaping and screen planting of proposed developments. Objective HE 2-4 of the Cork County Development Plan 2014 seeks to protect mature trees and tree groups. Having regard to same, it is considered that the proposed development, by virtue of its scale, form and massing, loss of mature trees and tree groups and the inadequacy of proposed landscaping, would represent an incongruous form of development that would negatively impact on the visual character and biodiversity of this particular high value landscape. The proposal would therefore conflict with Objective HE 16-21 and Objective GI 14-9 of the Cork County Development Plan, 2022, and HE 2-4 of the Cork County Development Plan 2014 and would be contrary to the proper planning and sustainable development for the area.

3.3. Prescribed Bodies

Inland Fisheries Ireland (25/03/2022) – The report outlines that while Inland Fisheries Ireland is not in principle opposed to the above development, it is of the view that the Council should be entirely satisfied that there is sufficient existing spare WWTP capacity within the Mitchelstown agglomeration to serve the proposed development.’

The report outlines that IFI receives regulation notification forms from Irish Water detailing ELV exceedances at the Mitchelstown WWTP. Further loading will likely lead to further diminishment of the current performance increasing the burden on finite assimilative capacity of receiving surface waters via unsatisfactory discharges and to the detriment of the fisheries resource.

In the instance that there is inadequate existing wastewater treatment capacity for significant additional loading IFI considers that the development is premature pending necessary infrastructure facilities to facilitate the development.

Uisce Eireann (21/04/2022) – ‘Further information is recommended in relation to the submission of a pre connection enquiry (PCE) in order to determine the feasibility of connection to the public water/waste water infrastructure. The Confirmation of Feasibility (COF) must be submitted to the planning department as the response to this further information request. Pre-connection enquiries can be made at <https://www.water.ie/connections/get-connected/>

Uisce Eireann (25/04/2022) – Indicates that water and wastewater connection is feasible without a local infrastructure upgrade and accordingly there is no objection subject to conditions.

3.4. **Third Party Observations**

2 no. 3rd party submissions were submitted during the initial public consultation phase of the application. The following provides a brief summary of issues raised:

- The submissions raise concern in relation the construction phase impacts of the development (noise and traffic) on the residential amenity of the area.
- It is stated that the development is not suitable in a greenbelt area.
- Reference is made to flooding on adjacent properties.
- The submissions require clarification on boundary treatment.
- Noise mitigation measures are requested for the plant room.
- The submissions outline that infrastructure should be put in place to accommodate future development and a public footpath should be provided to the site.

4.0 **Planning History**

PA Ref: 09/7951 – Permission refused by Cork County Council in December 2010 for the development of a nursing home, 16 no. residential care houses, new site entrance associated site works, service yard, electrical transformer, carparking and surface water attenuation tank/pond in accordance with the following reasons and considerations:

1. *Having regard to:*

- *The location of the site within the Mitchelstown Greenbelt,*
- *Objective HOU 12-2 of the Cork County Development Plan 2009 which provides for nursing homes to be principally located within settlements.*
- *The existing supply of undeveloped zoned and serviced land within the development boundary of Mitchelstown.*

it is considered that the proposed development, located on unzoned land within the Mitchelstown Greenbelt, would contravene materially Objective RCI 8-11 and Objective HOU 12-2 and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. *Having regard to*

- *the mixture of design styles contained within the proposed elevational treatment of the building and*
- *The location of the site at an entry to Mitchelstown,*

it is considered that the proposed development would be visually obtrusive and contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

Cork County Development Plan 2022-2028

- 5.1.1. The Cork County Development Plan 2022-2028 was adopted on the 25th of April 2022 and came into effect on the 6th of June 2022. Section 1.2.5 of the Plan outlines that the Cork County Development Plan 2022-2028 replaces the Cork County Development Plan 2014, the eight Municipal District Local Area Plans adopted in 2017 and the nine Town Development Plans. The following provides an overview of the relevant Development Plan provisions.

Chapter 4 – Housing

- 5.1.2. Section 4.6 of the Plan relates to housing options for an ageing population. The following objective is of relevance:

- HOU 4-3: Housing for Older People a) Encourage the provision of housing suitable for older people in all residential schemes of 10 units or more. b) Support the delivery of housing suitable for older people on infill, opportunity and regeneration-sites within town and village centres. See also Chapter 6 Social and Community- Section 6.6 Planning for Ageing.

Chapter 5 – Rural

5.1.3. The appeal site is located outside of the designated development boundary of Mitchelstown as identified within the Volume 3 of the Development Plan and forms part of the designated greenbelt around Mitchelstown (Greenbelt1). Section 5.5.4 of the Plan relates to planning principles for a greenbelt The following are of relevance:

- Maintenance of distinction in character between the town or city urban and rural areas by the prevention of unrestricted sprawl of urban areas into the countryside,
- Prevention of individual settlements merging into one another;
- Strategic protection of land that may be required for development in the future,
- To focus attention on lands within settlements which are zoned for development and likely to contribute to the regeneration of areas,
- Provision of a source of recreation and amenity and to allow for open countryside to be within easy reach of most built up areas; and
- Retention of land in agriculture, forestry or other uses which would otherwise be susceptible to inappropriate development.

5.1.4. Section 5.5.9 of the Plan refers to greenbelts around towns outside of the Metropolitan Area and outlines that this designation has helped to maintain the identity of the towns and has encouraged more development activity within the development boundaries.

5.1.5. The following Objectives of the Plan are of relevance:

- RP 5-12: Purpose of Greenbelt a) Maintain a Green Belt for Metropolitan Cork with the purposes of retaining the open and rural character of lands between and adjacent to urban areas, maintaining the clear distinction between urban areas and the countryside, to prevent urban sprawl and the coalescence of built-up areas, to focus attention on lands within settlements which are zoned for development and provide for appropriate land uses that protect the physical

and visual amenity of the area. b) Recognise that in order to strengthen existing rural communities' provision can be made within the objectives of this Plan to meet exceptional individual housing needs within areas where controls on rural housing apply.

- RP 5-15: Active Uses of Greenbelt Lands Facilitate active uses of the County Metropolitan and Town Greenbelts generally and to encourage proposals which would involve the development of parks, countryside walks or other recreational uses within the Greenbelt. Any built development associated with such uses should not compromise the specific function and character of the greenbelt in the particular area.
- RP 5-17: Strategic and Exceptional Development Recognise that there may be development of a strategic and exceptional nature that may not be suitably located within zoned lands and that such development may be accommodated successfully in Greenbelt locations. In such circumstances, the impact on the specific functions and open character of the Greenbelt should be minimised.
- RP 5-19: Greenbelts around Settlements a) Retain the identity of towns, to prevent sprawl, and to ensure a distinction in character between built up areas and the open countryside by maintaining a Greenbelt around all individual towns. b) Reserve generally for use as agriculture, open space or recreation uses those lands that lie in the immediate surroundings of towns. Where Natura 2000 sites, Natural Heritage Areas, proposed Natural Heritage Areas and other areas of biodiversity value occur within Greenbelts, these shall be reserved for uses compatible with their nature conservation designation and biodiversity value. c) Prevent linear roadside frontage development on the roads leading out of towns and villages.

Chapter 6 - Social and Community

5.1.6. Section 6.6 of the Plan relates to Planning for Ageing. The following objectives are of relevance:

- SC 6-9: Cork an Age Friendly County: Support the implementation of the Cork Age Friendly County Programme and the Age Friendly Principles and Guidelines for the Planning Authority 2021 and recognise the demographic

challenges that face the county and ensure the provision of suitable facilities and services in the future for all ages and abilities.

- SC 6-10: Services and Infrastructure For Older Persons Strategy: Support the implementation of the Services and Infrastructure for Older Persons Strategy 2014 as a step towards planning for ageing.
- SC 6-11: Accommodation for Older Persons Support the provision of residential care, assisted living, group/community housing and other forms of accommodation for older persons.

Chapter 11 – Water Management

5.1.7. Cork County Council's notification of decision to refuse permission refers to non-compliance with Objective WM 11-9 of the CCDP. This objective is cited below.

- WM 11-9: Wastewater Disposal a) Require that development in all settlements connect to public wastewater treatment facilities subject to sufficient capacity being available which does not interfere with Council's ability to meet the requirements of the Water Framework Directive and the Habitats Directive. In settlements where no public wastewater system is either available or proposed, or where design, capacity or licensing issues have been identified in existing plants, new developments will be unable to proceed until adequate wastewater infrastructure is provided. b) In assessing proposals for development, it is a requirement that adequate assimilative capacity in the receiving waterbody be retained so as to allow for the overall growth of the settlement. c) Development proposals incorporating proposals for management of wastewater through use of Integrated Constructed Wetlands should be designed to comply with national guidelines. d) Development in and around Wastewater Treatment Plants will not generally be permitted within 100m of a treatment works or 25m of a pumping station. This distance may be increased if significant environmental issues are likely to arise and will be judged on a site by site basis. The buffer area may be used to fulfil open space requirements.

Chapter 14- Green Infrastructure and Recreation

5.1.8. The appeal site is identified as a High Value Landscape within Figure 14-2 of the Development Plan. The following objective is of relevance:

- GI 14-9: Landscape a) Protect the visual and scenic amenities of County Cork's built and natural environment. b) Landscape issues will be an important factor in all land-use proposals, ensuring that a pro-active view of development is undertaken while protecting the environment and heritage generally in line with the principle of sustainability. c) Ensure that new development meets high standards of siting and design. d) Protect skylines and ridgelines from development. e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

5.1.9. The R513 in the vicinity of the site is designated as a Scenic Route (S3). The following description of the route is set out within Table 2.5.1 – Scenic Routes – Volume 2 of the CCDP: *“N8 National Primary Route between Moorepark and Mitchelstown Views of the Galtee, Nagle, Kilworth & Knockmealdown Mountain Ranges”*. Objective GI 14-13 relates to Scenic Routes and seeks to: *“Protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects identified in this Plan”*.

Chapter 16 – Built and Cultural Heritage

5.1.10. Section 16.3 relates to Architectural Heritage and Section 16.3.28 relates to new buildings and their surroundings. Cork County Council's notification of decision to refuse permission for the development refers to Objective HE 16-21 as follows:

- *HE 16-21: Design and Landscaping of New Buildings a) Encourage new buildings that respect the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape. b) Promote sustainable approaches to housing development by encouraging new building projects to be energy efficient in their design and layout. c) Foster an innovative approach to design that acknowledges the diversity of suitable design solutions in most cases, safeguards the potential for exceptional innovative design in appropriate locations and promotes the added economic, amenity and environmental value of good design. d) Require the appropriate landscaping and screen planting of proposed developments by using predominantly indigenous/local species and groupings and protecting existing*

hedgerows and historic boundaries in rural areas. Protection of historical/commemorative trees will also be provided for.

Volume 3 – North Cork

- 5.1.11. Volume 3 of the Cork County Development Plan relates to North Cork and Mitchelstown is addressed in Section 1.5VW 11-19 of the Plan. The appeal site is located outside of the designated development boundary in Mitchelstown and forms part of the designated greenbelt around Mitchelstown Greenbelt1.
- 5.1.12. Section 1.5.6 of the Plan relates to the development approach within the town. This outlines that in previous plans, significant areas of greenfield land were zoned at the outer edges of the town. In light of the population and housing targets of this Plan, the opportunities to accommodate growth within the existing built footprint of the town and the suitability of the land for development at reasonable densities, less greenfield land is required over the period of this plan.
- 5.1.13. Section 1.5.10 of the Plan outlines that nursing homes are generally acceptable on land zoned for residential use or can also be provided on other suitable sites within the development boundary.
- 5.1.14. Section 1.5.20 outlines that Mitchelstown is one of eight towns in the County with an Age Friendly Status. The aim of the programme is to provide support and financial assistance to communities to develop Age Friendly initiatives in the town.
- 5.1.15. Section 1.5.48 of the Plan outlines that Wastewater in Mitchelstown is conveyed via a largely combined sewer system to the Mitchelstown Waste Water Treatment Plant. The Plan outlines that Mitchelstown WWTP is at its limit and upgrading of Mitchelstown WWTP to provide adequate capacity to accommodate proposed development in Mitchelstown is required. The Mitchelstown WW Network and WWTP upgrade scheme is currently at Conceptual Design Stage. There may be additional issues of water quality impacts and / or licence compliance that need to be addressed to accommodate further growth.
- 5.1.16. In terms of landscape designations Section 1.5.56 of the Plan outlines that Mitchelstown is located entirely within an area determined as being of very high landscape value in this plan and the northern and southern approach roads to the town are designated scenic routes within this Plan (S1 and S3 respectively). The R513 in

the vicinity of the site is designated as Scenic Route 3. The Plan outlines that Scenic Route S3 has spectacular views of the surrounding hills, Galtee Mountains, adjacent river valleys and pastoral rural landscape.

5.1.17. The following general development objectives are of relevance:

- MH-GO-2 In order to secure the sustainable population growth and supporting development proposed in MHGO-01, appropriate and sustainable water and waste water infrastructure that will secure the objectives of the relevant River Basin Management Plan and the Blackwater River Special Area of Conservation, must be provided and be operational in advance of the commencement of any discharges from the development. Wastewater infrastructure must be capable of treating discharges to ensure that water quality in the receiving waterbody does not fall below legally required levels.

National Planning Framework

5.1.18. The National Planning Framework recognises that greenbelts in our cities, towns and villages play an integral role as part of the fabric of settlements, either through their use for community recreation and amenity purposes, supporting biodiversity or as a natural delineation of the settlement itself, forming the interface between urban and rural areas. The National Planning Framework also highlights that greenbelts adjoining our urban areas also fulfil a strategic purpose, as a potential asset for future, planned development as an urban extension.

5.1.19. It is a requirement under National Policy Objective 62 to identify and strengthen the value of greenbelts, and green spaces at regional and city scale, to enable enhanced connectivity to wider strategic networks, prevent coalescence of settlements and to allow for the long-term strategic expansion of urban areas.

5.2. Natural Heritage Designations

The nearest designated European sites to the appeal site, including SAC's and Special Protection Areas (SPA's) include the following:

- Galtee Mountains SAC (00646) – 9.5km to the northeast
- Carrigeenamronety Hill SAC (002037) – 10.2km to the northwest
- Ballyhoura Mountains SAC (0020360) – 12.8km to the northwest

- Lower River Suir SAC (002137) – 9.6km to the east
- Blackwater River (Cork/Waterford) SAC (002170) – 8.5km to the southeast
- Blackwater Callows SPA (004094) – 11.3km to the southeast

5.3. EIA Screening

5.3.1. An Environmental Impact Assessment Screening Report was not submitted with the application. Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

- Construction of more than 500 dwelling units
- Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
- Item 15: Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

5.3.2. It is proposed to construct a 2 storey 105 bed nursing home, 2 no. 2 storey blocks comprising a total of 8 no. staff accommodation apartments, 40 no. single storey 2 bed units (retirement village), a medial centre and management unit on a site with a stated gross area of c. 4.9ha. Having regard to the size and the location of the development, and by reference to any of the classes outlined above, a mandatory EIA is not required.

5.3.3. I note that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. The site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development and in my view is not likely to have a significant effect on any designated Natura 2000 site as detailed further in Section 7 of this report. The proposed development would use the public water and drainage services of Uisce Eireann and Cork County Council upon which its effects would be marginal.

5.3.4. Having regard to the information submitted by the applicant, and to the nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. The planning authority also concluded in their assessment that there is no likelihood of significant effects on the environment arising from the proposed development. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was submitted in respect of Cork County Council's notification of decision to refuse permission for the development. The following provides a summary of the grounds of appeal.

Introduction / Overview

- The appeal refers to the previous zoning of the site for residential. The report refers to a planning case in the West Sussex wherein permission was granted for residential development on unzoned land.
- In terms of the 2nd reason for refusal the appeal outlines that the low lying site is not visually vulnerable and is only designed as being a high quality landscape due to views to a number of mountain ranges.
- In terms of the 3rd reason for refusal the appeal outlines that Irish Water does not object to the proposal. The development proposed to treat wastewater on site in a new plant and wastewater directed to the Mitchelstown WWTP will already have been partly purified. Upgrade to the Mitchelstown WWTP is planned for completion by 2024.
- Section 8 of the appeal sets out a rationale for the proposed nursing home and sheltered accommodation model.
- Section 9 of the appeal provides a summary of the elements of the proposal which were deemed acceptable by Cork County Council including the suitability

of the lands to accommodate development, the standard of accommodation, the parking provision, vehicular access, pedestrian arrangements, social and affordable housing provision, environmental impact assessment and flood risk.

First Reason for Refusal – Land Use

- Section 10 of the appeal relates to Cork County Council's first reason for refusal. It is stated that this reason for refusal relates to a change in zoning of the site which occurred during the course of the application. The appeal outlines that the reason for refusal would not have applied if the application had been determined at an earlier date and clarifications raised by the planning authority could have been addressed by means of condition.
- The appeal questions the change in zoning of the site in the context of the national housing crisis. The appeal outlines that the Board is not bound by the zoning objective pertaining to the site within the Cork County Development Plan 2022-2028 in the instance that the development is deemed to be in accordance with the proper planning and sustainable development of the area. The appeal refers to the provisions of Section 37 (2) of the Planning and Development Act in this context. The Board is requested to consider the development in the context of the national housing crisis and the contents of the Housing for All Publication.
- The appeal refers to the decision of the Board on the Bailey Gibson application (ABP Ref: PL29S.221717) wherein permission was granted for a residential development of employment zoned lands. The appeal refers to ABP Ref: PL09.226037 wherein permission was granted for a nursing home on unzoned land within Kilcock, Co. Kildare.
- The appeal outlines that the proposed residential development would be in accordance with the proper planning and sustainable development of the area and would be consistent with the zoning history of the site.
- The appeal outlines that the reasons for refusal do not outline that the proposal would materially contravene the County Development Plan. It is stated that the Board is not restrained by the provision of Section 37(2) of the Planning and Development Act (as amended).

- A grant of permission is requested having regard to the need for additional residential accommodation as set out in Housing for All and the existing range of facilities and amenities available in Mitchelstown.

Second Reason for Refusal – Visual Amenity

- Section 11 of the appeal relates to CCC's 2nd reason for refusal. The appeal refers to the planning history pertaining to the site wherein permission was refused for a nursing home on site under PA Ref: 097951.
- The appeal outlines that the Council's decision does not suggest that the architecture of the development would be inappropriate.
- The appeal outlines that the site is insignificant in terms of its character and appearance. The appeal refers to the previous zoning of the site for residential purposes and outlines that this demonstrates that the site is suitable to accommodate development.
- The appeal outlines that the entire town of Mitchelstown is deemed as high landscape value within the Cork County Development Plan 2022-2028. Table 2.5.1 of the Plan designates the R513 as a Scenic Route described as follows: *"N8 National Primary Route between Moorepark and Mitchelstown Views of the Galtee, Nagle, Kilworth & Knockmealdown Mountain Ranges"*. The appeal refers to Paragraph 1.5.56 in Volume 3 of the Plan which outlines that *"Mitchelstown is located entirely within an area determined as being of very high landscape value in this plan and the northern and southern approach roads to the town are designated scenic routes within the Plan (S1 and S3 respectively)"*.
- The appeal asserts that the high-quality landscape classification and the S3 Scenic Route designation do not relate to the visual amenities or sensitivity of the appeal site and its immediate environs but to the fact that the low lying terrain affords views of the mountains.
- The appeal outlines that the site is not vulnerable to the effects of new build development. The appeal refers to the planner's reports which inform the decision of the Council to refuse permission for the development. It is stated

that these do not specify how the new buildings would affect amenity or outline any viewpoints from which the development would be objectionable.

- The appeal outlines that CCC's concerns in relation to the scale, extent, form and massing of development are not explained.
- The appeal outlines that the reference in the reason for refusal to the removal of mature trees and tree groups is at variance with the comments set out within the planner's report. No part of the LA's assessment identifies trees of visual or arboricultural significance or biodiversity value.
- The concerns raised in the planner's report in relation to insufficient landscaping proposals could be addressed by means of condition.

Third Reason for Refusal – Wastewater Treatment

- The appeal refers to the planning history pertaining to the site and outlines that permission was not refused for the development on grounds of insufficient wastewater capacity,
- The appeal refers to the limited population growth in Mitchelstown in the interim period and outlines that the loading on the WWTP has not significantly increased in the interim period.
- The appeal refers to the provision of a treatment system on site and outlines that only treated effluent would be directed to the Mitchelstown Waste Water Treatment Plant.
- In terms of the Treatment Plan it is stated that it previously operated with 3 filters and an additional 4th filter has recently been installed by Irish Water which improved the overall performance of the facility.
- Irish Water are progressing a sewerage upgrade to the facility which will increase the capacity of the system to 7,400 PE. The project is included in the current Irish Water Capital Investment Plan 2020-2024. The applicant would accept a "Grampian condition" to the effect that no development will commence on site until the municipal improvement has commenced.
- The appeal refers to the reference in the engineering reports to the inability of the WWTP to remove ammonia or suspended solids from wastewater. In order

to address it is proposed to install a Tricel Maxus Wastewater Treatment System the performance of which is detailed in Table 1 of the appeal. The appeal furthermore outlines that this system would limit flow to small quantum's taking pressure of the WWTP at peak times.

6.2. Planning Authority Response

None received.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development/Compliance with Policy – Reason for Refusal no. 1
- Design, Layout and Impact on Visual Amenity – Reason for Refusal no. 2
- Wastewater Capacity and Impact on Water Quality – Reason for Refusal no. 3
- Appropriate Assessment

7.2. Principle of Development/ Compliance with Policy – Reason for Refusal no. 1

7.2.1. Cork County Council's first reason for refusal outlines the following:

“Having regard to the scale, extent, layout and disconnected, peripheral location of the site of the proposed nursing home and independent living units within the ‘Greenbelt’, it is considered that the proposed development does not constitute an appropriate compendium of quality residential care accommodation within close proximity to local services and facilities and would compromise the protection of the Greenbelt surrounding Mitchelstown. The proposed development would therefore conflict with Policy Objectives HOU 4-3, RP 5-19 and SC 6-9 of the Cork County Development Plan 2022 and would be contrary to the proper planning and sustainable development of the area”

7.2.2. Objectives HOU 4-3, RP 5-19 and SC 6-9 of the Cork County Development Plan 2022-2028, as cited within the refusal are detailed below:

- HOU 4-3: Housing for Older People a) Encourage the provision of housing suitable for older people in all residential schemes of 10 units or more. b) Support the delivery of housing suitable for older people on infill, opportunity and regeneration-sites within town and village centres.
- RP 5-19: Greenbelts around Settlements a) Retain the identity of towns, to prevent sprawl, and to ensure a distinction in character between built up areas and the open countryside by maintaining a Greenbelt around all individual towns. b) Reserve generally for use as agriculture, open space or recreation uses those lands that lie in the immediate surroundings of towns. Where Natura 2000 sites, Natural Heritage Areas, proposed Natural Heritage Areas and other areas of biodiversity value occur within Greenbelts, these shall be reserved for uses compatible with their nature conservation designation and biodiversity value. c) Prevent linear roadside frontage development on the roads leading out of towns and villages.
- SC 6-9: Cork an Age Friendly County Support the implementation of the Cork Age Friendly County Programme and the Age Friendly Principles and Guidelines for the Planning Authority 2021 and recognise the demographic challenges that face the county and ensure the provision of suitable facilities and services in the future for all ages and abilities.

7.2.3. The first party appeal outlines that the 1st reason for refusal relates to a change in zoning of the site which occurred during the course of the application. The appeal questions the de zoning of the site in the context of the national housing crises and outlines that the reason for refusal would not have applied if the application had been determined at an earlier date. The appeal outlines that the Board is not bound by the zoning objective pertaining to the site within the Cork County Development Plan 2022-2028 in the instance that the development is deemed to be in accordance with the proper planning and sustainable development of the area. The appeal refers to the provisions of Section 37 (2) of the Planning and Development Act in this context. The Board is requested to consider the development in the context of the national housing crisis and the contents of the Housing for All Publication.

7.2.4. At the time of the submission of the application the Fermoy Municipal District Local Area Plan 2017 was the operative plan for the area. The appeal site was located within

the settlement boundary for Mitchelstown as defined within the LAP and was subject to the following specific objective in the plan *“nursing home and ancillary accommodation. The housing shall be low density and single storey only”*.

- 7.2.5. The application was subject to requests for further information (22nd of April 2022) and clarification of further information (2nd of June 2022) from Cork County Council. On review of the PA’s request for FI and CFI it is clear that there were concerns in relation to the model of accommodation proposed and the ancillary nature of the proposed residential units to the nursing home.
- 7.2.6. During the course of the consideration of the application the Cork County Development Plan 2022-2028 came into effect. The Cork County Development Plan 2022 was adopted on the 25th of April 2022 and came into effect on the 6th of June 2022. Section 1.2.5 of the Plan outlines that the Cork County Development Plan 2022-2028 replaces the Cork County Development Plan 2014, the eight Municipal District Local Area Plans adopted in 2017 and the nine Town Development Plans. I have assessed the proposal in accordance with the provisions of the operative development plan namely the Cork County Development Plan 2022-2028.
- 7.2.7. The appeal site is located outside of the development boundary for Mitchelstown as defined within the Cork County Development Plan 2022-2028 and located within the designated greenbelt for the town. Chapter 5 of the CCDP relates to the importance of greenbelts and outlines that development should be discouraged in the immediate surroundings of the settlements in order to prevent sprawl near towns and to control linear roadside development. Objective RP 5-19 outlines that within designated greenbelts, land is generally reserved for agriculture, open space or recreation uses.
- 7.2.8. Objective RP 5-15 of the CDP relates to Active Uses of Greenbelt Lands and seeks to *“facilitate active uses of the County Metropolitan and Town Greenbelts generally and to encourage proposals which would involve the development of parks, countryside walks or other recreational uses within the Greenbelt. Any built development associated with such uses should not compromise the specific function and character of the greenbelt in the particular area”*. Other development considered within greenbelts are identified in Objective 5-16 which relates to Established Uses and expansion/intensification of same, Objective RP 5-17 which relates to Strategic and

Exceptional Development and Objective RP -5-18 Relocating Uses. I do not consider that the proposal would fall within the classification of the above uses.

- 7.2.9. The site is located outside of the development boundary for Mitchelstown on unzoned lands within the defined greenbelt for the town. I consider that the proposal would be contrary to the requirements of Objective RP 5-19 of the plan which seeks to “retain the identity of towns, to prevent sprawl, and to ensure a distinction in character between built up areas and the open countryside by maintaining a Greenbelt around all individual towns”. I also consider that the nature and scale of the development which includes a 105 no. bed nursing home and retirement village (comprising 40 residential units and ancillary accommodation) would be contrary to the requirements of Objective RP 5-19 which outlines that “within designated greenbelts, land is generally reserved for agriculture, open space or recreation uses”.
- 7.2.10. In considering compliance with Objective SC 6-9 of the Cork County Development Plan I note that the principle of the provision of a nursing home within Mitchelstown would be in accordance with its designated Age Friendly Status within the County. However, the appeal site is located along a main approach road to Mitchelstown along the R513 and is physically disconnected from Mitchelstown town centre and existing services and facilities.
- 7.2.11. I refer to Objective HOU 4-3 which supports the development of housing suitable for older people on infill, opportunity and regeneration sites within town and village centres. 3 no. regeneration sites within Mitchelstown are identified within the Table 3.1.8 of Volume 3 of the Cork County Development Plan including (1) Former Convent (2) Site connecting James Street and Church Street and (3) Fire Station. The appeal refers to the proposed enhancement of pedestrian connections between the site and Mitchelstown town centre and questions the ability of these site to accommodate development on the basis of (1) the location of a Protected Structure on the site of the former presentation convent (2) the infill nature of the site between Church Street and James Street and (3) the third site is occupied by the fire station.
- 7.2.12. Notwithstanding the case made by the applicant I note that the Section 1.5.10 of the CCDP outlines that nursing homes are generally accepted on las zoned for residential development and can also be provided on other suitable sites within the development boundary. I refer to the Senior Planner’s Report which informs the decision of Cork

County Council to refuse permission for the development which refers to the core strategy of the County Development Plan and outlines that the current zoned landbank (19ha of zoned res land, and 4.5ha of res additional provision) facilitates a provision of 447 residential units (allowing for additional provision, 20- 25%). In this regard I consider that consideration should be given to undeveloped zoned land within the development boundary of Mitchelstown to accommodate the nature of development proposed in line with the objectives of compact growth.

7.2.13. I refer to the planning history pertaining to the site wherein permission was refused for the development of a nursing home on the site in 2010 for reasons including the location of the site on unzoned land within the Mitchelstown Greenbelt and the objectives of the 2009 CCDP which support the siting of nursing homes within existing settlements. I consider that these considerations remain relevant in the context of the 2022 Cork County Development Plan.

7.2.14. The first party appeal refers to the provisions of Section 37 (2) of the Planning and Development Act and requests the Board to consider the development in the context of the national housing crisis and the contents of the Housing for All Publication. I note that the planning authority's reasons for refusal do not outline that the proposal would materially contravene the County Development Plan. Notwithstanding this, I have considered the relevant provisions as follows.

7.2.15. Section 37 (2) a of the Planning and Development Act 2000, as amended outlines that: "Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates". The provisions cited under paragraph 37 (2) b include the following:

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local

authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.2.16. I have considered these in turn as follows:

- (i) The proposed residential development would not in my view be considered of national or strategic importance.
- (ii) I do not consider that there are conflicting objectives within the adopted Cork County Development Plan as they relate to the provision of Greenbelt areas.
- (iii) I note that the Senior Planner's report which informs the decision of CCC to refuse permission for the development outlines that the Cork County Development Plan 2022-2028 is in compliance with the objectives of the NPF in terms of zoned land provided for population targets. I furthermore refer to the contents of the Appendix A of the Cork County Development Plan which sets out a statement of consistency of the development with Ministerial Guidelines. Specific reference is made to Housing for All within Section 4.3 of the Development Plan and the town centre first approach adopted therein. I do not consider that this provision applies in the context of the recently adopted Cork County Development Plan 2022-2028.
- (iv) The pattern of development and permissions granted in Mitchelstown since the making of the Cork County Development Plan 2022-2028 do not suggest a predisposition to granting residential development on lands designated for Greenbelt purposes.

Conclusion

7.2.17. Having regard to the location of the site outside of the development boundary of Mitchelstown and within the designated greenbelt for the town, and the nature and scale of the development, I consider that the proposed development would be contrary to the requirements of Objective RP-5-19 which seeks to *“retain the identity of towns, to prevent sprawl, and to ensure a distinction in character between built up areas and the open countryside by maintaining a Greenbelt around all individual towns”* and

outlines that “*within designated greenbelts, land is generally reserved for agriculture, open space or recreation uses*” and Objective HOU 4-3 of the Plan supports “*the development of housing suitable for older people on infill, opportunity and regeneration sites within town and village centres*”. I consider that the development would therefore be contrary to the above provisions of the plan and the proper planning and sustainable development of the area. I recommend that permission is refused for the development on this basis.

7.3. Design, Layout and Impact on Visual Amenity – Reason for Refusal no. 2

7.3.1. Cork County Council’s second reason for refusal relates to the impact of the development on the visual amenities of the area and outlines the following:

“The subject site is located on lands that are deemed to be of High Value Landscape and adjacent to a designated Scenic Route as set out in the County Development Plan 2022. It is considered that the proposed development, by virtue of its scale, extent, form and massing, loss of mature trees and tree groups and the inadequacy of proposed landscaping, would represent an incongruous form of development that would negatively impact on the visual character of this particular high value landscape. The proposal would therefore conflict with Policy Objectives HE 16-21 and Objective GI 14-9 of the Cork County Development Plan, 2022, and would be contrary to the proper planning and sustainable development for the area”.

7.3.2. Objectives HE 16-21 and GI -14-9, as cited within the above reason for refusal are detailed as follows:

- HE 16-21: Design and Landscaping of New Buildings a) Encourage new buildings that respect the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape. b) Promote sustainable approaches to housing development by encouraging new building projects to be energy efficient in their design and layout. c) Foster an innovative approach to design that acknowledges the diversity of suitable design solutions in most cases, safeguards the potential for exceptional innovative design in appropriate locations and promotes the added economic, amenity and environmental value of good design. d) Require the appropriate landscaping and screen planting of proposed developments by using predominantly indigenous/local species and groupings and protecting existing

hedgerows and historic boundaries in rural areas. Protection of historical/commemorative trees will also be provided for.

- GI 14-9: Landscape a) Protect the visual and scenic amenities of County Cork's built and natural environment. b) Landscape issues will be an important factor in all land-use proposals, ensuring that a pro-active view of development is undertaken while protecting the environment and heritage generally in line with the principle of sustainability. c) Ensure that new development meets high standards of siting and design. d) Protect skylines and ridgelines from development. e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

7.3.3. The first party appeal outlines that the site is insignificant in terms of its character and appearance. The appeal refers to the previous zoning of the site for residential purposes and outlines that this demonstrates that the site is suitable to accommodate development. The appeal furthermore outlines that the high-quality landscape classification and the S3 Scenic Route designation relate not to the visual amenities or sensitivity of the appeal site and its immediate environs but to the fact that the low lying terrain affords views of the mountains.

7.3.4. The appeal site is located within a High Value Landscape as identified within Figure 14.2 of the Cork County Development Plan. I note that Mitchelstown is located entirely within an area determined as being of high landscape value. Objective G1-14 of the plan outlines that in High Value Landscapes higher development standards (layout, design, landscaping, materials used) will be required.

7.3.5. The R513 in the vicinity of the site is also designated as a Scenic Route (S3). The following description of the route is set out within Table 2.5.1 – Scenic Routes – Volume 2 of the CCDP: *“N8 National Primary Route between Moorepark and Mitchelstown Views of the Galtee, Nagle, Kilworth & Knockmealdown Mountain Ranges”*. Section 1.5.56 of the CCDP (Volume 3) outlines that *“scenic route 3 has spectacular views of the surrounding hills, Galtee Mountains, adjacent river landscapes and pastoral rural landscape”*.

7.3.6. Table 2.5.1 outlines that the following Structures of Historical or Cultural Importance are visible from Scenic Route S3: Tower House, Moorpark, Kilworth Camp and

Glochamucka Public House. These structures are located further south of the designated scenic route and are not located within or visible from the appeal site.

- 7.3.7. Having regard to the proposed site layout and aerial views and photomontages submitted in response to CCC's request for FI and CFI, I do not consider that the development would form a visually prominent feature within the landscape which would detract from the designation of the R513 as a Scenic Route. I do not consider that the development as proposed would form an incongruous form of development which would negatively impact on the visual character of the area. I do not recommend that permission is refused for the development on this basis.
- 7.3.8. Cork County Council's reason for refusal raises concern in relation to the loss of mature trees and tree groups to accommodate the development. I refer to the Arboricultural Report and Tree Removal Survey submitted in conjunction with the applicant's CFI response. This identifies 11 no. trees will be removed to accommodate the development as described as follows: Category A – High Quality 1, Category B-Good Quality – 9, Category C- Low Quality – 1.
- 7.3.9. The report outlines that there are no TPO's (Tree Protection Orders) identified within the development site. The report outlines that the landscaping plan ensures sufficient replacement of trees will be planted to compensate for the loss of trees. The report concludes that *"there will be minimal loss of trees and therefore the impact on the character and appearance of the surrounding landscape will be low"*.
- 7.3.10. On the basis of the information set out within the arboricultural report, I consider that the loss of trees on site is minimal, and I consider that the landscaping plan submitted in support of the application accommodates significant compensatory landscaping. I do not therefore consider that the development would be contrary to the relevant provisions of Objective GI-14-9 (e) of the Cork County Development Plan which seeks to discourage proposals necessitating the removal of extensive amounts of trees.
- 7.3.11. I refer to the reference to Objective HE 16-21 of the CCDP within the PA's reason for refusal. I note that Chapter 16 of the Development Plan relates to "Built and Cultural Heritage" and Objective HE 16-21 of the Plan relates to buildings and new development within such areas. These designations do not relate to the appeal site. In this regard I do not consider that compliance with Objective HE 16-21 is of relevance.

Conclusion

7.3.12. In conclusion, I am satisfied that the layout and form of the proposed development, would not result in any undue adverse impact on the landscape, have any significant adverse visual impact within the locality, and would not undermine High Value Landscape designation pertaining to the site or the designated scenic route SC in this area or result in extensive removal of trees on site. I therefore do not consider that the development is contrary to Objective GI 14-9 of the Cork County Development Plan 2022-2028. I do not recommend that permission is refused for the development on this basis.

7.4. Wastewater Capacity and Impact on Water Quality – Reason for Refusal no. 3

7.4.1. Cork County Council's third reason for refusal outlines that the Wastewater Treatment Plant serving the Mitchelstown agglomeration is overloaded and is non-compliant with the Urban Wastewater Treatment Directive, 2017. In the absence of an assessment of the remedial works being implemented at the Wastewater Treatment Plant, it is not possible to prepare an AA screening assessment and as such it is not possible to determine that there will be no adverse effects on water quality and the integrity of the Natura 2000 site, and it is therefore considered that the proposed development is premature and would be contrary to objective WM 11-9 of the County Development Plan 2022, as it relates to the Water Framework Directive and Habitats Directive, and contrary to the proper planning and sustainable development of the area.

7.4.2. Objective WM 11-9, as cited within the reason for refusal, is detailed as follows:

- County Development Plan Objective WM 11-9: Wastewater Disposal a) Require that development in all settlements connect to public wastewater treatment facilities subject to sufficient capacity being available which does not interfere with Council's ability to meet the requirements of the Water Framework Directive and the Habitats Directive. In settlements where no public wastewater system is either available or proposed, or where design, capacity or licensing issues have been identified in existing plants, new developments will be unable to proceed until adequate wastewater infrastructure is provided. b) In assessing proposals for development, it is a requirement that adequate assimilative capacity in the receiving waterbody be retained so as to allow for the overall growth of the settlement. c) Development proposals incorporating proposals for

management of wastewater through use of Integrated Constructed Wetlands should be designed to comply with national guidelines. d) Development in and around Wastewater Treatment Plants will not generally be permitted within 100m of a treatment works or 25m of a pumping station. This distance may be increased if significant environmental issues are likely to arise and will be judged on a site-by-site basis. The buffer area may be used to fulfil open space requirements.

- 7.4.3. In terms of foul drainage, there is a capacity issue in the Mitchelstown Area. Section 1.5.48 of the Cork County Development Plan outlines that the WWTP is at its limit and upgrading of sewers is needed and extensions are also required to accommodate proposed growth in Mitchelstown. Cork County Council's Water Services Report which informs the decision of CCC to refuse permission for the development outlines that the WWTP is repeatedly non-compliant with the emission limit values set out in D0202-02 and it is also noted that the existing treatment plant is not designed to remove ammonia or suspended solids to the prescribed standards set out in the WWDL.
- 7.4.4. The proposed development seeks to install a foul sewer network which would gravitate to an on-site treatment plant and pumping station as illustrated within Drawing no. M056L-002 "Site Layout (Sheet 1)- Foul Sewer, Storm Water, SUDS and Watermains Layout". It is then proposed to pump the treated effluent to the nearest manhole at Ballindangan crossroads which would outfall to the Mitchelstown Treatment Plant. Uisce Eireann manages the Mitchelstown Waste Treatment Plant.
- 7.4.5. The issue of the capacity of the Mitchelstown WWTP was raised by Cork County Council within the request for further information and clarification of further information. The applicant was requested to liaise with Uisce Eireann to obtain a confirmation of feasibility and provide details of the proposed on-site treatment plant including level of treatment to be provided and details of the proposed design hydraulic and organic loadings. Uisce Eireann's submission on the applicant's FI response (25/04/2022) confirms that a wastewater connection is available without a local infrastructure upgrade.
- 7.4.6. Cork County Council's Water Services Report prepared in respect to the applicant's CFI response refers to interim works undertaken to the WWTP which included bringing the fourth percolation filter back into service at the treatment plant. The report outlines

that these works were completed on the 30th of September 2022 but that the development is deemed premature pending confirmation of the assessment of the treatment performance of the WWTP. The report outlines that the assessment was ongoing at the time of writing.

- 7.4.7. I refer to the Wastewater Treatment Capacity Register for Cork published by Uisce Eireann dated June 2023. This register provides an indication of available wastewater treatment capacity based on loads received in 2022 and available treatment plant capacity now or by completion of a project at construction (where relevant). The Uisce Eireann Wastewater Treatment Capacity Register published in June 2023 outlines that the Mitchelstown WWTP (Ref. D0202) has an 'Amber Status'. Amber status is stated to mean 'potential spare capacity, applications to be considered on an individual basis considering their specific load requirements'. It is also noted that a 'WWTP Project Planned/Underway'.
- 7.4.8. I note that the first party appeal refers to the provision of a treatment system on site and outlines that only treated effluent would be directed to the Mitchelstown Waste Water Treatment Plant. No objection to the principle of the provision of an on site system was raised by Cork County Council or Uisce Eireann. The application documentation outlines that, on the basis of the provision of the on-site treatment system, the organic load associated with the development would be reduced from 231 p.e. equivalent to 20 p.e equivalent and a hydraulic load of 264 p.e equivalent. The first party appeal furthermore notes that the applicant would provide a Tricel Maxus Wastewater Treatment System on site which would remove ammonia or suspended solids from wastewater (specifications for which are detailed in Table 1 of the appeal). The appeal outlines that this system would limit flow to small quantum's taking pressure of the WWTP at peak times.
- 7.4.9. On the basis of the information set out within the application and appeal, I consider that the proposed additional load associated with the development is minor and could potentially be accommodated in the instance that the principle of the proposal was deemed acceptable. I do not consider that the proposed wastewater discharge from the development is of a scale which could detrimentally impact on water quality or Natura 2000 sites (as detailed further within the following section of this report). In this respect, I do not consider that the proposal is contrary to the requirements of Objective WM 11-9 of the Cork County Development Plan 2022-2028.

- 7.4.10. Having regard to the above reasons and considerations I do not recommend that permission is refused for the development on the basis of prematurity pending an assessment of the remedial works being implemented at the Mitchelstown WWTP.
- 7.4.11. Cork County Council have outlined that the interim improvement measure will marginally increase the capacity of the WWTP and that a longer-term upgrade of the treatment plant is required. The Senior Planner's report which informs the notification of decision of CCC to refuse permission for the development outlines that priority will be given to permitted developments within the development boundary of Mitchelstown in the interim period. I consider that this approach is reasonable. The first party appeal outlines that the project is included in the current Irish Water Capital Investment Plan 2020-2024 and outlines that the applicant would accept a "Grampian condition" to the effect that no development will commence on site until the municipal improvement has commenced. Notwithstanding the case made, I note that the timeframe for the commencement and delivery of these works is not clear.
- 7.4.12. I furthermore refer to the wording of Objective WM 11-9 which outlines that *d) Development in and around Wastewater Treatment Plants will not generally be permitted within 100m of a treatment works or 25m of a pumping station. This distance may be increased if significant environmental issues are likely to arise and will be judged on a site-by-site basis. The buffer area may be used to fulfil open space requirements*". On review of the application drawings including drawing no. M056L-002 "Site Layout (Sheet 1)- Foul Sewer, Storm Water, SUDS and Watermains Layout" I note that the proposed nursing home is located within 40m of the proposed treatment plant and the existing residential property to the south of the site is located within 60m. The proposed development therefore does not comply with the standards for the siting of development relative to WWTP's as set out within Objective WM 11-9 of the Cork County Development Plan 2022-2028.
- 7.4.13. It is my view that a significant redesign of the scheme is required and that this cannot be addressed by way of condition. In my view this is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal relating to the principle of the development, it may not be considered necessary to pursue the matter.

7.5. **Appropriate Assessment**

7.5.1. Screening Compliance with Article 6(3) of the Habitats Directive

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

7.5.2. Background on the Application

A screening report for Appropriate Assessment was not submitted with this appeal case. Therefore, this screening assessment has been carried de-novo.

7.5.3. Screening for Appropriate Assessment- Test of likely significant effects

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

7.5.4. Brief description of Development

The development is described at Section 2 of this Report. In summary, permission is sought for the construction of a 105 bed two storey nursing home, staff accommodation (8 apartments), medical centre, management unit and 40 no 2 bed houses (retirement village). The development includes connection to main foul sewer via on site foul sewage treatment/pump station with a connection to the public main water network.

7.5.5. European Sites

The nearest European sites to the application site, include the following:

- Galtee Mountains SAC (00646) – 9.5km to the northeast
- Carrigeenamronety Hill SAC (002037) – 10.2km to the northwest
- Ballyhoura Mountains SAC (0020360) – 12.8km to the northwest
- Lower River Suir SAC (002137) – 9.6km to the east
- Blackwater River (Cork/Waterford) SAC (002170) – 8.5km to the southeast
- Blackwater Callows SPA (004094) – 11.3km to the southeast

The appeal site is hydrologically connected to the Natura 2000 sites along the River Blackwater (Blackwater River (Cork/Waterford) SAC and Blackwater Callows SPA). I

consider that all other sites can be screened out at preliminary stage due to the lack of hydrological connections.

European Site (Code)	Qualifying Interests	Distance	Connections	Considered further in Screening
Blackwater River (Cork / Waterford SAC (002170))	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]</p> <p>Old sessile oak woods with Ilex and Blechnum</p>	8.5 km south east (c. 30km) downstream)	<p>Yes</p> <p>Stormwater ultimately discharging to River Blackwater</p> <p>Wastewater from the site passes and would be treated in Mitchelstown WWTP, which discharges to River Funshion.</p>	Yes

	<p>in the British Isles [91A0]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>91J0 *<i>Taxus baccata</i> woods of the British Isles</p> <p><i>Margaritifera</i> <i>margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Austropotamobius</i> <i>pallipes</i> (White-clawed Crayfish) [1092]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Alosa fallax fallax</i> (Twaite Shad) [1103]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p>			
--	---	--	--	--

	Lutra lutra (Otter) [1355] Trichomanes speciosum (Killarney Fern) [1421]			
Blackwater Callows SPA (004094)	A038 Whooper Swan Cygnus cygnus A050 Wigeon Anas penelope A052 Teal Anas crecca A156 Black-tailed Godwit Limosa limosa	11.3 km south east (c. 30km downstream)	Yes Stormwater ultimately discharging to River Blackwater Wastewater from the site passes and would be treated in Mitchelstown WWTP, which discharges to River Funshion.	Yes

I do not consider that any other European Sites other than those identified in the table above potentially fall within the zone of influence of the project, having regard to the nature and scale of the development, the distance from the development site to same, and the lack of an obvious pathway to same from the development site.

The Conservation Objectives for these sites are available at the following:

002170 SAC- Available to view at

https://www.npws.ie/sites/default/files/protectedsites/conservation_objectives/CO002170.pdf

004094 SPA- Available to view at

https://www.npws.ie/sites/default/files/protectedsites/conservation_objectives/CO004094.pdf

7.5.27. Submissions and Observations

The submission on file from Uisce Eireann outlines that IFI receives regulation notification forms from Irish Water detailing ELV exceedances at the Mitchelstown WWTP. Further loading will likely lead to further diminishment of the current performance increasing the burden on finite assimilative capacity of receiving surface waters via unsatisfactory discharges and to the detriment of the fisheries resource.

In the instance that there is inadequate existing wastewater treatment capacity for significant additional loading IFI considers that the development is premature pending necessary infrastructure facilities to facilitate the development.

Cork County Council's Ecology Report (15/11/2022) outlines that the primary concern in relation to this development in relation to European Sites, is the potential for water quality impacts to the Blackwater River SAC and Blackwater Callows SPA associated with wastewater discharges. The report concludes that, without confirmation that the issues associated with the Mitchelstown WWTP are overcome, it is not possible to complete Appropriate Assessment Screening in relation to the proposed development.

Cork County Council 3rd reason for refusal outlines that in the absence of an assessment of the remedial works being implemented at the Wastewater Treatment Plant, it is not possible to prepare an AA screening assessment and as such it is not possible to determine that there will be no adverse effects on water quality and the integrity of the Natura 2000 site.

7.5.28. Identification of likely effects

The project is not directly connected to or necessary to the management of any European site. The proposed development is therefore, examined in relation to any possible interaction with the identified European sites to assess whether it may give rise to significant effects on in view of the conservation objectives for those sites.

It is considered that there is nothing unique or particularly challenging about the proposed development, either at construction or operational phase. Habitat loss and fragmentation would not arise given the location and nature of the site.

The river Gradoge runs through Mitchelstown and connects to the River Funshion to the north west of the town. The River Funshion flows to the River Blackwater at a distance of over 30km from Mitchelstown. The EPA mapping identifies that the River Funshion had a Moderate Q Value in 2021 and the River Gradoge had a Poor status in 2021.

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- surface water and stormwater drainage from the proposed development site;
- increased wastewater being sent to Mitchelstown Waste Water Treatment Plant during the operational phase of the proposed development.

Construction Phase

During the construction phase, standard pollution control measures would be put in place. These measures are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in the River Blackwater from surface water run-off can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites along the River Blackwater (dilution factor).

Operational Phase

During the operational stage stormwater from the site would be discharged after passing through sedimentation and fuel interceptor traps. In the event that the SUDS, pollution control and stormwater treatment measures were not implemented or failed, I am satisfied that the potential for likely significant effects on the conservation objectives of the European sites in the River Blackwater can be excluded given the distant and interrupted hydrological connection (a distance of over 30km), the nature and scale of the development and volume of water separating the application site from European sites in the River Blackwater. Therefore, surface waters and stormwaters

arising from the proposed development would not be likely to give rise to significant indirect impacts on European sites connected with the site.

The discharge of wastewater to the municipal wastewater treatment plant at the Mitchelstown WWTP provides a pathway for potential impacts to the European sites. Cork County Council's decision to refuse permission for the development raises concern in relation to the insufficient capacity of the WWTP and potential impact of the additional loading to the treatment plant on water quality of Natura 2000 sites. As detailed within Section 7.4 of this report the concerns in relation to water quality relate to prematurity pending confirmation of the assessment of the treatment performance of the WWTP on foot of implementation of interim improvement works to the WWTP. In the interim period Uisce Éireann has outlined that there is wastewater capacity in Mitchelstown.

I refer to the submission on the application from Inland Fisheries Ireland which raises concern in relation to the impact of additional loading on the WWTP on water quality in the receiving water bodies. I note that Uisce Eireann have indicated that capacity for the proposed development to connect to mains services is available.

The proposed development includes an on-site wastewater treatment system and pumping station. On this basis it is noted that only treated wastewater would discharge to the WWTP. The application documentation outlines the organic load associated with the development would be reduced from 231 p.e. equivalent to 20 p.e equivalent and a hydraulic load of 264 p.e equivalent. The first party appeal furthermore notes that the applicant would provide a Tricel Maxus Wastewater Treatment System on site which would remove ammonia or suspended solids from wastewater.

On the basis of the information submitted in support of the application and appeal I consider that the additional loading to the Mitchelstown WWTP arising from the proposed development is marginal and is not likely to give rise to significant indirect impacts on European sites.

On the basis of the foregoing, I conclude that the proposed development would not impact the overall water quality status of the River Blackwater and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites within

or associated with the River Blackwater including the Blackwater River (Cork / Waterford SAC (002170) and Blackwater Callows SPA (004094).

7.5.29. In combination impacts

The development is not associated with any loss of semi-natural habitat or pollution that could act in a cumulative manner to result in significant negative effects to any European site. I am satisfied that there are no projects which can act in combination with the development that could give rise to significant effects to European sites within the zone of influence.

7.5.30. Conclusion

The proposed development was considered in light of the requirements of Section 177U of the Act of 2000. Having carried out screening for AA of the project, it has been concluded that the project individually or in combination with other plans or projects, would not have a significant effect on European sites, including European Site No. (002170) Blackwater River (Cork / Waterford) SAC and Site No. (004094) Blackwater Callows SPA in view of the sites' Conservation Objectives, and Appropriate Assessment is not, therefore, required.

On the basis of the above reasons and considerations, I do not recommend that permission is refused for the proposal on grounds relation to impact on Natura 2000 sites as set out within CCC's 3rd reason for refusal.

8.0 Recommendation

8.1. I recommend the permission is refused for the development in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

The appeal site is located within a designated greenbelt outside of the development boundary for Mitchelstown as defined within the Cork County Development Plan 2022-2028. Having regard to:

- The location of the site outside of the development boundary of Mitchelstown on unzoned lands within the designated Mitchelstown Greenbelt and the

requirements of Objective RP-5-19 which seeks to “*retain the identity of towns, to prevent sprawl, and to ensure a distinction in character between built up areas and the open countryside by maintaining a Greenbelt around all individual towns*”

- The nature and scale of the development which includes a 105 no. bed nursing home and retirement village (comprising 40 residential units and ancillary accommodation) and the requirements of Objective RP 5-19 which outlines that within designated greenbelts, land is generally reserved for agriculture, open space or recreation uses.
- The requirements of Objective HOU 4-3 of the Plan which supports the development of housing suitable for older people on infill, opportunity and regeneration sites within town and village centres.
- The limited capacity of the Mitchelstown Waste Water Treatment Plant and the existing supply of undeveloped zoned land within the development boundary of Mitchelstown.

it is considered that the proposed development, would be contrary to Objectives RP5-19 and HOU 4-3 of the Cork County Development Plan 2022 to 2028 and would, therefore, be contrary to the proper planning and sustainable development of the area.

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

Stephanie Farrington
Senior Planning Inspector

15th of March 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	315303-22		
Proposed Development Summary	Construction of Nursing Home, retirement village and all associated works.		
Development Address	Cloonlough, Mitchelstown, Co. Cork,		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	Yes		
	No	No further action required	
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?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
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]?			
	Threshold	Comment (if relevant)	Conclusion
No			No EIAR or Preliminary Examination required
Yes	Class/Threshold - 10(b)		Proceed to Q.4

		<p>(i) Construction of more than 500 dwelling units.</p> <p>(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares 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.)</p>		
--	--	--	--	--

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

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	315303-22	
Proposed Development Summary	Construction of Nursing Home, retirement village and all associated works.	
Development Address	Cloonlough, Mitchelstown, Co. Cork,	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p>	No. The development is located within an existing residential context.	No
<p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	No significant waste, emissions or pollutants are envisaged.	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>		No
		No

<p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>		
<p>Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans and projects would not be likely to give rise to significant effects on European sites, including European Site No. (002170) Blackwater River (Cork / Waterford) SAC and Site No. (004094) Blackwater Callows SPA in view of the sites' Conservation Objectives, and Appropriate Assessment is not, therefore, required.</p>	<p>No</p> <p>No</p>
<p>• Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p> <p>X</p>	<p>• There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>

Inspector: _____

Date: _____