



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315475-23

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<b>Development</b>	74 no. residential units, creche, 150 no. car parking spaces, drainage works, landscaping, boundary treatments, surface treatments and all ancillary site development works.
<b>Location</b>	Bishop's Island, Watergrasshill, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	22/5878
<b>Applicant(s)</b>	Vincentia Investments Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	Third Party v. Grant
<b>Appellant(s)</b>	An Lucht Inbhuanaithe
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	11 December 2023

**Inspector**

Cáit Ryan

## 1.0 Site Location and Description

- 1.1. The subject site is located at the south western end of Watergrasshill village, approximately 18km north east of Cork city. The site is roughly rectangular-shaped and is accessed from the R639 via the existing The Orchards housing estate.
- 1.2. It is a greenfield site, insofar as it has not been developed previously, although excavation appears to have been carried out and significant amount of soil has been placed on site, particularly at the northern end. The site is bounded to the north and west by fields, and these boundaries comprise hedgerow. There is a timber post and wire fence along the southern site boundary. The site is bounded to the east by The Orchard development, primarily by paladin type fencing, although the fencing line does not follow the red line site boundary in the southeastern extreme of the site. The site falls gradually from north to south.
- 1.3. ESB wires traverse the southeastern part of the site, and terminate in the existing open space area in front of House No.s 47-58 The Orchard. Separately, further to the east, electricity powerlines traverse this estate on a north-south axis, with pylons located directly to the north and a short distance to the south of the estate. There is a gated access route off the R639, to the south of No.11 The Orchard and extending along the southern boundary of estate in an east-west direction, before turning northwards towards the subject site.

## 2.0 Proposed Development

- 2.1. Permission is sought to construct 74 no. residential units, comprising

- 1 no. 7-bed house
- 15 no. 4-bed houses (with capacity to become 5-bed)
- 30 no. 3-bed houses (with capacity to become 4-bed)
- 20 no. 2-bed houses (with capacity to become 3-bed)
- 8 no. 1-bed apartments

a crèche, 150 no. car parking spaces, drainage, landscaping, boundary treatments and site development works. Vehicular access to R639 will be provided via The

Orchard estate, permitted by P/A. Ref. 18/4162 (Phase 1) and P.A. Ref. 19/4921 (Phase 2).

The site area is given as 2.74ha. The proposed development is designed as an extension (Phase 3) to the existing The Orchard scheme.

Documentation submitted with the application includes a Design Statement, Engineering & Infrastructure Report, an Outline Construction, Demolition and Environmental Management Plan, Lighting and Power Specification, Outdoor Lighting Report, a Housing Quality Assessment document and a Part V Proposal and Methodology document.

Further Information (FI) was submitted on 3 November 2022. Changes to the overall site layout pursuant to the FI request include the omission of Public Open Space 4 and an indicative future proposal for 2 houses at this location, and revised house types at No.s 21 and 52 which bound this space.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The planning authority made a decision to grant permission subject to 66 no. conditions. Conditions of note are as follows :

Condition 1: Development to be carried out in accordance with application lodged on 12 August 2022, as amended by FI received on 3 November 2022.

Condition 2: This permission is for 74 no. residential units comprising 66 no. dwellings and 8 no. apartments and 1 no. crèche.

Condition 4: A planning application for residential development on lands adjoining plots 21 and 52 shall be submitted prior to first occupation of the units.

Condition 6: Landscape plan to be agreed.

Condition 9: includes (a) Neighbourhood/local play area shall comply with the Council's Recreation and Amenity Policy and (b) Siting and specification details for neighbourhood/local play area to be submitted for agreement.

Condition 14: Any utility poles currently within the roadside boundary set back required by other conditions shall be repositioned behind the new boundary.

Condition 25: Surface water drainage shall be discharged via Class 1 hydrocarbon interceptor and grit trap prior to discharge to the surface water drain as per application. An inspection chamber with sump to be provided between hydrocarbon interceptor and discharge point.

Condition 30: Traffic Management shall comply with Traffic Management Guidelines issued by the Department of Transport, 2002.

Conditions 35-43 inclusive relate to sewerage treatment/Irish Water, and include –

Condition 35: Submit CCTV survey of existing sewers on site and sewer construction details for agreement, and sewers to be repaired or replaced as necessary.

Condition 36: Submit details and design calculations for the proposed sewage pumping station and rising mains for agreement.

Condition 37: Submit details of standby generator to ensure continuous operation of the sewage pumping station for agreement.

Condition 45: Site-specific Construction and Environmental Management Plan (CEMP) to be agreed.

Condition 46: Site-specific Surface Water Management Plan (SWMP) for construction phase to be agreed. Silt fencing to be constructed to protect watercourses on-site from run-off of silt laden water.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

**Area Planner Reports** (dated 5 October 2022 and 29 November 2022)

**First Area Planner's** report includes noting internal reports. Key issues are summarised as follows:

- Density complies with the Development Plan.

- Public Open Space 4 could be omitted, and boundary treatment for this area and other areas required.
- Clarity required regarding housing mix.
- Clarity required regarding spoil/excavated material on site.
- EIA can be excluded at preliminary examination and a screening determination is not required. Report screens out requirement for AA.

Further Information relating to 7 no. items reflects Area Planner's report.

**Second Area Planner's** report includes:

- Notes internal reports on FI response
- Notes Public Open Space 4 is omitted in FI revised site layout
- Notes that it is intended that the end purchaser chooses which option (of House Types B, C, D and E) to implement and that exact housing mix cannot be determined at this time. Applicant paid double planning fees and indicates a willingness to pay the higher development contribution. Development contributions to be based on the floor area of Option 2.
- States that 13,000m<sup>3</sup> (1000 x 20 tonne loads) of spoil/excavated material will be removed off site to a nearby licensed waste facility. The revised existing site layout plan indicates 22,660m<sup>3</sup> of material will be removed off site.
- States that a Drainage Impact Assessment (DIA) and SuDS Statement have been submitted, and that the Environment Department notes that the SuDS proposals are acceptable.
- Notes that applicant confirms that the current pump station has capacity to cater for this development, and that the recent pre-connection enquiry response from IW notes that a connection to the IW network through previous phase is feasible. Notes that Water Services report states no objection subject to conditions.

Recommends grant of permission subject to 65 no. conditions.

**Senior Executive Planner** reports (dated 5 October 2022 and 30 November 2023)

**First Senior Executive Planner's** report endorses Area Planner's report.

- Report notes that it is proposed to tap into the public foul sewer network and public watermains, and that proposals are acceptable to Water Services Engineer and to Irish Water subject to conditions.
- Notes that Water Services Engineer seeks confirmation that current effluent pumping station has capacity for additional loadings and that connection to existing 150mm diameter rising main will not lead to operational issues.

**Second Senior Executive Planner's** report endorses Area Planner's report and recommends grant of permission subject to 66 no. conditions.

### 3.2.2. Other Technical Reports

**Area Engineer** (dated 19 September 2022)

- Report states no objection subject to 16 no. conditions. With regard to sewage disposal, report states Irish Water to comment.

**Water Services** (dated 30 September 2022 and 23 November 2022)

**First Water Services** report states no objection subject to 2 no. Further Information matters being addressed, and subject to 12 no. conditions.

- Report states that the foul network is to gravitate to the pump station constructed to cater for Phase 1 and Phase 2. The effluent is then pumped by rising main to the existing collection network with Watergrasshill. FI sought on:
  - Confirmation that current pump station has capacity to cater for Phase 3.
  - The current 150mm dia rising main is tapped into the existing Ard Cashel rising main. The existing rising main is 100mm dia. Confirmation required that the increased flows through the pumped main will not lead to operation issues with the rising main.

**Second Water Services** report states no objection subject to 12 no. conditions.

**Environment** - There are 4 no. Environment Reports by two separate authors on file (2 no. Primary reports dated 30 September and 3 October 2022, and 2 no. FI reports dated 23 November and 28 November 2022)

- Report dated 30 September 2022 states no objections subject to 7 no. conditions.
  - Developer proposes to discharge to the public scheme, and there is capacity in the works according to 2020 AER. IW feasibility of connection supports the application.
  - Surface water measures incorporating SUDS philosophy are proposed, but little detail provided on nature based solutions. A nature-based SUDS solution can be agreed by condition.
  - The catchment is drained by the Butlerstown waterbody, current status is Moderate and At Risk of failing to achieve WFD objectives.
  - Draft CEMP is satisfactory.
- Report dated 3 October 2022 states no objection subject to 7 no. conditions.
  - Construction Management Plan & Surface Water Control drawing submitted on 1 September 2022, but no details submitted with drawing.
  - Outline Construction, Demolition & Environmental Management Plan submitted on 1 September 2022 is generic. A site specific Construction Waste and Environmental Management Plan is required.
- Report dated 23 November 2022 states that the applicant shall comply with Environmental conditions published on 3 October 2022.
- Report dated 28 November 2022 states that the SUDS proposal is acceptable, although nature based solutions are limited, and to refer to original EO report.

**Estates Report** (dated 3 October 2022)

- Report states no objection, subject to 7 no. conditions.



**Senior Engineer – Housing** (dated 9 September 2022)

- States no objections, and that proposal to transfer 7 units to the Council to meet its Part V obligations and pepperpotting of units are acceptable.

**Public Lighting** (dated 12 September 2022)

- States no objections subject to 8 no. conditions.

### 3.3. **Prescribed Bodies**

Irish Water (IW) in a letter dated 23 September 2022 states that the developer has engaged with IW and Confirmation of Feasibility has issued. Irish Water has no objections to the proposal subject to constraints outlined in the COF. Where the applicant proposes to connect directly or indirectly to a public water/wastewater network operated by IW, it will be necessary to enter into a connection agreement prior to the commencement of development. It would, however, be subject to the constraints of the IW Capital Investment Programme.

### 3.4. **Observations to Planning Authority**

Two no. observations were received, one of which is from an elected member, Cllr. Alan O'Connor.

- Cllr. O'Connor's observation queries whether the density calculations are below the threshold for 'Medium A' density, which is in the range of 30-50uph.
- A number of the issues in the observation from An Lucht Inbhuanaithe are similar to those raised in the grounds of appeal. The observation includes that the planning authority must screen for environmental impact and is the competent authority for assessment of Habitats Directive, density is too low, housing mix is inappropriate and cloaks larger homes as smaller homes, and application documents lack sufficient information.

## 4.0 Planning History

### Planning Applications at The Orchard, Watergrasshill

**P.A. Ref. 18/4162:** Permission granted in 2018 for construction of 29 no. residential dwelling houses, play areas, pumping station, vehicular access onto R639 and pedestrian crossing on R639. Permission was granted subject to 37 no. conditions. Electricity powerlines traverse the site on a north/south axis. This development has been implemented as Phase 1 of The Orchard.

The permitted pumping station is located close to the southern site boundary. Irish Water had no objections to the proposed development, subject to where the applicant proposes to connect directly or indirectly to a public water/wastewater network operated by Irish Water, the applicant must sign a connection agreement.

**P.A. Ref. 19/4921:** Permission granted in 2019 for construction of 29 no. dwelling houses, accessed from R639 via 'The Orchard' estate under construction and permitted by P.A. Ref. 18/4162, play areas, drainage and site development works. Permission granted subject to 23 no. conditions. This development has been implemented as Phase 2 of The Orchard. Condition 2 requires the developer to ensure that the development is served by adequate water and waste water facilities and to enter into a connection agreement with Irish Water where appropriate.

First Area Planner's Report noted that it was proposed to connect to the Irish Water network for both water supply and waste water disposal, and that no observations were received from Irish Water. It noted that the Water Services engineer's report stated that the applicant is in discussions with Irish Water regarding the proposed pumping station for Phase 1, and that the pumping station will be designed to cater for this (P.A. Ref. 19/4921) development also.

### ***Other Planning Applications at The Orchard:***

Planning permission has been granted to retain and complete alterations/extensions to dwelling houses permitted or under construction pursuant to P.A Ref. 18/4162 and P.A. Ref. 19/4921. Having regard to the nature and scale of these applications, these are outlined in brief and are available to view on file:

**P.A. Ref. 19/5492:** Permission granted in 2019 for retention and completion of 4 no. houses (change to development permitted under P.A.Ref. 18/4162) at 2, 9, 10 and 11 The Orchard.

**P.A. Ref. 19/6263:** Permission granted in 2019 for retention and completion of 3 no. houses (change to development permitted under P.A.Ref. 18/4162) at 3, 4 and 6 The Orchard.

**P.A. Ref. 20/6294:** Permission granted in 2021 for retention and completion of 4 no. houses (change to development permitted under P.A.Ref. 19/4921) at 39, 40, 44 and 46 The Orchard.

**P.A. Ref. 21/4203:** Permission granted in 2021 for retention and completion of 3 no. houses (change to development permitted under P.A.Ref. 19/4921) at 48, 49 and 50 The Orchard.

**P.A. Ref. 21/4619:** Permission granted in 2021 for retention and completion of 3 no. houses (change to development permitted under P.A.Ref. 19/4921) at 53, 54 and 58 The Orchard.

**P.A. Ref. 21/5605:** Permission granted in 2021 for retention and completion of rear ground floor extension at No. 54 The Orchard.

#### Other Planning Applications in the Vicinity

**P.A. Ref. 19/4863 and ABP-305021-19:** Permission was refused to retain a 30m high telecommunications support structure carrying antennas and link dishes, equipment containers and security fence, on a site north of a cul-de-sac in The Orchard, and to the rear of 37 Glen Dara. This mast is no longer in place.

## 5.0 Policy Context

### 5.1. Cork County Development Plan 2022-2028

#### Volume 1 – Main Policy Material and Volume 4 – South Cork

The site is zoned Residential. Almost all of the site is subject to Specific Objective WT-R-03, whereby Vol. 4 states Medium A density residential development, and access to be through the adjoining estate to the east. The site area of these lands is stated as 3.0ha.

Separately, a very small area at the southeastern corner of the site is zoned ZU 18-9: Existing Residential/Mixed Residential and Other Uses. Vol. 1 sets out that residential development is an appropriate use on the Objective ZU18-9 zoning.

The northern and western site boundaries form part of the Watergrasshill development boundary, and southern site boundary approximates to the development boundary. Adjoining lands outside the development boundary are indicated as Rural Area Under Strong Urban Influence.

The Development Plan (Vol. 4) set outs that Watergrasshill is located in Cobh Municipal District, and that in the more rural northern section of the district, Watergrasshill is one of two key villages within the Greater Cork Ring Strategic Planning Area. In contrast, the majority of the District and all the main settlements are within the Metropolitan Strategic Planning Area.

It states that the scale of growth envisaged for the village in this plan period is up to 149 units with individual developments to be of an appropriate, village scale. **Table 4.2.19: Watergrasshill Population and Housing Supply** indicates that this 149 housing supply figure is to be delivered from Residential and Mixed-Use Zoning including Compact Growth Sites.

**General Development Objective WT-GO-02** is to plan for development to enable Watergrasshill to achieve its target population of 1,736 persons.

With regard to Water Management, it states (at Section 2.11.28) that water supply is available to serve the scale of growth identified for Watergrasshill in this plan. In terms of wastewater, there is spare capacity in the wastewater treatment plant serving the village however it is currently not compliant with Waste-Water Discharge Licence emission limit values. There is no known significant risk of fluvial flooding in this settlement. A new storm holding tank was recently constructed. All new development will be required to demonstrate application of Sustainable Urban Drainage systems (SUDs).

**General Development Objective WT-GO-01** Appropriate and sustainable water and waste-water infrastructure, that secures the objectives of the Water Framework Directive and the protection of the Blackwater River Special Area of Conservation, must be available to accommodate development.

**General Development Objective WT-GO-04** The green infrastructure, biodiversity and landscape assets of Watergrasshill include its hedgerows, mature trees, woodlands, and other habitats. New development should be sensitively designed and planned to provide for the protection of these features and will only be permitted where it is shown that it is compatible with the requirements of nature conservation directives and with environmental, biodiversity and landscape protection policies as set out in Volume One Main Policy Material and Volume Two Heritage and Amenity.

## Volume 1 – Main Policy Material

### Chapter 4: Housing

Section 4.8.10 sets out that an increased minimum threshold is proposed for the Medium A Density category to 30 units/ha as per the Guidelines. The category allows for the provision of apartments within the unit typology mix but it is not a requirement.

#### **Objective HOU 4-6: Housing Mix**

- a) Secure the development of a mix of house types and sizes throughout the County as a whole to meet the needs of the likely future population across all age groups in accordance with the guidance set out in the Joint Housing Strategy and the Guidelines on Sustainable Residential Development in Urban Areas.
- b) Require the submission of a Statement of Housing Mix with all applications for multi-unit residential development in order to facilitate the proper evaluation of the proposal relative to this objective. The Statement of Housing Mix should include proposals for the provision of suitable housing for older people and the disabled in the area.

**Objective HOU 4-7: Housing Density on Residentially Zoned Land** states Medium A density has a minimum net density of 30uph and maximum of 50uph. This category would be the highest density category applicable to the smaller settlements (< 5,000 in population), and would generally apply to central sites within the core of such settlements, unless otherwise stated or where a higher density approach accords with the existing pattern of development. It must include a broad range of

unit typologies and normally involves a combination of unit formats including a higher proportion of terraced units and/or apartment type units.

**Table 4.1 Settlement Density Location Guide** indicates Medium B density (20-35uph) for Key Villages (>1,500), and states that this is generally applicable for future development on edge of centre sites.

Watergrasshill is included in Table 4.1 as a Key Village >1,500 as it is planned to grow to above this population figure over the Development Plan period.

Section 4.9.5 states that Key Villages with a population of >1,500 will generally focus on the application of Medium B density thresholds within centrally located sites and Medium C (5-20uph) for all other greenfield lands.

## Chapter 11 – Water Management

**Objective WM 11-1: EU Water Framework Directive and the River Basin Management Plan** includes:

- a) Protect and improve the County's water resources and ensure that development permitted meets the requirements of the River Basin Management Plan and does not contravene the objectives of the EU Water Framework Directive.
- c) Secure the objectives and facilitate the implementation of the associated Programme of Measures of the River Basin Management Plan 2018-2021 and any successor plan for ground, surface, estuarine, coastal and transitional waters in the Plan area as part of the implementation of the EU Water Framework Directive.
- g) Development may only proceed where appropriate wastewater treatment is available which meets the requirements of environmental legislation, the Water Framework Directive and the requirements of the Habitats Directive.

**Objective WM 11-10: Surface Water, SuDS and Water Sensitive Urban Design** includes:

- b) Encourage the application of a Water Sensitive Urban Design approach in the design of new development or other urban interventions. Opportunities to contribute to, protect or re-enforce existing green infrastructure corridors or assets should be maximised.

c) Optimise and maximise the application of Sustainable Urban Drainage Systems (SuDS) to mitigate flood risk, enhance biodiversity, protect and enhance visual and recreational amenity; all in the most innovative and creative manner appropriate and in accordance with best practices. Proposals should demonstrate that due consideration has been given to nature based solutions in the first instance in arriving at the preferred SuDS solution for any development.

e) Where surface water from a development is discharging to a waterbody, appropriate pollution control measures (e.g, hydrocarbon interceptors, silt traps) should be implemented.

**Objective WM 11-12: Surface Water Management** includes manage surface water catchments and development adjoining streams, watercourses and rivers in such a way as to minimise damage to property by instances of flooding and with regard to any conservation objectives of European sites within relevant catchments.

#### Development Plan Mapping

The site is not located within a High Value Landscape, nor on or close to any scenic route.

The landscape character type is Fissured Fertile Middleground.

The site is within Flood Zone C.

## 5.2. **Sustainable Residential Development in Urban Areas Guidelines, 2009**

The Guidelines state that new development should contribute to compact towns and villages, that each residential scheme within a small town and village should be designed to make the most effective use of the site, and make a positive contribution to its surroundings. With regard to sites at edge of small town/village, it is appropriate in controlled circumstances to consider proposals for developments with densities less than 15-20dph, as long as such lower density development does not represent more than 20% of the total new planned housing stock of the town or village in question. A higher density range of 20-35 dwellings per hectare for edge of centre sites in small towns and villages is stated.

### 5.3. **Circular Letter: NRUP 02/2021**

It is stated that the purpose of this Circular is to provide clarity on the interpretation and application of current statutory guidelines, in advance of issuing updated Section 28 guidelines that will address sustainable residential development in urban areas. With regard to development within Small Towns and Villages, the Circular notes the densities stated in the Sustainable Residential Development in Urban Areas Guidelines, and reiterates that the Guidelines note the difficulty in applying prescriptive density standards in locations that display a variety of contexts and land uses.

The Circular also clarifies a detail in the Urban Development and Building Height Guidelines, regarding SPPR 4, which relates to the future development of greenfield or edge of city/town locations for housing purposes.

### 5.4. **National Planning Framework**

- 5.4.1. The NPF seeks to focus growth in cities, towns and villages with an overall aim of achieving higher densities than have been achieved to date.

NP Objective 9 states that in each Regional Assembly area, settlements not identified in Policy 2a or 2b of this Framework, may be identified for significant (i.e. 30% or more above 2016 population levels) rates of population growth at regional and local planning stages, subject to:

- Agreement (regional assembly, metropolitan area and/or local authority);
- Balance with strategies for other urban and rural areas, meaning that the total planned population growth has to be in line with the overall growth target; and
- A co-ordinated strategy that ensures alignment with investment in infrastructure and the provision of employment, together with supporting amenities and services.

The NPF continues to state that while these planning considerations will generally apply to all urban and rural areas, this specific provision is intended to ensure that settlements identified for significant population growth are aligned with the provision of employment and/or infrastructure and supporting facilities.



NP Objective 11 states that there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages.

NP Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

## 5.5. Natural Heritage Designations

- Great Island Channel SAC (Site Code: 001058) is located approximately 11km to the south.
- The nearest part of Cork Harbour SPA (Site Code: 004030) is 10.7km to the south. This SPA overlaps with Great Island Channel SAC.
- The nearest part of the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) is located approximately 4.5km to the north.

## 5.6. EIA Screening

See Form 2. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

One no. third party appeal has been received from An Lucht Inbhaunaithe, Murrevagh, Mulranny, Westport, Co. Mayo. The grounds of appeal are summarised as follows:

- The Watergrasshill wastewater treatment plant is non-compliant and cannot handle additional loading. An extract from Cork County Development Plan 2022-2028 (Section 2.11.28) states there is spare capacity in the wastewater

treatment plant however it is not currently compliant with Waste-Water Discharge emission limit values.

- Irish Water's report The Annual Environmental Report 2020 Watergrasshill D0201-01 indicates deficiencies at section 1.3.
- Planning authority breached its obligation under Article 4(1) of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 – the Water Framework Directive (WFD).
- The sewage treatment plant discharges to Watergrasshill Stream which flows to River Flesk, which feeds the Bride, which feeds the Blackwater. Catchment area of the 3no. former waterbodies is very small such that the drought flow would be very small at the 95<sup>th</sup> or 99<sup>th</sup> percentiles of flow duration.
- Water quality in the Flesk (Bride)\_010 has not achieved a higher status than poor for a decade.
- The 3<sup>rd</sup> Cycle Draft Blackwater (Munster) Catchment Report (HA 18) identifies several areas downstream of the sewage treatment plant outfall as being water dependent SACs. It indicates a deterioration in water quality trend in the receiving waterbody from this wastewater treatment plant. Cites Sweetman v An Bord Pleanála [2021] IEHC 777.
- Compact growth issues – Watergrasshill is allocated a population expansion to 1736 persons by 2028 which equates to 149 dwellings.
- Section 2.11.10 of the Development Plan states that there are areas of undeveloped greenfield land to north east and to west of the village, and that there are infill and brownfield opportunities. 74 dwellings permitted from the 149 unit quota is excessive, and does not retain housing unit quota for the Town Centre WT-T-01 1.72ha and WT-X-01 2.57ha sites. The site is much further from the town centre than the alternative WT-R-02 site.
- Medium density requirement in Development Plan is in the range of 30-50uph.
- Development of peripheral sites has the potential to undermine redevelopment of brownfield sites and those more favourable to compact growth. National Planning Framework (NPF), Sustainable Residential

Development in Urban Areas (2009) and Circular Letter NRUP 02/21 are referenced.

- The site is elevated and prominent. No visual impact assessment submitted. Design layout will not assist in screening the development from viewing points.
- The grant is ambiguous as to the actual size of each house granted.
- The development is over-reliant on semi-detached houses. EU law and policy has changed with revisions to energy and climate targets. Irish Building Regulations have not been revised to take account of EU Climate Law.
- Conditions 25, 36, 37, 38, 43, 51, 52 and 54 require submissions, many of which bear on the Habitats Directive assessment.
- The judgement in Balcadden Road SAA Residents Association Limited v An Bord Pleanála [2020] IEHC 586 sets out requirements for adequacy of drawings including in relation to structural elements that relate to drainage.
- Storm and foul water to be routed across lands not within the red line boundary. Planning conditions are not enforceable outside red line boundary.
- Soil deposition of 22660m<sup>3</sup> is not exempt development.
- No Natura Impact Statement submitted. Planner's Report dated 30 Nov. 2022 has no section which assessed the development under Habitats Directive or EIA Directive. Blackwater River SAC (Site Code 002170) could be affected.
- Proposal does not meet the threshold of scientific certainty per Kelly v An Bord Pleanála [2014] IEHC 400 in relation to not causing a risk under the Habitat Directive.
- Planning application documentation is inadequate.

## 6.2. Applicant Response

The applicant's response to the grounds of appeal may be summarised as follows:

- Grounds of appeal are not clearly stated.

- Irish Water (IW) pre-connection enquiry dated 27 July 2022 confirms that the proposed connections can be facilitated without the requirement of upgrades. Annual report dated 2020 referred to by appellant is outdated.
- Applicant provided new foul and watermain infrastructure by way of a self lay agreement with IW to provide a new pumping station and 24 hour storage facility costing over €300,000. This facility located within Phase 1 of The Orchard has enabled (by agreement with Cork County Council and IW) the decommissioning of two existing pumping stations at adjacent Church View Gardens and Ard Cashel estates. It was designed to future proof the wastewater treatment facilities in the village by providing larger sized pumps and additional 24 hour storage to cover in excess of a total of 450 houses for future development. Capacity and discharge license issue raised by the appellant is a matter for Irish Water, and outside control of the applicant.
- Appellant's comment regarding compact growth issues is vague. 74 dwellings equates to 49.6% of the quota in the Development Plan.
- Visual Impact Assessment (VIA) was not requested nor is it a Development Plan requirement. References to VIA are under Wind Energy only. No sufficient evidence provided to support comment that the layout will not assist in screening the development. A screenshot from generic Google Earth viewshed software without evidence of height parameters set is vague at best.
- The appellant refers to Village Centre and Special Policy Areas where residential use is one element of the overall makeup of such a use. Development Plan details various other uses that can be applied on the lands in question (WT-T-01 and WT-X01).
- WT-R-02 site is in agricultural use and has no planning history. The probability of delivering houses on the subject lands is far higher.
- The scheme at 30uph is in line with Development Plan.
- Regarding the appellant's references to the National Planning Framework (NPF), the grounds of appeal are unfounded, unrelated and vague. The quality of image on page 19 is poor and illegible.

- Circular Letter NRUP 02/21 relates to high frequency bus stops, light rail or rail stations, none of which are relevant to the site and Watergrasshill village.
- Appellant draws Board's attention to limitations within Policy NPO9. There is no correlation to the subject application.
- The applicant submitted multiple additional planning applications for rear and attic extensions as part of the sales process for Phases 1 and 2 of The Orchard. An Option 1 and Option 2 house plan format was submitted with the subject application. The grant is not ambiguous as all information, sizes and format of each house type were submitted.
- The routing of the storm and foul pipes across other lands which the appellant may be referring to formed part of the Phase 1 and Phase 2 applications (P.A Ref. 18/4162 and P.A. Ref. 19/4921) which is not the subject of this appeal. The proposed foul and storm pipes for the subject site terminate into 'existing' foul and storm manholes constructed as part of Phase 2. All areas concerned are located within the red site boundary of the subject application.
- The appellant is not making his quoted case law relevant to the subject appeal. The Balscadden judgement relates to 'a significant development on Howth Head involving the excavation of an Ice Age esker and the removal of 78,000m<sup>3</sup> of soil.' The subject Watergrasshill site is considerable distance from any noted surface water land drains, watercourses, etc.
- The top soil located on site is a result of top soil stripping on Phases 1 and 2. The removal of same is detailed in FI response.
- The applicant addressed the Habitats Directive and EIA Directive.
- The development will be a positive contribution to the economic, environmental and social well-being of the area.

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

The planning authority is of the opinion that all relevant issues have been covered in the technical reports already forwarded to the Bord and has no further comment to make.

### 6.4. **Observations**

None

## 7.0 **Assessment**

7.1. I am satisfied that the main issues for consideration in this case include:

- Compliance with Development Plan – Density and Housing Supply
- House Types - Options
- Visual Impact
- Compliance with Other Codes
- Soil/Excavated Material
- Wastewater Infrastructure
- Water
- Other Issues
- Appropriate assessment

### 7.2. **Compliance with Development Plan – Density and Housing Supply**

7.2.1. The grounds of appeal state that the Development Plan requirement is for medium density in the range of 30-50uph and that the decision maker's approach was to spread houses rather than secure compact growth. It is also stated that granting 74 units out of a quota of 149 units for Watergrasshill is excessive. These matters are discussed further below.

7.2.2. With regard to density, the Development Plan indicates a Medium A density on Specific Objective WT-R-03 lands, which is a range 30-50uph. The proposed

development of 74 no. residential units on a 2.74ha site would result in a residential density of 27uph, which is below the minimum density indicated for this site.

- 7.2.3. The planning application form states the site area to be 2.74ha. The planning authority's online measuring tool also estimates a 2.74ha site area for this application. Separately, the Planning Statement lodged with the application refers to three different areas for the subject site, namely 2.46ha, 2.48ha and 2.74ha.
- 7.2.4. The planning authority's reports note that a crèche will be provided on site, such that the area available for residential development is 2.46ha, and on this basis consider that a resulting density of 30uph to be in accordance with the Development Plan.
- 7.2.5. However, I estimate that the site area of the proposed crèche, including drop-off area but excluding open space area to east of same, is approximately 0.1ha only. 74 no. units on a reduced 2.64ha site area would result in a residential density of 28uph. I note that the FI site layout shows the indicative layout of an additional 2 no. dwelling houses which could potentially be constructed between House No.s 21 and 52. However, these 2 no. additional dwelling houses do not form part of the current proposal and are not included in the density calculations. (For clarity, an increased number of units to 76 on 2.64ha would result in 28.7uph). Accordingly, although the shortfall is marginal, I consider that the proposed development of 74 no. residential units on a 2.64ha site would not comply with the minimum density indicated for Specific Objective WT-R-03 lands.
- 7.2.6. I note that **Objective HOU 4-7: Housing Density on Residentially Zoned Land states that the Medium A density** would be the highest density category applicable to the smaller settlements (< 5,000 in population), and would generally apply to central sites within the core of such settlements, unless otherwise stated. Given that Medium A density is stated to apply to the Specific Objective WT-R-03 lands, I consider that the proposed development would therefore not be in compliance with Objective HOU 4-7 in terms of residential density.
- 7.2.7. However, I note also the content of Table 4.1 Settlement Density Location Guide which indicates Medium B density (20-35uph) for Key Villages (>1,500), and states that this is generally applicable for future development on edge of centre sites.
- 7.2.8. Section 4.9.5 continues to state that Key Villages with a population of >1,500 will generally focus on the application of Medium B density thresholds within centrally

located sites and Medium C (5-20uph) for all other greenfield lands. In this regard I consider that the proposed development would be in compliance with Medium B density thresholds, although the subject site is located at the town development boundary, rather than being an edge of centre site.

- 7.2.9. With regard to density, I consider therefore that while the proposed development comprising 74 no. units on a (reduced) 2.64ha developable site and resulting in a net residential density of 28uph is marginally below the minimum density set out under Specific Objective WT-R-03, that the proposal would not however be in conflict with Table 4.1 Settlement Density Location Guide, and would be acceptable in this case. In this regard I consider the elements of the proposed development which influence the resultant density such as the provision of a childcare facility, the housing mix and the quantum and location of public open space (save for originally proposed Public Open Space 4 between House No.s 21 and 52 which is omitted in the FI site layout) to be acceptable.
- 7.2.10. For clarity, I note that the grounds of appeal relating to density include reference to Sustainable Residential Development in Urban Areas Guidelines (2009), Circular Letter NRUP 02/21, SPPR 4 of Urban Development and Building Height Guidelines (2018), and NPO 9 of the NPF. Having regard to the nature, scale and location of the proposed development on zoned land at the development boundary in a key village, I consider that the proposed development would not be contrary to Section 28 Guidelines nor to the stated Circular Letter. With regard to NPO 9 of the NPF, I note that the Development Plan states (under Section 2.15 Settlement Networks in Cork County) that the objectives in this section take into account the NPF and the RSES. In addition, I consider that the proposed development would be in accordance with NP Objective 11 and NP Objective 13. It is therefore considered that the proposed development would be acceptable in this regard.
- 7.2.11. With regard to housing supply, Section 2.11 Watergrasshill (Vol. 4) of the Development Plan indicates that the scale of growth envisaged for the village is 149 units in this plan period, with individual developments to be of an appropriate village scale. Table 4.2.19: Watergrasshill Population and Housing Supply indicates that this 149 housing supply figure is to be delivered from Residential and Mixed-Use Zoning including Compact Growth Sites.



- 7.2.12. The proposal to provide 74 units on almost the entirety of WT-R-03 lands represents 49.6% of the overall 149 units envisaged for Watergrasshill. I note in particular that Section 2.11 (Vol. 4) does not specify a phasing sequence for the implementation of development on the various sites in Watergrasshill.
- 7.2.13. With regard to the two other 'Residential' Specific Development Objective sites in Watergrasshill, I noted on site inspection that the WT-R-01 site has been developed (comprising 16 no. dwelling houses), and is accessed via Church View Gardens. No development has been carried out on the WT-R-02 site at the north eastern end of the village, and the applicant's response to the grounds of appeal state that this site does not have any planning history. The Development Plan sets out that Medium A density and other parameters apply to this 2ha site. Elsewhere in Watergrasshill, in addition to lands zoned ZU 18-9: Existing Residential/Mixed Residential and Other Uses, the 2.46ha Special Policy Area WT-X-01 site also allows for residential development. While the Development Plan sets out a number of parameters for development of this site, it does not specify a minimum or maximum number of residential units to be provided.
- 7.2.14. The proposed development and the 16no. units constructed on the separate WT-R-01 site would account for 90 no. units out of the 149 no. housing supply figure.
- 7.2.15. Having regard to all information on file, the nature and scale of the proposed development which in essence is an extension to The Orchard estate, Special Development Objective WT-R-03 which applies to almost all the site, and the provisions of the Development Plan which require 149 no. new units in Watergrasshill over the plan period, I consider that the proposed development would be in compliance with Table 4.2.19 of the Development Plan, and would therefore be acceptable in this regard.

### 7.3. House Types - Options

- 7.3.1. Of the 74 no. residential units proposed, the lodged application indicates that the 2-bed, 3-bed and 4-bed houses each have capacity to be increased by an additional bedroom. The FI response clarified that House Types B, C, D and E are designed to have two options -
- Option 1 house types are 2-storey with a mix of 2, 3 and 4 bedrooms.

- Option 2 house types are 2.5 storey and include attic and rear extensions to allow for future extensions under this planning application.

The FI response states that it intended to give the end purchaser a choice, and that this is the point of paying double planning application fees and higher development contributions. Three no. examples of similar schemes built in the Cork County Council area are stated, but no planning reference numbers are cited.

- 7.3.2. The applicant's response to the grounds of appeal states that multiple additional planning applications for rear and attic extensions were submitted as part of the sales process for Phases 1 and 2, and that at pre-planning stage the applicant suggested submitting Phase 3 in a format which would remove the requirement for additional applications which could slow the delivery of houses. The subject application includes an Option 1 and Option 2 house plan format.
- 7.3.3. I consider that the two versions, Option 1 and Option 2 for a number of house types, are both acceptable in terms of design and scale, and that the implementation of either house type Option would be acceptable in terms of impacts on the visual and residential amenities of the area. I note the rationale set out by the applicant which seeks to provide the flexibility of two Options for the end purchaser. The recent planning history whereby a number of houses in Phases 1 and 2 of The Orchard were amended by way of planning applications is also noted. However, notwithstanding the reasoning outlined by the applicant, I would have concerns that in the event the house type Option (either 1 or 2) is not confirmed at decision stage, there would be a lack of clarity as to which house type Option is to be implemented on a range of plots.
- 7.3.4. To this end I consider that in the event that the Board is minded to grant permission, that a condition is attached which
- (a) confirms that the house type Option hereby permitted is Option 2, and
  - (b) stipulates that in the event an Option 2 unit is sought to instead be substituted with an Option 1 version, a compliance proposal shall be submitted for the written agreement of the planning authority prior to commencement of development of the individual house.

- 7.3.5. While the inclusion of such a condition may increase the number of compliance submissions required to be made, it would also provide clarity as to which house type Option is to be constructed on each plot.
- 7.3.6. In terms of detail regarding the stated payment of double planning fees, the planning application form (Item 2.22) includes 74 no. units X €65 (Class 1). It is not indicated on this form that 'double' planning fees were paid. However, I do not consider this to be a material issue in the assessment of the subject appeal. With regard to development contributions, in the event that the Board is minded to grant permission for the proposed development, it is recommended that a condition is attached requiring the payment of contributions in accordance with the planning authority's development contribution scheme.
- 7.3.7. With regard to housing mix, I consider that the housing mix, which includes 20 no. 2-bedroom houses (with capacity to become 3-bed), and 8 no. 1-bedroom apartments, provides a sufficient range of house types, and would be in compliance with Objective HOU 4-6.
- 7.3.8. I note that House Type E1 Option 2 does not include a ground floor extension, and that the provision of an attic level bedroom in this house type includes a dormer window extension to front. A small number of the rear gardens of House Type E1 are of limited size, for example 58sqm at Nos. 24 and 27, and 54sqm at No. 49. Having regard to existing exempted development provisions for rear extensions, I consider that in the event the Board is minded to grant planning permission, that it would be reasonable in this case to include a condition to 'de-exempt' the carrying out of extensions or other structures within the curtilage of the dwellinghouses.

#### **7.4. Visual Impact**

- 7.4.1. The site is located to the west of The Orchard housing estate. This roughly rectangular site, which approximates largely to the Special Development Objective WT-R-03 lands, is zoned for residential development. These lands are elevated above the surrounding landscape further to the south. The R639 slopes from north east to south west further south of the application site, and there is a relatively tall, mature hedgerow along the R639 at this location.

7.4.2. While the proposed development would be somewhat visible in the landscape, I do not consider that it would be unduly visually prominent, and do not consider that the submission of a visual impact assessment would be warranted in this instance. In addition, the site is not located within a High Value Landscape, nor on or near any designated scenic route. For context, I note that proposals for development on sites elsewhere in Watergrasshill require a visual impact statement, such as WT-R-02 and WT-X-01 lands. No such requirement is specified in the Development Plan for the WT-R-03 lands.

## **7.5. Compliance with Other Codes**

The grounds of appeal include that Building Regulations have not been revised to take account of EU climate law. The issue of compliance with Building Regulations will be evaluated under a separate legal code and thus need not concern the Board for the purposes of this appeal.

## **7.6. Soil/Excavated Material**

7.6.1. The grounds of appeal state that deposition of 22,660m<sup>3</sup> of soil is not exempted development. The FI request (Item 5) sought details regarding the disposal of spoil/excavated evident on site and the volume of same. The FI response outlines that the remaining 13,000m<sup>3</sup> is to be removed on a gradual basis to a nearby licensed waste facility in compliance with all environmental regulations, before construction begins.

7.6.2. There would appear to be a discrepancy between the 13,000m<sup>3</sup> soil/excavated material stated to be removed in the FI response, and the 22,660m<sup>3</sup> indicated to be removed on FI Existing Site Survey (Drawing No. 0102; Rev. B). However, I consider that the matter of the removal of soil/excavated material, albeit of substantial amount, can be adequately addressed in a site-specific construction management plan. In the event that the Board was minded to grant permission for the proposed development, it is considered that the matter could be addressed by way of condition.

## **7.7. Wastewater Infrastructure**

7.7.1. The grounds of appeal state that the Watergrasshill wastewater treatment plant is non-compliant and cannot handle additional loading. Reference is made to Section

2.11.28 (Vol. 4) of the Development Plan, stating that there is spare capacity in the wastewater treatment plant but that it is not currently compliant with Waste-Water Discharge emission limit values. Reference is also made to Irish Water's Annual Environmental Report 2020 Watergrasshill D0201-01, which indicates deficiencies in the wastewater treatment plant.

7.7.2. The proposed development is to be served by an existing pumping station in Phase 1 of The Orchard, located at the southern site boundary. The content of the 2 no. Irish Water letters on file are noted, whereby

- Letter dated 23 September 2022 (statutory response to Cork County Council) states that the developer has engaged with IW and Confirmation of Feasibility has issued, and that Irish Water has no objections to the proposal subject to constraints outlined in the COF.
- Letter dated 27 July 2022 to BRH Design, submitted with applicant's response to grounds of appeal, states that based on details provided IW can advise that wastewater connection is feasible without infrastructure upgrade by IW, and developer to connect to IW Network through previous phase by same developer.

7.7.3. I note also the content of the 2 no. Water Services reports on file. FI was sought to confirm that the current pump station has capacity to cater for Phase 3, and to confirm that the increased flows through the pumped main will not lead to operation issues with the rising main. The Second Water Services report states that on review, there are no objections subject to 12 no. conditions, including that details and design calculations for the proposed sewage pumping station and rising mains to be submitted for agreement.

7.7.4. The FI response states that the pump station is designed to cater for this phase of the development, and was agreed with IW in Phase 1 of the scheme. With regard to the 150mm rising main, it is stated that IW required this as a future proof measure to potentially close some pump stations in Watergrasshill and flow everything into this pumping station. The applicant's response to the grounds of appeal includes outlining that new foul and watermain infrastructure has been provided by way of a self lay agreement with IW to provide a pumping station and 24 hour storage facility at a cost of over €300,000.

7.7.5. I note the content of Section 2.11.28 (Vol. 4) of the Development Plan in full. However, having regard to the wastewater infrastructure proposed to serve Phase 3 of this scheme, connecting to and utilising infrastructure provided in earlier phases of The Orchard, and having regard to both the IW letter dated 23 September 2022 which states no objections subject to constraints outlined in COF, and to that dated 27 July 2022 which states that connection is feasible without infrastructure upgrade by IW, I consider that the proposed development would be acceptable in terms of wastewater infrastructure. In addition, in the event that the Board was minded to grant permission for the proposed development, a standard condition requiring the developer to enter into water and wastewater connection agreements with Irish Water, prior to commencement of development, could be attached.

## 7.8. Water

7.8.1. The grounds of appeal state that the planning authority breached its obligation under Article 4(1) of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 – the Water Framework Directive. It states that the Watergrasshill wastewater treatment plant is in the Bride (Waterford)\_SC\_020 WFD SubCatchment & the WFD River Sub Basins FLESK (BRIDE)\_010. It outlines that the wastewater treatment plant discharges to Watergrasshill Stream, which flows into the Flesk, which feeds the Bride, which feeds the Blackwater, and that the water quality in the Flesk (Bride)\_010 has not achieved a higher status for more than a decade. The catchment of the 3 no. former waterbodies is very small such that the drought flow would be very small at the 95<sup>th</sup> or 99<sup>th</sup> percentile of flow duration. An extract from 3<sup>rd</sup> Cycle Draft Blackwater (Munster) Catchment Report (HA 18) indicates deterioration in water quality in the receiving waterbody of the wastewater treatment plant.

7.8.2. As viewed on [www.epa.ie](http://www.epa.ie) (viewed on 17 December 2023), Watergrasshill wastewater treatment plant is located within

- WFD Catchment 18 – Blackwater (Munster)
- WFD SubCatchmentsBride[Waterford]\_SC\_020 (Subcatchment \_Id: 18\_25)
- WFD River Sub BasinsFLESK(BRIDE)\_010 (Code: IE\_SW\_18F040500)

WFD Risk 3<sup>rd</sup> Cycle on this website for the waterbody FLESK(BRIDE)\_010 is stated to be 'At Risk'.

River Waterbody WFD Status 2016-2021 for the FLESK(BRIDE)\_010 is 'Poor'.

- 7.8.3. While I note the information viewed with regard to WFD Risk 3<sup>rd</sup> Cycle 'At Risk' category of the River Flesk (Bride)\_010 and to its 'Poor' WFD Status 2016-2021, I note the detail of all information on file, including in particular the two no. Irish Water letters dated 23 September 2022 (to Cork County Council) and 27 July 2022 (to the design firm for the applicant), stating no objections subject to constraints out in the COF, and that wastewater connection is feasible without infrastructure upgrade by IW respectively. Having regard to the nature of the proposed development which is to be serviced by a wastewater treatment plant, and to the content of the IW documentation on file, I consider that the proposed development would not adversely impact on water quality and would be acceptable in this regard.
- 7.8.4. For information, I highlight that as viewed on [www.epa.ie](http://www.epa.ie) (viewed on 17 December 2023) that the subject site is located in WFD Catchment 19 (Lee, Cork Harbour and Youghal Bay catchment), i.e., separate to WFD Catchment 18 in which the wastewater treatment plant is located.

## 7.9. Other Issues

- 7.9.1. I highlight for the Board's information that the proposed development, as Phase 3 of The Orchard housing estate, does not provide for potential permeability in terms of either pedestrian or vehicular access to adjoining undeveloped lands. While the area between House No.s 21 and 52 was shown on the application originally lodged on 12 August 2022 as Public Open Space 4, bounding the southern site boundary, the FI site layout indicatively shows this area to accommodate 2 no. semi-detached dwelling houses. In the particular circumstances of this case, whereby the lands to the north, south and west of the site are outside the Watergrasshill development boundary, I consider that the matter of ensuring potential connectivity to adjoining lands does not arise in this case, and accordingly this matter has therefore not been raised as a new issue. The area between House No.s 21 and 52 is approximately 24m wide X 30m deep and would be bounded to the east and west for the most part by 2m high block walls and 1.8m high concrete post and timber panels fence. The FI

response states that there will be a separate application for a pair of semi-detached houses, and that the applicant is happy to accept a condition requiring this area to be cordoned off with timber post and panel fencing until such time as construction begins. In the event that the Board is minded to grant permission for the proposed development, it is recommended that a condition is attached, stipulating that within 24 months of grant of permission that a planning application for development on this part of the site shall be submitted. I consider that a condition regarding boundary treatment to this part of the site would also be appropriate in this case.

- 7.9.2. I note that Condition 11 of the planning authority's decision restricts childcare operational hours to Monday to Friday 07.00 to 18.00 only. In the event that the Board is minded to grant permission, these operational hours, or other operational hours, may be confirmed by way of condition.
- 7.9.3. The Outline Construction, Demolition and Environmental Management Plan lodged with the application states that the overall construction timeline is 2 years, with Nos 1-33 and the commercial unit in year one and 34-74 in year two. As outlined elsewhere in this report, it is recommended that a condition is attached requiring the submission of a site-specific construction management plan by way of compliance. In the event the Board is minded to grant permission, I consider that the submission of a phasing scheme to be agreed with the planning authority prior to commencement of development would be appropriate in this case, and which shall require the construction of the crèche to be included in the first phase of the proposed development.
- 7.9.4. The planning authority's decision to grant permission does not include a condition relating to taking in charge. I note that Condition 33 of P.A. Ref. 18/4162 (relating to Phase 1 of The Orchard) states that the developer shall be responsible for the maintenance of all roads, footpaths, open spaces and other services, until and unless the development is taken in charge by the Planning Authority at its discretion. In the event that the Board is minded to grant permission for the subject proposal, it is recommended that a condition relating to taking in charge is attached.



## 7.10. Appropriate Assessment

7.10.1. The grounds of appeal state that no Natura Impact Statement (NIS) was submitted, that the (FI) planner's report did not contain a section on the Habitats Directive, and that the Blackwater River SAC (Site Code 002170) could be affected.

7.10.2. The nearest part of the Blackwater River SAC is approx. 4.5km to the north, and Great Island Channel SAC and Cork Harbour SPA are approx. 11km and 10.7km respectively to the south of the subject site.

7.10.3. The qualifying interests for Great Island Channel SAC are as follows:

- 1140 Mudflats and sandflats not covered by seawater at low tide
- 1330 Atlantic salt meadows *Glauco-Puccinellietalia maritimae*

7.10.4. The qualifying interests for Cork Harbour SPA are as follows:

- A004 Little Grebe *Tachybaptus ruficollis*
- A005 Great Crested Grebe *Podiceps cristatus*
- A017 Cormorant *Phalacrocorax carbo*
- A028 Grey Heron *Ardea cinerea*
- A048 Shelduck *Tadorna tadorna*
- A050 Wigeon *Anas penelope*
- A052 Teal *Anas crecca*
- A054 Pintail *Anas acuta*
- A056 Shoveler *Anas clypeata*
- A069 Red-breasted Merganser *Mergus serrator*
- A130 Oystercatcher *Haematopus ostralegus*
- A140 Golden Plover *Pluvialis apricaria*
- A141 Grey Plover *Pluvialis squatarola*
- A142 Lapwing *Vanellus vanellus*
- A149 Dunlin *Calidris alpina alpina*

- A156 Black-tailed Godwit *Limosa limosa*
- A157 Bar-tailed Godwit *Limosa lapponica*
- A160 Curlew *Numenius arquata*
- A162 Redshank *Tringa totanus*
- A179 Black-headed Gull *Chroicocephalus ridibundus*
- A182 Common Gull *Larus canus*
- A183 Lesser Black-backed Gull *Larus fuscus*
- A193 Common Tern *Sterna hirundo*
- A999 Wetlands

7.10.5. I note that the EPA website ([www.epa.ie](http://www.epa.ie)), viewed on 17 December 2023, indicates that Butlerstown river waterbody (Butlerstown\_010) is approximately 480m south west of the subject site. This waterbody connects via other surface waterbodies further downstream with Glashaboy River, and thereafter Glashaboy Estuary, which flows into Lough Mahon. No direct hydrological connection between the subject site and Butlerstown river waterbody is indicated.

7.10.6. The Environment report dated 30 September 2022 states *inter alia* that the catchment is drained by the Butlerstown waterbody.

7.10.7. With regard to surface water drainage infrastructure, a 814m<sup>3</sup> attenuation tank is proposed at the location of Public Open Space 2. The FI Drainage Impact Assessment (DIA) and SUDS Statement states that the maximum permitted surface water outflow from the new development is to be restricted to that of the existing greenfield site. In this regard I note that this FI document is similar to the content of BRH Engineering & Infrastructure Report lodged with the application, with the some additional content referencing Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas (DHLGH). The proposed surface water drainage network will collect surface water runoff from the site via a piped network prior to discharging off site via the attenuation tank, flow control device (Hydrobrake or equivalent) and fuel/oil separator arrangement. This document also states that where surface water run-off occurs at the site during the construction phase, it will be managed and controlled prior to discharge by

implementing standard environmental controls, and references drawing titled Construction Management Plan & Surface Water Control (Drawing No. 0304; Rev. A). This drawing lodged with the application on 12 August 2022 includes a 700mm high silt fence to be installed inside the southern site boundary to prevent release of sediments. Based on the information on file, the surface water drainage proposals are considered to be acceptable.

7.10.8. Separately, with regard to matters raised in the grounds of appeal relating to a failure to detail the Blackwater River SAC (Site Code 002170) habitat that could be affected, I consider that while Qualifying Interests are included in the appeal submission, that the proposed wastewater infrastructure to serve the proposed development would be acceptable. As outlined under Section 7.7 of this report, IW have stated no objections to the proposed development, subject to constraints outlined in the Confirmation of Feasibility, and that wastewater connection is feasible without infrastructure upgrade by IW.

7.10.9. Having regard to the nature, scale and location of the proposed development, the proposed surface water drainage infrastructure, the nature of the receiving environment and the proximity to the nearest European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans and projects on a European site.

## **8.0 Recommendation**

8.1. I recommend planning permission be granted for the proposed development.

## **9.0 Reasons and Considerations**

Having regard to the location of the site within the Watergrasshill development boundary, Objective WT-GO-02 of the Cork County Development Plan 2022-2028 which is to plan for development to enable Watergrasshill to achieve its target population of 1,736 persons, and its envisioned growth by up to 149 units during the plan period, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential

amenities of the area, and would be acceptable in terms of traffic safety. The Board was satisfied having regard to the specific site context that the density, while marginally below the target density for the Specific Development Objective WT-R-03 site, was acceptable having regard to Settlement Density Location Guide (Table 4.1), the location of the subject site and the prevailing pattern of development in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 3 November 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) This permission authorises 74 residential units and 1 crèche. Each proposed residential unit shall be used as a single dwelling unit.</p> <p>Reason: In the interest of development management.</p>
3.	<p>(a) The house type Option for House Types B, C, D and E hereby permitted is Option 2.</p> <p>(b) In the event that a permitted Option 2 unit is sought to instead be substituted with its corresponding Option 1 house type, a compliance proposal shall be submitted for the written agreement of the planning authority prior to commencement of development of the individual house.</p> <p>Reason: In the interest of development management.</p>

4.	<p>(a) With 24 months of grant of permission, a planning application for development on the lands located between House No.s 21 and 52 shall be submitted.</p> <p>(b) Prior to commencement of development, boundary treatment to this part of the subject site shall be submitted, and shall include proposals for roadside frontage boundary treatment, as appropriate.</p> <p>Reason: In the interest of residential and visual amenities</p>
5.	<p>Prior to commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses permitted to first occupation by individual purchasers, i.e., those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
6.	<p>The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with the planning authority prior to commencement of any development. The construction of the crèche shall be included in the first phase.</p> <p>Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.</p>
7.	<p>Details of the materials, colours and textures of all the external finishes to the proposed residential units shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>

8.	<p>Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwellinghouses without a prior grant of planning permission.</p> <p>Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings.</p>
9.	<p>The development shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority. The development shall be maintained by the developer until such time as it is taken in charge by the planning authority.</p> <p>Reason: In the interest of ensuring that the development is carried out to appropriate standards.</p>
10.	<p>The proposed childcare facility shall not operate outside the period of 0700 to 1800 hours Monday to Friday inclusive except public holidays, and shall not operate on Saturdays, Sundays or public holidays.</p> <p>Reason: In the interest of residential amenity.</p>
11.	<p>Prior to commencement of development, a landscape scheme for the proposed development shall be submitted for the written agreement of the planning authority, and shall include the following:</p> <ul style="list-style-type: none"> <li>(a) Details of plant species and children’s play facilities.</li> <li>(b) The areas of public open space shown on the lodged plans, save for the area shown as Public Open Space 4 on the drawings lodged with the application on 12 August 2022, shall be reserved for use as public open space. These areas shall levelled, soiled, seeded and landscaped in accordance with a landscaping scheme to be submitted.</li> </ul> <p>The landscape plan to be agreed shall be completed before any of the dwellings are made available for occupation and shall be maintained as</p>

	<p>public open space by the developer until taken in charge by the local authority.</p> <p>Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.</p>
12.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be re-located underground as part of the site development works.</p> <p>Reason: In the interests of visual and residential amenity.</p>
13.	<p>Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available by the developer for occupation of any house.</p> <p>Reason: In the interests of amenity and public safety.</p>
14.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p> <ul style="list-style-type: none"> <li>(a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;</li> <li>(b) Location of areas for construction site offices and staff facilities;</li> <li>(c) Details of site security fencing and hoardings;</li> <li>(d) Details of on-site car parking facilities for site workers during the course of construction;</li> </ul>

	<p>(e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;</p> <p>(f) Measures to obviate queuing of construction traffic on the adjoining road network;</p> <p>(g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>(h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the close of any public road or footpath during the course of site development works;</p> <p>(i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>(j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>(k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.</p> <p>(l) Means to ensure that surface water run-off is controlled such that no silt or other pollutant enter local surface water sewers or drains.</p> <p>A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
15.	<p>Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 09.00 to 14.00 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p>



	Reason: In the interests of public safety and amenity.
16.	<p>(a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed standards of the planning authority for such works, and shall comply with the provisions of the Design Manual for Urban Roads and Streets issued by the Department of the Environment, Community and Local Government and the Department of Transport, Tourism and Sport in March (2013, updated 2019).</p> <p>(b) The road junction at the vehicular entrance to the proposed development, at the point approximately south west of No. 47 The Orchard where it connects to the existing internal estate road, shall be in accordance with the detailed standards of the planning authority for such works, and shall comply with the provisions of the Design Manual for Urban Roads and Streets.</p> <p>(c) Details of proposed paving and internal road surfacing shall be submitted to, and agreed in writing, with the planning authority prior to commencement of development.</p> <p>(d) Footpaths at entrances shall be designed to the satisfaction of the planning authority.</p> <p>(e) Prior to the commencement of development works on site, proposals/details for road layouts, road finishes and speed control measures shall be submitted to, and agreed in writing with, the planning authority.</p> <p>Reason: In the interests of visual amenity and of pedestrian and traffic safety.</p>
17.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>

18.	<p>The applicant or developer shall enter into water and wastewater connection agreements with Irish Water/Uisce Éireann, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
19.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p>
20.	<p>All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of sustainable transportation.</p>
21.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an</p>

	<p>agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
22.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of embankment reinstatement and landscaping, roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion, and maintenance until taken in charge, of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development, and its maintenance until taken in charge by the local authority.</p>
23.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the</p>

	<p>matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Cáit Ryan  
Senior Planning Inspector

19 December 2023

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-315475-23		
<b>Proposed Development Summary</b>	74 no. residential units and 1 no. crèche, drainage, landscaping, surface treatment and site development works, all accessed via The Orchard estate.		
<b>Development Address</b>	Bishop's Island, Watergrasshill, Co. Cork		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	<b>Yes</b>	X	
	<b>No</b>	No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
		N/A	<b>Conclusion</b>
<b>No</b>			No EIAR or Preliminary Examination required
<b>Yes</b>	X	Class 10(b)(i): Construction of more than 500 residential units.	Proceed to Q.4

		Proposal is for 74 no. units (and 1 crèche) and site development works, and is therefore below the stated threshold.		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

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