



An
Bord
Pleanála

Inspector's Report

ABP-318389-23

Development	Construction of 20 no. dwellings (change of house type and density from permission ref. 22/4030).
Location	Glenwood, Fermoy, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	23/5436
Applicant(s)	Bridgewater Properties Ltd.
Type of Application	Planning Permission
Planning Authority Decision	Notification to Grant
Type of Appeal	Third Party (1 no.)
Appellant(s)	John and Anita Cahill, Becky and David Hogan and Marian Twomey and Jean Twomey
Observer(s)	None
Date of Site Inspection	29 th May 2024
Inspector	Gary Farrelly

1.0 Site Location and Description

- 1.1. The subject site is a greenfield site and is located approximately 1km southeast of Fermoy town centre, County Cork. The stated area of the site is 0.910 hectares and forms part of a wider housing estate approved under application ref. 22/4030 and currently under construction. The overall site (ref. 22/4030) measures 6.38 hectares.
- 1.2. The site is bounded by a row of residential dwellings to the southwest and by agricultural lands on the remaining boundaries. Strawhill nursing home is located approximately 70 metres to the southeast of the site. The M-8 Motorway is located approximately 400 metres east of the site and the Fermoy wastewater treatment plant is located approximately 900 metres northeast of the site.
- 1.3. Access to the site is via the public road, the L-1515, approximately 100 metres southeast of Strawhill nursing home.

2.0 Proposed Development

- 2.1. The proposed development is for the construction of 20 no. dwellings to replace 15 no. dwellings approved under application ref. 22/4030. The proposal seeks the construction of 4 no. detached dwellings and 16 no. semi-detached dwellings. 3 no. house types are proposed;
 - House type A: 4 no. detached 4-bed with a floor area of 158.6sqm and ridge height of 7.88 metres.
 - House Type B: 10 no. semi-detached 4-bed with a floor area of 132sqm and ridge height of 7.72 metres.
 - House Type C: 6 no. semi-detached 3-bed with a floor area of 111.7sqm and ridge height of 7.67 metres.
- 2.2. External finishes of the dwellings will comprise of part selected brick and part smooth render to the walls with a blue/black slate/tile finish to the roof. The southwest boundary (i.e. boundary with the row of existing dwellings) will be defined by a 1.8-metre-high concrete block wall. Boundary treatment between the proposed units will comprise of a 1.8-metre-high concrete post and timber panelled fence.

3.0 Planning Authority Decision

3.1. Decision

In considering the application, Cork County Council (the Planning Authority) sought further information in relation to the following:

- The submission of updated site boundary treatment and landscaping proposals, having regard to the existing residential receptors.
- The submission of a revised site layout plan showing details of the proposed footpath arrangement and car parking areas for each unit.

The Planning Authority decided to grant permission by Order dated 17th October 2023, subject to 10 no. mainly standard conditions. Condition no. 1 required the development to comply with the conditions of planning permission reg. no. 22/4030 which governs the overall development of the lands. Condition no. 8 related to the boundary treatment requirements and Condition no. 10 related to the payment of a financial contribution.

3.2. Planning Authority Reports

Planning Reports

There are a total of 2 no. area planner reports which assessed the proposed development in terms of the policy context, density, connectivity, layout and design, impacts on residential amenity, engineering issues and environmental issues. The area planner considered that the relationship between the current application and the existing units was broadly in keeping with the previously permitted scheme in terms of siting and layout. The first report recommended further information and the second report recommended a grant of permission. These reports and recommendations were endorsed by the Senior Executive Planner and Senior Planner.

Other Technical Reports

- Public Lighting (report dated 03/08/2023) – They had no objection subject to conditions.
- Housing (report dated 15/08/2023) – They had no objection subject to a standard Part V condition.

- Area Engineer (report dated 23/08/2023) – They had no objection to the increase in density of 5 houses and noted that there was spare capacity built in for storm water attenuation/pumping systems. Concern was raised if the overall development was to increase by 33%.
- Estates (report dated 03/10/2023) – They had no objection.

3.3. Prescribed Bodies

- Uisce Éireann – They had no objection subject to a connection agreement prior to commencement of the development.

3.4. Third Party Observations

A total of 7 no. third party submissions were received which raised a number of issues including traffic and pedestrian safety, the capacity of the wastewater treatment plant, construction impacts, residential amenity concerns, loss of access for wastewater desludging, proximity of the dwellings to the adjacent septic tanks, impact on views and concerns regarding the impact on the Blackwater River SAC.

4.0 Relevant Planning History

PA Ref. 22/4030 (subject site included in proposal)

Permission granted for 93 no. dwellinghouses and creche and associated ancillary development works including vehicular and pedestrian access. A Natura Impact Statement was submitted with the application.

PA Ref. 17/4647 (subject site included in proposal)

Permission granted for 62 no. dwellinghouses and ancillary development works including access.

5.0 Policy Context

5.1. Development Plan

Cork County Development Plan 2022-2028

The site is located within the settlement boundary of Fermoy on lands zoned 'Existing Residential / Mixed Residential and Other Uses'. Fermoy is designated as a key/large town with a population of 6,585 persons in which the vision over the lifetime of the plan is to increase the population of the town in line with the targets established in the core strategy. 675 units are required to 2028 and Table 3.1.3 outlines that 140 units can be provided from residential additional provision sites.

Objective ZU 18-9

The scale of new residential and mixed residential developments within the Existing Residential/Mixed Residential and Other Uses within the settlement network should normally respect the pattern and grain of existing urban development in the surrounding area. Overall increased densities are encouraged within the settlement network and in particular, within high quality public transport corridors, sites adjoining Town Centres Zonings and in Special Policy Areas identified in the Development Plan unless otherwise specified, subject to compliance with appropriate design/amenity standards and protecting the residential amenity of the area.

Section 4.8 Density

Medium Density 'B'

An increased minimum threshold is recommended from 12 to 20 units /ha in this category and the maximum threshold from 25 to 35 units /ha which will overlap with the Medium A category. This revised density range of 20-35 units/ha would not generally be applicable in the larger settlements >5,000 population other than for limited site-specific reasons relating to sites with topography/ heritage constraints or where there is a specific market requirement.

Objective HOU 4-7: Housing Density on Residentially Zoned Land

Medium Density B: 20-35 net density

In larger towns with a population >5,000 or planned to grow >5,000 population, may be applicable in a limited instance (outside Metropolitan Cork) for edge of centre sites and sensitive sites with difficult topography, heritage constraints to allow for a broader typology within the urban envelope.

Approach to Density within lands zoned Existing Residential/Mixed Residential and Other Uses

The Plan generally supports proposals for increased densities within this category to optimise the development of lands within the built envelope of a settlement, subject to protecting existing residential amenities and adhering to proper planning and development standards.

5.2. National Policy

- Project Ireland 2040 – National Planning Framework and National Development Plan 2021-2030
- Climate Action Plan 2024

5.3. Regional Policy

- Regional Spatial and Economic Strategy for the Southern Region

5.4. National Guidance

- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024)

5.5. Natural Heritage Designations

The subject site is not located within any designated site. The nearest designated site is the Blackwater River (Cork/Waterford) Special Area of Conservation (SAC) (Site Code 002170), which is located approximately 700 metres north of the subject site. This is also designated as the Blackwater River Callows proposed Natural Heritage Area (pNHA). The Blackwater Callows Special Protection Area (SPA) (Site Code 004094) is located approximately 1.4km northeast of the site.

5.6. Environmental Impact Assessment (EIA) Screening

Having regard to the nature, size and location of the proposed development, comprising the construction of twenty residential dwellings in an urban area on a site area of 0.910 hectares, to replace 15 no. already permitted dwellings, and to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can,

therefore, be excluded at preliminary examination and a screening determination is not required. Refer to Appendix 1 regarding this preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was lodged to the Board on 6th November 2023 by John and Anita Cahill, Becky and David Hogan and Marian Tomey and Jean Twomey. The grounds of appeal can be summarised as follows:

- The Appellants live in three of the twelve residential properties that are located along the southern boundary of the proposed development.
- They are in favour of development in Fermoy in principle, however, they have concerns on the lack of planning details for this large development.
- There are concerns on how their septic tanks would be accessible for desludging as access was previously achieved at the site of the proposed development. There are also concerns regarding the proximity of the development to the septic tanks and potential for surface water during construction to affect these tanks. No provision is in place to allow the existing properties access to a pipe sewer system.
- There are major concerns regarding the impact on privacy of the existing bungalows due to the two-storey houses and the inadequate proposed boundary conditions.
- The increased traffic will create a hazard where they are entering and exiting their driveways on College Road. The vehicular access to the proposed development is at the bottom of a steep incline and will be dangerous for traffic travelling from Fermoy. The road is narrow, and the access is by a bend. The sightlines are 70 metres and not 100 metres as suggested by the SUDS layout. The location will increase the risk of accidents.
- The surface water of the proposed site will run into the Blackwater River and the wastewater will be collected into the Fermoy wastewater treatment plant before discharging into the Blackwater River. Additional wastewater from the

site will increase the capacity of the WWTP which could affect the discharges into the Blackwater River.

- The NIS report does not address the high court proceedings seeking to quash the making of any legislation or administrative act to remove the freshwater pearl mussel as a qualifying interest of the SAC. A high court decision was made in 2020 to reclassify the Blackwater River as a special protected area for the freshwater pearl mussel. (*An NIS report was not submitted as part of this application, however, one was submitted as part of application ref. 22/4030*).
- Any surface water or extra wastewater going into the Blackwater River could have a negative impact on the quality of the river. Inland Fisheries Ireland noted some concerns about the additional capacity of the Fermoy treatment works.

6.2. Applicant Response

The applicant did not submit a response to the third-party grounds of appeal.

6.3. Planning Authority Response

The planning authority were of the opinion that all the relevant issues were covered in the technical reports already forwarded to the Board as part of the appeal documentation and had no further comment to make.

6.4. Observations

None

7.0 Assessment

- 7.1. The Board should note that this application relates to a modification of an existing permission onsite for 93 no. dwellings, granted under application ref. 22/4030. This application seeks to provide 20 no. dwellings to replace 15 no. dwellings already approved, thereby increasing the overall number by 5 units. The Board should also note that as part of condition no. 1 of the planning authority's notification to grant permission they conditioned that the application was subject to the terms of the parent permission 22/4030.
- 7.2. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the planning authority and having inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:
- Zoning
 - Density
 - Wastewater and Public Health
 - Residential and Visual Amenity
 - Traffic Safety

Zoning

- 7.3. The subject site is located on lands zoned 'Existing Residential/Mixed Residential and Other Uses' within the Cork County Development Plan 2022-2028 (CDP), where residential development is acceptable under objective ZU 18-9, subject to respecting the pattern and grain of existing urban development in the surrounding area. Therefore, I consider that the proposed development is acceptable in principle.

Density

- 7.4. The proposed development is for 20 no. dwellings on a site area of 0.910 hectares which I note equates to 22 units per hectare. The site forms part of a wider residential development for 93 units measuring 6.38 hectares that was approved under the parent permission ref. 22/4030. This application proposes to increase the overall development to 98 units across the 6.38 hectares which I note would equate to 15

units per hectare (a marginal increase from the 14.5 units per hectare already approved).

- 7.5. Objective HOU 4-7 of the CDP outlines a density of 20-35 units per hectare for edge of centre sites and sensitive sites with difficult topography, within towns such as Fermoy. Additionally, I note that Table 3.5 of the 2024 Sustainable and Compact Settlements Guidelines for Planning Authorities (i.e. Section 28 Guidelines) states that it is the policy and objective of these Guidelines that residential densities in the range 30 dph to 50 dph (net) shall generally be applied at suburban locations of large towns.
- 7.6. Notwithstanding the above, having regard to the location of the site on the periphery of the town of Fermoy, to the undulating nature of the wider site which substantially slopes downwards along the eastern part of the wider site, to the existing permission onsite for a net density of 14.5 units per hectare, and to the character of the area which comprises of predominantly low density residential development, it is my view that the density of the proposed development is acceptable.

Wastewater and Public Health

- 7.7. The Appellants raise a number of concerns in relation to their existing septic tanks in terms of a loss of access to desludge, the operation of the tanks in such proximity to the development and the impact of surface water during construction. They also question why no provision was made to allow the existing properties to connect into the public wastewater mains.
- 7.8. With regards to the proximity of the development to the existing septic tanks, the Board should note that Table 6.3 of the Environmental Protection Agency's 2021 Code of Practice for domestic wastewater treatment systems specifies a minimum separation distance of 10 metres from any dwellinghouse to any treatment area. I note from the submitted site layout plan that the nearest proposed dwelling to the southwest boundary is 13.8 metres. Therefore, I am satisfied with the separation distances in terms of public health.
- 7.9. With regards to the impact of surface water during construction, I note as part of application ref. 22/4030 the Applicant submitted a construction management plan that specified erosion and sediment control measures such as directing surface water runoff to onsite settlement areas. Furthermore, condition no. 4 of the parent permission specified that the development would be managed in accordance with a Construction

Management Plan which included water management measures. I note that there are no changes arising as part of this application. Having regard to this, I am satisfied with the proposed surface water arrangements in terms of public health.

- 7.10. With regards to access for desludging, according to the application documentation the subject development is on lands owned by the Applicant and no evidence has been provided by the Appellants that show their right to use the lands. Additionally, I note that there is no substantial change from the previously permitted layout.
- 7.11. With regards to the Appellants' comments on connecting into the public wastewater mains, the Board should note that as part of the parent permission 22/4030, there is already approval for the overall wastewater network onsite where wastewater will be discharged via gravity to a pumping station in the southeast corner of the site and then pumped via a rising main sewer through the development site where it will eventually connect to the public wastewater mains at the northwest corner of the site. I note that there is no change proposed to the permitted wastewater network as part of this application.
- 7.12. Notwithstanding this, the Board should note that the permitted layout does not propose to run the network along the public road outside the Appellant's properties. Having regard to the future location of private properties between the Appellants' properties and the proposed network, I do not consider that it would be possible or appropriate for such a connection through private lands. Notwithstanding this, any connection requests would be a matter between the party and Uisce Éireann.

Residential and Visual Amenity

- 7.13. I note the Appellants' concerns regarding the proposed boundary treatments and the impact of the two storey dwellings on their privacy. The Board should note that two storey dwellings were approved at this location under parent permission ref. 22/4030 and I note that the proposed dwellings are largely sited in the same location as already approved and are similar in design, height and scale.
- 7.14. I note Specific Planning Policy Requirement 1 (SPPR1) of the Section 28 Guidelines requires that a separation distance of at least 16 metres between opposing windows serving habitable rooms shall be maintained. I note that this is achieved. In terms of private amenity spaces, SPPR1 also states that distances below 16 metres may be considered acceptable where suitable privacy measures have been designed into the

scheme. I note that the minimum separation distance from the proposed development to the southwest boundary is 13.8 metres for Unit 50. However, I note that a 1.8 metre high boundary wall along the southwest boundary is proposed which I consider to be an adequate boundary treatment.

- 7.15. Having regard to the siting of the proposed development and to the design, height and scale of the units, similar to what is already approved under parent permission ref. 22/4030, to the separation distances and to the proposed boundary treatment, I am satisfied that the development complies with SPPR1 and will not result in an adverse impact on the residential or visual amenity of adjoining properties in terms of overlooking or loss of privacy.

Traffic Safety

- 7.16. I note the Appellants' concerns regarding the location of the access off the public road and achievable sightlines. I note that the location of the development access was approved by the planning authority as part of parent permission ref. 22/4030. The previous plans submitted outlined an achievable 100 metre sight distance to the north and south of the proposed junction at the public road. There are no changes to these proposals as part of this application.
- 7.17. Having regard to the planning history of the site, to the sightlines achievable at the junction, to the modest increase of 5 no. units onsite and to the associated modest increase in the use of the said junction and surrounding road network as a result, I am satisfied that the approved junction and surrounding road network can cater for the proposed development and, therefore, it is my view that the proposed development would not have an adverse impact in terms of traffic safety.

8.0 Appropriate Assessment (AA)

1. Screening for Appropriate Assessment – Screening Determination

Step 1: Description of the project

- 8.1. I have considered the project in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. The subject site is located approximately 700 metres south of the Blackwater River (Cork/Waterford) Special

Area of Conservation (SAC) (Site Code 002170) and approximately 1.4km southwest of the Blackwater Callows Special Protection Area (SPA) (Site Code 004094).

- 8.2. The proposed development comprises the construction of 20 no. dwellings. This represents an overall increase of 5 dwellings to the 93 dwellings granted under application ref. 22/4030. I noted on the date of my site inspection that construction has commenced onsite.
- 8.3. The proposed development, as with ref. 22/4030, will be serviced by the public wastewater mains via a pumping station and rising main which will connect to the Fermoy wastewater treatment plant. I note that Uisce Éireann has raised no objection to the development. Surface water will be treated via SUDs and via a hydrobrake and attenuation storage (designed for a 100 year storm event and 10% allowance for climate change) before discharging to an open drain to the southeast of the site. This open drain connects to the Wood Fermoy stream approximately 500 metres downstream which in turn connects to the Blackwater River SAC a further 1km downstream.

Step 2: Potential impact mechanisms from the project

- 8.4. Taking account of the characteristics of the proposed development in terms of its location, nature and scale of works, the following issues are considered for examination in terms of likely significant effects on European sites:
- Changes in water quality due to surface water run-off during the construction and operational stages.
 - Changes in water quality due to increased loading on the Fermoy wastewater treatment plant.
 - Dust, noise and lighting disturbance to QI species.
- 8.5. As a result of these potential impacts, the project has the potential to affect the European Sites in terms of the following:
- Changes in water quality.
 - Habitat loss or deterioration.
 - Species disturbance or mortality.

Step 3: European Sites at risk

8.6. Having regard to the nature and scale of the project, the distance from the development site to the European Sites, and to the potential pathways which may exist from the subject site to a European Site, I have identified the following 2 no. European Sites at risk from the project:

- Blackwater River (Cork/Waterford) SAC (Site Code: 002170)
- Blackwater Callows SPA (Site Code 004094)

Table 1 European Sites at risk from impacts of the proposed project			
Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk
<ul style="list-style-type: none"> • Changes in water quality • Habitat loss or deterioration • Species disturbance or mortality 	<p>Indirect hydrological connection via open drain/Wood Fermoy Stream which connects to the Blackwater River approximately 1.5km downstream.</p> <p>700 metres away via air.</p>	Blackwater River (Cork/Waterford) SAC (Site Code 002170)	18 QIs (See Appendix 2 for full list)
<ul style="list-style-type: none"> • Changes in water quality • Habitat loss or deterioration • Species disturbance or mortality 	<p>Indirect hydrological connection via open drain/Wood Fermoy Stream which connects to the Blackwater River approximately 1.5km downstream.</p> <p>1.4km away via air.</p>	Blackwater Callows SPA (Site Code 004094)	<p>Whooper Swan (Cygnus cygnus) [A038]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Teal (Anas crecca) [A052]</p> <p>Black-tailed Godwit (Limosa limosa) [A156]</p> <p>Wetland and Waterbirds [A999]</p>

Step 4: Likely significant effects on the European site(s) 'alone'

Table 2: Could the project undermine the conservation objectives 'alone'		
European Site and qualifying feature	Conservation objective	Could the conservation objectives be undermined (Y/N)?
Blackwater River (Cork/Waterford) SAC (Site Code 002170) (See Appendix 2 for QIs)	<p>To restore the favourable conservation condition of the Freshwater pearl mussel (1029), the sea lamprey (1095), the twaite shad (1103), Atlantic salt meadows (1330), otter (1355), old sessile oak woods with ilex and blechnum in the British Isles (91A0) and Alluvial forests with alnus glutinosa and fraxinus excelsior (91E0).</p> <p>To maintain the favourable conservation condition of the white-clawed crayfish (1092), the brook lamprey (1096), the river lamprey (1099), the Atlantic salmon (1106), estuaries (1130), mudflats and sandflats not covered by seawater at low tide (1140), perennial vegetation of stony banks (1220), salicornia and other annuals colonizing mud and sand (1310), Mediterranean salt meadows (1410), Killarney Fern (1421), watercourses of plain to montane levels with the ranunculus fluitans and</p>	<p><u>Surface Water</u></p> <p>The development will connect to an approved surface water system which was previously subject to screening/appropriate assessment. This development will result in a minor increase in surface water discharge.</p> <p>During construction, as outlined under parent permission ref. 22/4030, all surface water will be directed to onsite settlement areas prior to discharge. Once operational, surface water will be treated via permeable paving and via pipe discharge to an open drain via attenuation and hydrobrake. Having regard to this hydrological link and distance to the European Site, I consider that there is potential for the conservation objectives to be undermined.</p> <p><u>Wastewater</u></p> <p>All wastewater will be treated, via a wastewater mains, at the Fermoy wastewater treatment plant, which is located approximately 900 metres northeast of the site. The treated wastewater will be discharged to the River Blackwater. This treatment</p>

	callitricho-batrachion vegetation (3260).	<p>plant has a capacity of 12,000PE and Uisce Éireann (UÉ) has no objection to the development subject to a connection agreement. I note that the plant is designated as green on UÉ's capacity register. Therefore, having regard to the correspondence from UÉ on file and to minor increase in density proposed, I am satisfied that there is adequate capacity within this treatment plant to cater for the development, and therefore, there is no potential for the conservation objectives to be undermined via this modest increased loading.</p> <p><u>Noise, Dust, Lighting</u></p> <p>Having regard to the separation distance from the subject site to the designated sites, to the intervening land uses and vegetative boundaries, I am satisfied that the proposed development would not likely affect the qualifying interest species in terms of dust, noise or lighting.</p>
Blackwater Callows SPA (Site Code 004094)	<p>To restore the favourable conservation condition of the wigeon (A050) and the teal (A052).</p> <p>To maintain the favourable conservation condition of the whooper swan (A038), the black-tailed Godwit (A156) and wetland and waterbirds (A999).</p>	<p><i>My conclusions outlined above apply to the qualifying interests and conservation objectives of this European Site.</i></p>

8.7. Having regard to the above, I conclude that the proposed development would have a likely significant effect 'alone' on the qualifying interests of the Blackwater River (Cork/Waterford) SAC (002170) and the Blackwater Callows SPA (004094) from effects such as habitat loss or deterioration and species disturbance or deterioration associated with changes in water quality as a result of surface water discharge. An appropriate assessment is required on the basis of the effects of the project 'alone'. A further screening assessment in-combination with other plans and projects is not required at this time.

2. Appropriate Assessment of the implications of the proposed development on the integrity of each European Site

- 8.8. A Natura Impact Statement (NIS) was submitted as part of application ref. 22/4030 which assessed the potential adverse effects of the proposed development on the Blackwater River (Cork/Waterford) SAC and Blackwater Callows SPA. The Applicant's NIS concluded that *"with the implementation of the mitigation measures specified in Section 4.2, no significant adverse effects related to indirect habitat loss or deterioration from silt-laden or contaminated surface water run-off associated with the construction or operational phases of the proposed development are deemed likely"*.
- 8.9. Having reviewed the documents under this application and application ref. 22/4030, I am satisfied that there is sufficient information to allow for a complete assessment of any adverse effects of the development on the conservation objectives of the Blackwater River (Cork/Waterford) SAC and Blackwater Callows SPA, alone or in-combination with other plans and projects.
- 8.10. A description of the site and its Conservation and Qualifying Interests/Special Conservation Interests are set out as part of my assessment within Appendix 2 of this report. I have also examined the Natura 2000 data forms and relevant attributes and targets (including the NPWS' Article 17 Species and Habitats reports) and the Conservation Objectives supporting documents for these sites available through the National Parks and Wildlife Service's website.
- 8.11. The main aspects of the proposed development that could adversely affect the conservation objectives of these European sites include the following.
- Construction related surface water pollution.

- Surface water pollution during the operational phase.

8.12. Section 4.2 of the NIS and Section 6.2 of the Construction Management Plan, both submitted as part of application ref. 22/4030, outline a number of mitigation measures including the following:

- During construction, surface water will be directed to on-site settlement areas where measures will be implemented to capture and treat sediment laden runoff.
- All oils, fuels, paints and other chemicals to be stored in a secure bunded hardstand area and refuelling to take place in a designated hard stand area remote from any surface water inlets.
- Surface water to be controlled via attenuation and source control interception such as permeable paving, tree pits, and a hydrocarbon interceptor will be installed upstream of the attenuation.

8.13. The Board may consider that these measures are standard best practice construction measures and are standard features of the design which are not intended to reduce harmful effects on the European Sites although have such effect. However, having regard to the planning history of the site, to the documentation submitted as part of application ref. 22/4030 and to the appropriate assessment carried out by the planning authority, I have treated these as mitigation measures and thus why I have proceeded to a full appropriate assessment.

8.14. Following the appropriate assessment and the consideration of mitigation measures (which are outlined under Appendix 2), I am able to ascertain with confidence that the project would not adversely affect the integrity of the Blackwater River (Cork/Waterford) SAC (Site Code 002170) or the Blackwater Callows SPA (Site Code 004094), in view of the site's Conservation Objectives. This conclusion has been based on a complete assessment of all implications of the project alone.

In-combination impact

8.15. With regard to a potential in-combination impact, I note that this application forms part of the wider extant permission onsite for 93 dwellings (which will increase to 98 dwellings if this permission is granted). Having regard to the 5 no. dwelling unit increase across the site, to the mitigation measures outlined within the submitted NIS

under application ref. 22/4030, to the connection of all 98 no. dwellings to the public wastewater mains and to the surface water treatment measures proposed for the overall site, I am satisfied that this development would not give rise to an in-combination effect with the overall development that would adversely affect the integrity of any European Site.

- 8.16. Furthermore, having reviewed the Department of Housing, Local Government and Heritage's National Planning Application database and EIA Portal, the Cork County Council's planning register and the Board's GIS database, I note that permission was granted for a Tesco superstore approximately 600 metres north of the site (under ref. 21/7462/Appeal ref. 314318-22). Furthermore, I note approval was granted by the Board for remedial works to Fermoy Weir as part of application ref. 313763-22. I note that NIS' were submitted as part of these applications and concluded that the projects would not, alone or in-combination with other plans or projects, result in a significant adverse effect to the integrity of any European Site, subject to mitigation measures. Having regard to the implementation of mitigation measures, I am satisfied that the in-combination impact of this project, and any other project, would not affect the overall integrity of the European Sites.

Appropriate Assessment Conclusion

- 8.17. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000, as amended. Having carried out screening for Appropriate Assessment of the project, I conclude that it may have a significant effect on the conservation objectives of the Blackwater River (Cork/Waterford) SAC and Blackwater Callows SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of these sites in light of their conservation objectives.
- 8.18. Following an Appropriate Assessment, I have ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the conservation objectives and integrity of these said European sites, in view of the sites' Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

9.0 Recommendation

I recommend that permission is **Granted** for the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to the relevant provisions of the Cork County Development Plan 2022-2028, to the existing pattern of development in the vicinity, to the planning history of the site and the extant permission for residential development at the site, and having regard to the design, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of property in the vicinity, would be acceptable in terms of visual amenity, would not be prejudicial to public health and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. 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 20th September 2023, 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.

Reason: In the interest of clarity.

2. (a) Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the parent permission granted by the planning authority on 14th June 2022 under planning register reference number 22/4030, and any agreements entered into thereunder.

(b) This grant of permission shall expire on the expiry date of the parent permission under planning register reference number 22/4030.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. All rear gardens of houses shall be bounded with brick or concrete block walls, which shall be a minimum of 1.8 metres high (maximum two metres). All rear boundaries between proposed units shall comprise of 1.8 metre high concrete post and timber panelled fences.

Reason: In the interest of residential amenity and to ensure the use of durable boundary treatment.

4. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

5. 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.

Reason: To ensure adequate servicing of the development, and to prevent pollution

6. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Uisce Éireann.

Reason: In the interest of public health.

7. Prior to the commencement of any unit 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 unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all housing units 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.

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.

8. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates, shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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.

9. 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 the 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

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.

10. 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance 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.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

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.

Gary Farrelly
Planning Inspector

4th July 2024

Appendix 1

(a) Form 1: EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-318389-23			
Proposed Development Summary	Construction of 20 no. dwellings, connection to public wastewater mains and discharge of surface water via SUDS and to open drain via attenuation and hydrobrake			
Development Address	Numbers 31-50 Glenwood, Fermoy, County Cork			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X	
		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	X	Class 10(b)(i) Construction of more than 500 dwelling units.	The proposal is for 20 no. dwellings and the subject site is within an urban	Proceed to Q.4

		Class 10(b)(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.	area that measures 0.910 hectares.	
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

(b) Form 2 - EIA Preliminary Examination

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.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	The development is for 20 no. dwellings within the settlement boundary of Fermoy comprising changes to an already permitted development. The development will consist of typical construction related activities and works. Development to be undertaken in accordance with a construction management plan. Surface water to be discharged via permeable paving and to an open drain via attenuation and hydrobrake. Wastewater to be discharged via a pumping station and rising main to the public mains for treatment at Fermoy wastewater treatment plant.	No
Size of the Development Is the size of the proposed development exceptional in	The development site measures 0.910 hectares. The size of the development is not exceptional in the context of the existing urban environment. There is a live permission for the construction of 93 dwellings onsite on a site area of 6.38 hectares,	No

<p>the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>however, the subject proposal is located within the footprint of said permission and will increase the overall development by 5 no. dwellings only, therefore, there is no real likelihood of significant cumulative effects with existing and permitted projects in the area.</p>	
<p>Location of the Development</p> <p>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>The subject site is not located within any designated site. The nearest designated site is the Blackwater River (Cork/Waterford) Special Area of Conservation (SAC) (Site Code 002170), which is located approximately 700 metres north of the subject site. This is also designated as the Blackwater River Callows proposed Natural Heritage Area (pNHA). The Blackwater Callows Special Protection Area (SPA) (Site Code 004094) is located approximately 1.4km northeast of the site.</p> <p>My Appropriate Assessment undertaken concludes that the proposed development will not adversely affect the integrity of the European sites.</p> <p>The subject site is located outside Flood Zones A and B for coastal or fluvial flooding.</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>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>

Appendix 2: Appropriate Assessment (AA)

Blackwater River (Cork/Waterford) SAC (Site Code 002170)					
Qualifying Interest	Conservation Objective	Potential Adverse Effect	Mitigation Measures	In-Combination Effect	Can Adverse Effect on Integrity be excluded
Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]	To restore the favourable conservation condition.	<ul style="list-style-type: none"> Change in water quality Habitat deterioration/sedimentation Species mortality 	<ul style="list-style-type: none"> Silt control measures of surface water prior to discharge to open drain. 	Potential effect in-combination with application refs. 314318-22 & 313763-22. However, due to the mitigation measures proposed as part of these developments, no in-combination impact considered that would adversely affect the integrity of the European Site.	Yes
Petromyzon marinus (Sea Lamprey) [1095]	To restore the favourable conservation condition.				
Lampetra planeri (Brook Lamprey) [1096]	To maintain the favourable conservation condition.				
Lampetra fluviatilis (River Lamprey) [1099]	To maintain the favourable conservation condition.				
Alosa fallax fallax (Twaiite Shad) [1103]	To restore the favourable conservation condition.				
Salmo salar (Atlantic Salmon) [1106]	To maintain the favourable conservation condition.				

Austropotamobius pallipes (White-clawed Crayfish) [1092]	To maintain the favourable conservation condition.	<p><i>These are only present on the Awbeg River, which I note is located approximately 15km upstream of the Fermoy wastewater treatment plant and 17km upstream from the surface water discharge to open drain. The main Blackwater is considered chemically unsuitable for the crayfish.</i></p> <p><i>Therefore, no likely adverse effect.</i></p>	N/A		
Lutra lutra (Otter) [1355]	To restore the favourable conservation condition.	<ul style="list-style-type: none"> Changes in water quality impacting prey 	<ul style="list-style-type: none"> Silt control measures of surface water prior to discharge to open drain. 	<p>Potential effect in-combination with application refs. 314318-22 & 313763-22. However, due to the mitigation measures proposed as part of these developments, no in-combination impact considered that would adversely affect the integrity of the European Site.</p>	Yes
Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]	To restore the favourable conservation condition.	<p><i>No pressures or threats related to the project identified having regard to 2019 Article 17 Habitat Assessment and to the nature of the development.</i></p>	N/A		
Mediterranean salt meadows (Juncetalia maritimi) [1410]	To maintain the favourable conservation condition.	<p><i>The qualifying interests are located approximately 47km downstream from the surface water discharge to open drain,</i></p>			

		<i>according to NPWS publication for coastal habitats (February 2012).</i>			
Estuaries [1130]	To maintain the favourable conservation condition.	<i>No pressures or threats related to the project identified having regard to 2019 Article 17 Habitat Assessment and to the nature of the development.</i>	N/A		
Mudflats and sandflats not covered by seawater at low tide [1140]	To maintain the favourable conservation condition.	<i>The 1130 QI is located approximately 27km downstream and the 1140 QI is located approximately 47km downstream, according to NPWS publication for marine habitats (January 2012).</i>			
Trichomanes speciosum (Killarney Fern) [1421]	To maintain the favourable conservation condition.	<i>Having regard to Map 10 of the NPWS' Conservation Objectives Series for the Blackwater River SAC, the nearest habitat downstream is located approximately 47km away. There is also a habitat located upstream (north) of Lismore along the Owennashad River. Having regard to the separation distance, no adverse effect likely.</i>	N/A		
Perennial vegetation of stony banks [1220]	To maintain the favourable conservation condition.	<i>No pressures or threats related to the project identified having regard to 2019 Article 17 Habitat Assessment and to the nature of the development.</i>	N/A		
Salicornia and other annuals colonising mud and sand [1310]	To maintain the favourable conservation condition.				

Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]	To maintain the favourable conservation condition.				
Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	To restore the favourable conservation condition.				
Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]	To restore the favourable conservation condition.				
Overall conclusion: Integrity test Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of the European Site in view of the site’s conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.					

Blackwater Callows SPA (Site Code 004094)					
Qualifying Interest	Conservation Objective	Potential Adverse Effect	Mitigation Measures	In-Combination Effect	Can Adverse Effect on Integrity be excluded
Whooper Swan (Cygnus cygnus) [A038]	To maintain the favourable conservation condition.	<ul style="list-style-type: none">Change in water quality <p>Additionally, I am satisfied that no ex-situ effects are likely due to the separation distance, the intervening land uses, the nature of the subject site comprising agricultural lands and to the wigeon, teal and black tailed godwit being usually found on wetlands and estuaries. Whilst the Whooper Swan can be found on farmlands, there are a number of these lands between the subject site and designated site.</p>	<ul style="list-style-type: none">Silt control measures of surface water prior to discharge to open drain.	Potential effect in-combination with application refs. 314318-22 & 313763-22. However, due to the mitigation measures proposed as part of these developments, no in-combination impact considered that would adversely affect the integrity of the European Site.	Yes
Wigeon (Anas penelope) [A050]	To restore the favourable conservation condition.				
Teal (Anas crecca) [A052]	To restore the favourable conservation condition.				
Black-tailed Godwit (Limosa limosa) [A156]	To maintain the favourable conservation condition.				
Wetlands [A999]	To maintain the favourable conservation condition.				
Overall conclusion: Integrity test Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of the European Site in view of the site’s conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.					