



An
Bord
Pleanála

Inspector's Report

ABP-318813-24

Development	8 duplex and 27 houses with associated site works.
Location	Rockshire Road, Ballyrobin, Ferrybank, Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	23117
Applicant(s)	Digital Wren RE Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Parties vs. Grant
Appellant(s)	1. Darragh Reynolds 2. Caroline Bannon
Observer(s)	None
Date of Site Inspection	8 th November 2024
Inspector	Stephen Ward

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1.0 Site Location and Description

- 1.1. The site is located on the northern periphery of Ferrybank urban village, which itself forms part of the wider northern environs of Waterford City. It has a stated area of 0.972ha and is distanced c. 1.5km north of the city centre and c. 1km northwest of Ferrybank village centre. The site is located along the eastern side of Rockshire Road and has been partially developed through the installation of an underground attenuation tank, foul pumping station, and other temporary construction-related works.
- 1.2. The site is bounded by Rockshire Road to the west, while Waterford Golf Course is located on the opposite (west) side of this road. The site adjoins existing houses within Mayfield Road / Avenue to the south, which is part of the larger residential area including the 'Beeches' and 'Blackthorn Hills' estates. Temporary construction fencing has been erected along the southern and western site boundaries. The site adjoins undeveloped agricultural land to the north and east and these site boundaries are mainly defined by overgrown vegetation. The site levels fall gradually across the site from east to west.

2.0 Proposed Development

- 2.1. In summary, permission was sought for the construction of a residential development of 35 no. units in 7 no. blocks comprising the following:
- 1 no. 2 storey detached Duplex unit, comprising of 4 no. 1 bed units & 4 no. 2 bed units
 - 2 no. 2 storey 4 bed end terrace dwelling units
 - 2 no. 2 storey 4 bed mid terrace dwelling units
 - 8 no. 2 storey 3 bed end terrace dwelling units
 - 9 no. 2 storey 3 bed mid terrace dwelling units
 - 2 no. 2 storey 2 bed end terrace dwelling units
 - 4 no. 2 storey 2 bed mid terrace dwelling units

- New 6m wide internal roadway to service the proposed development connecting to the existing Mayfield Road,
- Boundary treatments, foul and surface water drainage and landscaping together with all ancillary and associated site works.

2.2. The proposed development is to be accessed via the extension of the existing access road serving the 'Mayfield Road' properties to the south. Storm water within the development is to be diverted to the existing attenuation tank in the northwest corner of the site. Foul drainage is to be diverted to the existing foul pumping station in the northwest corner of the site. It is proposed to connect to the existing Uisce Eireann watermain serving Mayfield Road to the south.

2.3. The response to the planning authority's Further Information request involved revised designs and an overall reduction to 34 no. units as follows:

- 1 no. 3 storey detached Duplex unit, consisting of 2 no. 1-bed units and 2 no. 2-bed units.
- 1 no. 3 storey detached Duplex unit, consisting of 4 no. 1-bed units and 4 no. 2-bed units.
- 2 no. 2 storey 4 bed end terrace dwelling unit
- 2 no. 2 storey 4 bed mid terrace dwelling unit
- 6 no. 2 storey 3 bed end terrace dwelling unit
- 6 no. 2 storey 3 bed mid terrace dwelling unit
- 2 no. 2 storey 2 bed end terrace dwelling unit
- 4 no. 2 storey 2 bed mid terrace dwelling unit.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 7th December 2023, Kilkenny County Council (KCC) made a decision to grant permission subject to 23 no. conditions. The conditions are generally standard in nature, but the following is noted:

- Nos. 3 & 4 outline requirements for landscaping and play equipment.
- No. 17 requires agreement in relation to roads issues, including pedestrian routes/crossings.

3.2. Further Information Request

After the initial examination of the application the planning authority issued a further information request. The issues raised in the request can be summarised as follows:

1. Submit consent of KCC for inclusion of lands within the site.
2. Concerns were raised about the layout of the development; clarification of density calculations; clarification of open space calculations; and clarification of rights of way / wayleaves.
3. Carry out an assessment of the capacity of social/community and transportation infrastructure to cater for the development.
4. Carry out a visual impact assessment.
5. Submit window proposals to overlook public open space and streets.
6. Submit a DMURS Quality Audit; a Traffic and Transport Assessment; a lighting design; electric vehicle charging proposals; construction specification and materials for roads and footpaths; a detailed preliminary Construction Environmental Management Plan (CEMP) to include traffic management; and clarification of road design issues.
7. Submit a detailed survey of hedgerows and trees.
8. Demonstrate adequate capacity of the existing surface water attenuation tank.
9. Clarify proposals for construction and operational waste management.
10. Clarify dust monitoring and CEMP proposals.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The assessment is outlined in two Planner's Reports, i.e., the initial report recommending a Further Information (F.I.) request and the subsequent report on the

F.I. submitted. The assessment contained within the two reports can be cumulatively summarised under the following headings.

Zoning

- The site is located within the development boundary of Ferrybank / Belview Local Area Plan 2017. The site is zoned - R3 Residential (20-40 units per hectare 8-16 per acre).
- The revised proposal for 34 units will result in a density of 39 units per hectare which complies with the zoning objective and is considered appropriate having regard to national policy and the planning history of the area.

Design & Layout

- The initial report highlighted several concerns which were outlined in the F.I. request, including: impacts of the duplex block on the residential amenity of existing properties; the visual impact in relation to existing properties; the quantity/quality of open space; the parking area to the southwest corner of the site; and access/traffic impacts. The revised proposals contained in the F.I. response were considered acceptable.
- The revised mix of houses is appropriate to support housing needs in the area.
- Public open space amounts to 13.6% of the site area and is acceptable.
- The apartment/duplex units comply with 'Design Standards for New Apartments'.
- Adequate private open space has been provided for all dwelling houses.
- The proposed car parking and bicycle parking meets development plan standards.

Surface Water

- The FI Request raised the issue of capacity of the existing attenuation tanks to cater for the proposed development, including extreme weather events and climate change.
- The F.I. response includes engineering reports confirming capacity within the existing attenuation tank. It is understood its condition requires upgrading which is to be subject of a further planning application. A condition shall be included to

ensure development does not commence prior to the upgrading of this infrastructure which is subject to planning.

Water and Sewerage

- It is proposed to connect to public services and Irish Water has no objection.

Social Infrastructure

- The FI Request raised issues about the capacity of social/community and transport infrastructure. The applicant's F.I. Response referred to the Design Statement and TTA and was considered acceptable.

Construction Impacts

- The CEMP submitted with the FI response included proposals for construction access off Rockshire Road and for the control of noise and dust etc. This is considered acceptable subject to conditions.

3.3.2. Other Technical Reports

Road Design: The initial Report requested further information as outlined in point 6 of the FI Request. The subsequent report outlined that the response was acceptable subject to conditions to agree *inter alia*: road termination details near house no. 16 (subsequently omitted in the Planner's Report); lighting design; uncontrolled crossing points; pedestrian exits onto Rockshire Road; EV charging details; and construction specifications and materials.

Environment: The initial Report requested further information as outlined in points 8-10 of the FI Request. There would not appear to be any further comments on the F.I. response.

Fire and Rescue Service: A Fire Safety Certificate will be required.

Ferrybank Area Office: Recommends referral to Road Design.

3.3.3. Conditions

The conditions of the permission are generally standard in nature as outlined in section 3.1 above.

3.4. Prescribed Bodies

Irish Water: No objections subject to conditions.

3.5. Third Party Observations

The planning authority received 13 no. submissions in the initial 5-week period and 13 no. submissions on the further information response. Many of the issues raised are covered in the grounds of appeal in section 6 of this report. Any other issues can be summarised as follows:

- The proposal does not comply with the 12 urban design criteria set out in the CDP.
- The LAP indicates that apartment/duplex units should be directed towards the centre of Ferrybank.
- Inadequate services in the area, including public transport, water services, and other community/commercial services.
- Inadequate amenity space for the new residents.
- Inadequate pedestrian linkage.
- Inadequate construction and waste management measures.
- No tree surveys and potential impacts on wildlife.
- The Traffic and Transport Assessment is based on outdated 2016 data.

4.0 Planning History

P.A. Reg. Ref. 05/217: Permission granted on larger site (including land to the south) for the construction of 80 houses together with a ground floor creche with 2 self-contained apartments over at first floor level. All together with associated site development works and associated services installation.

P.A. Reg. Ref. 07/1929: Permission granted for alterations to the site layout and design of houses previously permitted under planning ref (05/217). All together with associated site development works and associated services installation.

P.A. Reg. Ref. 15/225: Permission granted on the western portion of the site for site development works for 5 residential sites (namely Chestnut Crescent) and outline permission to build a detached two storey house on each of the 5 sites. All to replace 10 houses which are authorized by planning permissions under Ref no. 05/217 and 07/1929.

P.A. Reg. Ref. 18/289: Permission granted for a) modifications to permitted access road and boundaries to residential house plots 2 and 3 of planning permission ref: 15/225 to provide a through road and footpath to access the lands to the rear (east); (b) site development works for an additional 5 residential sites, including installation of all required services, open space and access road and footpath at the rear of the site of 15/225; (c) the construction of a turning head, footpath, parking and associated open space at the north most end of Mayfield Road; and (d) all associated works at Mount Sion Road and Mayfield Road.

P.A. Reg. Ref. 18/646: Application refused for extension of duration of Ref Nos. 05/217 and 07/1929.

P.A. Reg. Ref. 20/529: Application refused for extension of duration of Ref No. 15/225.

P.A. Reg. Ref. 21/574: Permission granted for site development works for five residential sites (namely Chesnut Crescent Phase 1), together with installation of all necessary services. Also planning permission to build a detached, two storey house on each of the five sites to be developed and planning permission to build a detached, two storey house on each of the five sites to be developed through the subject of planning permission under Ref no. 18/289 (namely Chesnut Crescent Phase 2).

5.0 Policy Context

5.1. National and Regional Policy / Guidance

- 5.1.1. The National Planning Framework (NPF) is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed

or under-utilised land and buildings. It contains a number of policy objectives that articulate the delivery of compact urban growth.

- 5.1.2. The Climate Action Plan 2024 implements carbon budgets and sectoral emissions ceilings and sets a course for Ireland's targets to halve our emissions by 2030 and reach net zero no later than 2050. All new dwellings will be designed and constructed to Nearly Zero Energy Building (NZEB) standard by 2025, and Zero Emission Building standard by 2030. In relation to transport, key targets include a 20% reduction in total vehicle kilometres travelled, a 50% reduction in fossil fuel usage, a significant behavioural shift away from private car usage, and continued electrification of our vehicle fleets. The Board is required to perform its functions in a manner consistent with the Climate & Low Carbon Development Act.
- 5.1.3. The National Biodiversity Action Plan 2023-2030 includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss. Section 59B(1) of the Wildlife (Amendment) Act 2000 (as amended) requires the Board to have regard to the objectives and targets of the NBAP in the performance of its functions, to the extent that they may affect or relate to the functions of the Board. The impact of development on biodiversity, including species and habitats, can be assessed at a European, National and Local Level and is taken into account in our decision-making having regard to the Habitats and Birds Directives, EIA Directive, Water Framework Directive and Marine Strategy Framework Directive, and other relevant legislation, strategy and policy where applicable. Biodiversity impacts are considered in this report.
- 5.1.4. Having considered the nature of the proposal, the receiving environment, and the documentation on file, including the submissions received, I am of the opinion that the directly relevant section 28 Ministerial Guidelines are:
- Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), Department of Housing, Local Government and Heritage, (hereafter referred to as '*the Compact Settlement Guidelines*').
 - Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, (July 2023) (hereafter referred to as the '*Apartments Guidelines*').

- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (July 2023).

5.1.5. Other relevant national Guidelines include:

- Design Manual for Urban Roads and Streets (DMURS) (2019)
- Delivering Homes, Sustaining Communities (2007) and the accompanying Best Practice Guidelines - Quality Housing for Sustainable Communities.

5.1.6. The Regional Spatial & Economic Strategy (RSES) for the Southern Region is a 12-year strategic regional development framework which establishes a broad framework for the way in which society, environment, economy and the use of land should evolve.

5.1.7. It includes a Metropolitan Area Strategic Plans (MASP) for Waterford. Policy Objective 8(a) is to support the high-quality compact growth of Waterford City Centre and suburban areas, the assembly of brownfield sites for development and the regeneration, and redevelopment of Waterford City Centre to accommodate residential use. The MASP will support initiatives which facilitate compact growth, and which promote well designed high-density residential developments which protect amenities and in the city centre and suburban areas. Strategic Residential Lands are identified, including lands zoned for residential development in Ferrybank for c 850 units.

5.2. **Kilkenny City and County Development Plan 2021-2027**

5.2.1. The Core Strategy aims include the implementation of the provisions of the NPF and the RSES and to promote the compact growth of Ferrybank/Belview (as part of Waterford MASP). Relevant provisions include the following:

Objective 4B - To ensure growth is achieved in a compact form, with 50% new housing earmarked for the Waterford MASP area catered for within the built-up footprint of the Waterford area, including that part within County Kilkenny.

5.2.2. Section 4.3.2 deals with 'Waterford MASP (Ferrybank/Belview)'. It uses the figures set out in the RSES, which predicts an uplift of 1,452 people for Ferrybank/Belview between 2016 and 2027. For the Waterford MASP area, the Council will support the growth of Waterford city as the principal urban centre of the South-East and the

Waterford MASP with the objective to become an important driver of national growth and a 'Regional City of Scale' within a defined Metropolitan Area. Objective 4I is to commence the review of the Ferrybank/Belview Local Area Plan within 6 months of the coming into effect of this Plan having regard to the MASP and to incorporate into the Kilkenny City & County Development Plan by way of variation.

- 5.2.3. Chapter 6 'Housing and Community' aims to develop and support vibrant sustainable communities in an attractive living and working environment where people can live, work and enjoy a high quality of life, with access to a wide range of community facilities and amenities, while ensuring coordinated investment in infrastructure that will support economic competitiveness. Relevant objectives include the following:

6E To implement the provisions of the Housing Strategy contained in Appendix B.

6F To require 10% of the land zoned for residential use, or for a mixture of residential and other uses, be made available for the provision of social housing.

6G To require that a mixture of residential unit types and sizes are developed to reasonably match the requirements of different categories of households within the city and county.

6I To ensure that all new housing developments and developments for renewal which includes housing, includes a mix of house types with universal design so as to provide for an aging population.

6J To ensure the widest possible range of housing options in each new development and to prevent the proliferation of limited option house types in any particular area.

- 5.2.4. Chapter 10 'Infrastructure & Environment' aims to ensure a sufficient level of water services within the county for the implementation of the core strategy, provide a framework for the protection of the environment, including water quality, and the avoidance of flood risk.

- 5.2.5. Chapter 12 'Movement and Mobility' aims to co-ordinate transport and land use planning, reducing the demand for travel and the reliance on the private car in favour of public transport, cycling and walking by providing for a greater mix of suitable uses and by promoting and facilitating the transition to electrification of transport modes moving away carbon intensive modes to new technologies such as electric vehicles.

5.2.6. Chapter 13 outlines 'Requirements for Developments', including:

Urban Design – compliance with relevant guidelines and the 12 criteria outlined in the Sustainable Residential Development Guidelines.

Density - It is not intended to prescribe maximum residential density standards. The appropriate residential density in any particular location will be determined by criteria specified in section 13.4.1.

Separation Distance - In general, there should be adequate separation (traditionally about 22m between 2-storey dwellings) between opposing first floor windows.

Relaxation of this standard will be considered subject to appropriate criteria.

Apartments – Section 13.13 outlines standards for apartments based on national guidance on Design Standards for New Apartments.

Open Space – Section 13.20 sets out quantitative and qualitative requirements for private and public open space.

5.3. **Ferrybank-Belview Local Area Plan 2017**

5.3.1. This LAP was adopted by Kilkenny County Council on the 18th of December 2017 and came into effect on the 15th of January 2018. The question of the lifetime of this LAP is discussed further in section 7.2 of this report. For the information of the Board, the main provisions are summarised hereunder.

5.3.2. Chapter 6 'Community and Housing' proposes a residential strategy of consolidation and infill, whereby new residential development will occur alongside existing. This will enable the development of a compact residential model in the plan area, in preference to a pattern of dispersed housing and peripheral sprawl.

5.3.3. Chapter 8 'Recreation, Tourism and the Arts' proposes 'short links/short cuts' within existing estates to aid in pedestrian permeability. Objective 8B is to investigate the feasibility of providing these linkages at locations including:

PL1 In any redesign of The Beeches, to allow for connection from Passive Open Space to southeast.

5.3.4. Chapter 11 'Development Management' outlines locally specific standards which are not covered in the CDP. It outlines that indicative density standards for each zone

are set out in Chapter 2: Core Strategy and Zoning. It is important to note that these are not prescribed residential density standards; rather they are indicative of what densities would be acceptable at various locations in the plan area. The figures in Chapter 2 are estimates for zoning requirements only, and the acceptable density on any site shall be determined by a design led approach.

- 5.3.5. The appeal site is zoned 'R3 – Residential', the objective for which is:

To allow for new residential development and other services incidental to residential development. While housing is the primary use in this zone, childcare facilities and recreation will also be considered. (20-40 units per hectare / 8-16 per acre).

5.4. Natural Heritage Designations

The nearest Natura 2000 site is the Lower River Suir SAC, which is located c. 1km south of the appeal site.

5.5. EIA Screening

See completed Appendices 1 & 2 attached to this report. 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. Therefore, EIA is not required.

6.0 The Appeals

6.1. Grounds of Appeal

The KCC decision to grant permission has been appealed by Caroline Bannon (16 Mayfield Road) and Darragh Reynolds (20 Mayfield Road). The appeals welcome the development of the site in principle but outline outstanding concerns regarding the proposed development. The grounds of appeal raise common issues which can be cumulatively summarised under the headings below.

Vehicular Access / Parking

- The existing Mayfield Road access is inadequate to cater for existing traffic and parking requirements before adding 68+ cars.
- The proposed development, including visitor parking proposals, would not alleviate this situation and would lead to congestion and traffic hazard.
- The temporary construction access off Rockshire Road should be the permanent entrance and Mayfield Road should be closed with a turning head and parking.
- The proposed layout allows for future access to residential lands behind The Beeches, which would further overload Mayfield Road. The KCC Roads Department report raised concerns about this proposal but recommendations to exclude future access were not included in the decision.

Density

- The proposed density (39uph) far exceeds previously permitted applications.
- The proposed density clearly exceeds established development, and it is not clear which adjacent residential areas the Planner has based his judgement on. This is contrary to the requirements of 'infill development' as outlined in the 2017 LAP and the CDP (section 2.9.2).
- Economies of scale aligned to increased density is most appropriate for town centre and inner suburban settlements. The subject site represents the completion of The Beeches Estate (which has demonstrated insufficient roads capacity within third party observation statements) and an inadequate and low frequency of public transport provision.

Design and Layout

- Concerns are raised about the design of the duplex units and their impact on adjoining properties, as follows:
 - Increase in negative visual impact.
 - The 3-storey blocks with balconies will overlook adjoining properties, dominate views, and overshadow adjoining properties.
 - Insufficient separation distance to the rear extension of 20 Mayfield Rd.

- The green space for the duplex units may result in anti-social behaviour.
- The design and form of Block 5 is out of character with existing development and concerns are raised in relation to:
 - Distance between Unit 22 and No. 16 Mayfield Road.
 - The design and form of the proposed facades are totally out of character with existing development.
 - The focus on smaller units is not an appropriate integration and would materially alter the overall typology of The Beeches estate.

Existing Attenuation Tank

- The Planner's report recommends a condition to ensure that development does not commence until the upgrading of this infrastructure, which is subject to planning. However, no such condition was included in the decision.
- Reliance on a future indeterminate planning application to address deficiencies in attenuation capacity and associated environmental safeguarding is wholly inappropriate. Should works be required to upgrade the extant infrastructure, such works are required to be addressed in the subject application.

6.2. Applicant Response

The applicant's response to the appeals can be summarised under the following headings:

Parking

- The appeals outline a perceived shortage in parking for the existing housing and consequential on-street parking, congestion etc. This would appear to be a result of some houses having only 1 parking space, which is an issue that the current application has no control over.
- The Compact Settlement Guidelines requires a maximum of 1.5 spaces per dwelling in this case, which would result in 51 spaces for 34 units. The majority of the proposed shared spaces would be located near the existing housing at the northern end of the Beeches, which has the potential to alleviate parking and congestion problems.

Access

- The Council supports the proposal to access via the Beeches, as was originally designed and permitted under P.A. Reg. Ref. 05/217.
- The TTIA in the current application demonstrates that the junction has the capacity to cater for the additional houses.
- The alternative access arrangements off Rockshire Road (permitted under P.A. Reg. Ref. 15/225) did not dispense with the extension of Mayfield Road in the Beeches.
- Regarding the proposal to allow future access to the lands to the east, the applicant acknowledges that there are alternatives via an existing unused road to the north; or the existing roundabout at the top of the Newrath Road; or along the existing link corridor through the Blackthorn Hills/Hollybrook Estate. A cycle/pedestrian link between the proposed development and any future housing to the east may be desirable, which would require a separate planning application and public participation.

Density

- The proposed density (39.2 uph) complies with the LAP, which provides for 20-40 uph, and the 'more up to date Plan' (*sic*) expectation of 35 and 50 uph.
- The Compact Settlement Guidelines require densities in the range of 35-50 uph. The proposal is at the lower end of this range and is appropriate given the peripheral location of the site, as was the view of KCC.

Environment (Attenuation Tank)

- The KCC Planner's Report refers to the need to upgrade the attenuation tank, which will be the subject of a further application. This misinterprets the engineering report accompanying the further information response.
- The report establishes that the attenuation tank has the capacity for the proposed development plus 10% extra capacity. It advised of a requirement to upgrade the hydro-brake system only, which the applicant is prepared to contribute towards. This upgrade would be exempted development which would not require planning permission.

Impacts on property (Darragh Reynolds appeal)

- The proposed duplex block would be at a significantly lower level and would provide a separation distance of 23.6m to the appellant's original rear wall, which is consistent with the arrangement permitted under P.A. Reg. Ref. 05/217. The appellant has constructed a ground floor rear extension which would leave a separation distance of 18.8m to the proposed first floor balcony.
- The proposal would maintain the 16m separation distance as required under the Compact Settlement Guidelines, and there is no possibility of that being reduced via an exempted development extension to the duplex block.
- If necessary, the panels of the first-floor balconies can be fitted with obscure translucent material.
- A daylight/sunlight analysis was not requested by the P.A. It is estimated that there may be slight overshadowing of the appellant's garden in late afternoons in the winter, which is not unreasonable or unprecedented.
- The space to the rear of the duplex block is communal space for resident use and will be secured and overlooked to prevent anti-social behaviour.

Other issues raised in Caroline Bannon appeal

- The separation distance from proposed house no. 22 is 2 metres, which is consistent with that previously permitted (P.A. Reg. Ref. 05/217) and existing houses in the Beeches.
- The scale of the proposed housing is similar to existing. The design is different, but the variety adds to interest.
- The proposed housing mix is not focused on smaller units, and it will contribute to the mix in the wider area.

6.3. Planning Authority Response

The KCC response to the appeal can be summarised as follows:

- The Planning Authority would be satisfied with a condition requiring that the upgrade of the attenuation tank take place prior to the occupation of any houses

and that the detailed design and capacity of the tank be agreed with the Planning Authority prior to installation.

- Please refer to the Planners Report regarding all other issues raised in the appeal submission.
- The Planning Authority considers that the proposed development is in accordance with proper planning and sustainable development for the area and complies with policies and objectives set out in the National Planning Framework, Kilkenny City and County Development Plan 2021-2027, and the Ferrybank Belview Local Area Plan 2017.

6.4. Observations

None.

7.0 Assessment

7.1. Introduction

- 7.1.1. I have 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 local authority and prescribed bodies, and I have inspected the site and had regard to the relevant local/regional/national policies and guidance.
- 7.1.2. The issue of Appropriate Assessment screening will be addressed separately in section 8 of this report. Otherwise, I consider that the substantive issues to be considered are as follows:
- Principle of Development and the LAP
 - Density & Housing Mix
 - Access, traffic, and parking
 - Impacts on Residential Amenity
 - Surface Water Attenuation
 - Design & Layout.

7.2. Principle of Development and the LAP – New Issue

- 7.2.1. I acknowledge that the principle of the development has not been contested in this case. In this regard, the planning authority's opinion would understandably appear to have been largely based on the zoning of the site as 'R3 Residential' under the Ferrybank / Belview Local Area Plan 2017. The date of the KCC decision was the 7th of December 2023.
- 7.2.2. As previously outlined, the LAP was adopted by Kilkenny County Council on the 18th of December 2017 and came into effect on the 15th of January 2018. Under s. 18 (4)(a) of the Act of 2000, a local area plan '*shall indicate the period for which the plan is to remain in force*'. In this regard, section 1.2 of the LAP states that '*It is valid for six years following adoption by Kilkenny County Council...*'. Section 2.4 of the LAP also confirms that land requirements are considered '*For this Plan term to 2023...*'.
- 7.2.3. I note that s. 19 of the Act of 2000 provides a mechanism to effectively extend the period for which an LAP is to remain in force. However, that mechanism involves a formal process including the preparation of a CE Report, the passing of a resolution by the planning authority, and public notification that any such resolution has been passed. This process has not been followed to 'extend' the Ferrybank / Belview Local Area Plan. The preparation of a new LAP for Ferrybank / Belview is currently only at pre-draft stage¹.
- 7.2.4. I acknowledge that the lifetime of LAPs can sometimes be extended through their incorporation in full as part of the CDP. The CDP makes several references to the LAP, including Objective 4I which is '*To commence the review of the Ferrybank/Belview Local Area Plan within 6 months of the coming into effect of this Plan having regard to the MASP and to incorporate into the Kilkenny City & County Development Plan by way of variation*'. However, this has not occurred, and the LAP has not otherwise been incorporated into the CDP.
- 7.2.5. Having regard to the foregoing, I acknowledge that the KCC decision (7th of December 2023) was made within 6 years of both the adoption (18th of December 2017) and coming into effect (15th January 2018) of the LAP. However, notwithstanding legislative provisions for the calculation of time periods associated

¹ According to https://kilkennycoco.ie/eng/services/planning/development-plans/local-area-plans/ferrybank_belview_local_area_plan.html (Accessed 3rd December 2024)

with holidays (s.251 of the Act of 2000) and emergency provisions associated with COVID-19, it is my opinion that the Ferrybank / Belview Local Area Plan 2017 and all its objectives no longer remain in force. I have outlined a summary of its provisions for the information of the Board in s. 5.3 of this report but I do not propose to rely on any of these provisions in the assessment of the application.

7.2.6. In the absence of a prevailing zoning objective for the site, the principle of residential development on the site must be assessed on its merits. In this regard, I would highlight that:

- There is a long-standing positive planning history relating to the site. It was part of the overall permission for the adjoining lands to the south granted in October 2005 (P.A. Reg. Ref. 05/217) and subsequently amended under P.A. Reg. Ref. 07/1929 (Granted January 2008).
- In November 2015, permission was again granted on the site (P.A. Reg. Ref. 15/225) for site development works for 5 residential sites and outline permission to build a detached two storey house on each of the 5 sites.
- In January 2019, permission was again granted on the site (P.A. Reg. Ref. 18/289) for alterations to P.A. Reg. Ref. 15/225.
- In December 2021, permission was again granted for the construction of 10 No. detached dwellings over the entire site. This is an extant permission which remains valid until early 2027.
- The site has been partially developed through the installation of an underground attenuation tank and foul pumping station. Other temporary construction-related works have been carried out including ground disturbance, construction access, and the erection of construction hoarding. The site has an undesirable and 'unfinished' appearance.
- Potential connections to the adjoining development to the south are already in place in respect of roads, footpaths, services, and open space.
- The site has a long-standing history of being zoned, including the Waterford City Environs Development Plan, the Ferrybank Belview LAP 2009, and the Ferrybank Belview LAP 2017.
- The zoning of land in the Ferrybank Belview LAP 2017 has been considered in targeted growth projections for the area, as outlined in higher-level plans

such as the CDP, the RSES for the Southern Region, and the Waterford MASP (see section 5 of this report for details).

- 7.2.7. Having regard to the above factors, I would have no objection to the principle of residential development on the site notwithstanding the expiration of the LAP. However, I consider that the expiration of the LAP constitutes a '**new issue**' in the context of this appeal case and the Board may wish to seek the views of the parties.

7.3. **Density & Housing Mix**

Density

- 7.3.1. The proposed development involves the construction of 34 no. dwellings on an overall stated area of 0.972 hectares, which would amount to density of c. 35 units per hectare. However, for the purposes of calculating density, the planning authority has required the omission of the northwest corner of the site (i.e. the area in KCC ownership including the attenuation tank etc.). This results in a reduced site area (0.8667 ha) and an increased density of c. 39 units per hectare.
- 7.3.2. Appendix B of the Compact Settlements Guidelines (2024) provides guidance on 'Measuring Residential Density'. It outlines that the net site area includes 'local parks' and 'all areas of incidental open space and landscaping'. Appendix A also outlines that 'Public Open Space' can include 'attenuation areas where they form part of an integrated open space network'.
- 7.3.3. I acknowledge that this case involves a portion of land that is outside the applicant's ownership and includes underground infrastructure. However, this land and the associated infrastructure was part of the original development (P.A. Reg. Ref. 05/217) before being transferred to KCC ownership in recent years. It is still included as part of the development site and is intended to be landscaped as part of a larger open space that will connect with an existing open space in Mayfield to the south. Accordingly, having regard to the provisions of the Compact Settlement Guidelines, I consider that it will form an integrated part of the development which could be considered in measuring residential density. In any case, whether or not the entire site area is considered, the proposed residential density would range from 35-39 units per hectare.

- 7.3.4. The County Development Plan does not prescribe maximum residential density standards and places an emphasis on providing quality-housing environments based on innovation and a design led approach. Section 13.4.1 outlines that the appropriate residential density in any particular location will be determined by the consideration of a range of criteria. These are summarised and considered in the following table.

Table 1 – Assessment of density criteria as per s. 13.4.1 of the KCC Development Plan

Criteria	Assessment
i. Design & Layout	As will be outlined in section 7.7 of this report, I am satisfied that the proposed development will result in a high-quality residential environment.
ii. Qualitative & quantitative criteria (including Urban Design manual)	As will be outlined throughout this report, I do not have any objection in this regard. The Urban Design Manual (2009) has been replaced by the Compact Settlement Guidelines (2024) and the urban design criteria therein are considered in section 7.7.
iii. Proximity to Public Transport	The applicant's TTA outlines that Rockshire Road is served by the 627 Bus Route, although I note that this is an infrequent service. However, the site is c. 1.5km walking distance from Ferrybank village where more frequent services (No. 607 & 617) are available to connect with Waterford City Centre and the main bus and rail stations. Furthermore, under the Bus Connects Waterford Draft Network, Rockshire Road would be served by a significantly improved 2-way service with a frequency of 30 mins. The proposed development involves a relatively minor extension to an existing residential area and accordingly I would have no objections on grounds of public transport services.
iv. Adherence to Masterplan / LAP	As previously outlined, there is no formal Masterplan or LAP in place for the site.
v. Existing character and density	This is not an infill site that would be overly constrained by the density and character of surrounding development. Lands to the west, north, and east are undeveloped, which provides greater flexibility to define a new density and character on the site.
vi. Site Features	Apart from the presence of the existing attenuation tank and other services, there are no site features that would significantly influence density.

vii. Infrastructure	Irish Water have not raised any objections in relation to water and wastewater capacity. Issues regarding roads and surface water infrastructure will be assessed in sections 7.4 and 7.6 of this report. The revised Design Statement submitted as Further Information also outlines a wide range of social and community facilities serving the Ferrybank area. The proposed development involves a relatively minor extension to an existing residential area and accordingly I would have no objections on grounds of social and community infrastructure.
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- 7.3.5. In addition to the aforementioned local policies, the Compact Settlement Guidelines provides further clarity on appropriate density standards. In accordance with Table 3.2 of the Guidelines, I consider that the appeal site is within the ‘City – Suburban/Urban Extension’ of Waterford. It is a policy and objective of the Guidelines that residential densities in the range 35 dph to 50 dph (net) shall generally be applied at suburban and urban extension locations in Waterford, and that densities of up to 100 dph (net) shall be open for consideration at ‘accessible’ suburban / urban extension locations. I do not consider this area to be classified as ‘accessible’ and accordingly the recommended range is 35-50 dph.
- 7.3.6. Section 3.4 of the Guidelines deals with ‘Refining Density’. Step 1 of this process is the consideration of proximity and accessibility to services and public transport. While densities within the ranges set out (i.e. 35-50 dph) will be acceptable, planning authorities should encourage densities at or above the mid-density range at the most central and accessible locations in each area, densities closer to the mid-range at intermediate locations and densities below the mid-density range at peripheral locations. Having considered the accessibility criteria outlined in Table 3.8 of the Guidelines, I consider that the site should be classified as ‘peripheral’, where densities below the mid-density range should be encouraged. I consider that the proposed density (35-39 dph) would be consistent with this guidance.
- 7.3.7. Step 2 of the process involves considerations of character, amenity and the natural environment. The specified criteria are outlined and considered in the following table.

Table 2 – Consideration of criteria outlined in Step 2 of ‘Refining Density’

Criteria	Assessment
(a) Local Character	The development predominantly consists of 2-storey housing which is consistent with the established area. The 3-storey duplex blocks are higher but are also on lower ground than most surrounding dwellings. Some finishes and features will match existing houses, but understandably there will be differences in design and character. However, I consider that this will introduce variety and will not detract from local character.
(b) Historic Environments	The site is not within an historic environment, and I do not consider that it would detract from the built or landscape heritage value of the area.
(c) Habitats and Species	<p>The site is c. 1km from the nearest designated site (Lower River Suir SAC). It is proposed to connect to existing water, wastewater, and surface water services and there will be no significant pathways to designated sites. Screening for AA and EIA has been carried out as part of this assessment and there is no potential for significant effects on the environment or Natura 2000 sites.</p> <p>The majority of the site itself has already been disturbed due to temporary construction works. It is not of significant ecological value. A Tree & Hedgerow Survey has been submitted and it is proposed to retain the features identified as being significant (i.e. trees along the western and eastern site boundaries).</p> <p>Accordingly, I do not consider that density should be constrained on grounds of habitats or species.</p>
(d) Residential Amenity	As will be outlined in section 7.5 of this report, I do not consider that there would be any unacceptable impacts on residential amenity.
(e) Water services	Irish Water have not raised any objections in relation to water and wastewater capacity.

7.3.8. Having regard to the foregoing, I consider that the proposed density range (35-39 dph) is consistent with the Compact Settlement Guidelines (35-50 dph). Furthermore, having considered the other criteria outlined in the Development Plan

and the Compact Settlement Guidelines throughout this report, I would have no objection to the proposed density in this case.

Housing Mix

7.3.9. The appeals have also raised concerns about the proposed housing mix, particularly the inclusion of smaller units which is not considered to be in keeping with the area. In this regard, I acknowledge that the area is mainly characterised by standard suburban housing consisting of 3/4-bed houses.

7.3.10. However, the Development Plan includes a range of objectives aimed at providing a diverse range of house types (see objectives 6G, 6I, and 6J in section 5.2.3 of this report). It is proposed to provide a good range of units in the proposed development, mainly comprising:

- 6 no. 1-bed duplex units
- 6 no. 2-bed duplex units
- 6 no. 2-bed houses
- 12 no. 3-bed houses
- 4 no. 4-bed houses.

7.3.11. I consider that this would provide a suitable range of dwellings which would be consistent with the Development Plan. And rather than consolidating the existing nature of suburban housing, I consider that it would provide increased choice which would be beneficial to a greater range of housing categories. Accordingly, I would have no objection to the proposed housing mix.

7.4. Access, traffic, and parking

7.4.1. The appeals have raised significant concern about the principle of the proposed and potential future access via Mayfield Road. It has been suggested that access should be provided independently off Rockshire Road and that no future access should be provided to serve potential additional housing development on lands to the east.

7.4.2. In principle, I would have no objection to the extension of Mayfield Road to access the development. In my opinion, this would represent a logical extension to the existing development and would be preferable to providing an additional entrance onto Rockshire Road, which would have implications for traffic safety and free-flow.

- 7.4.3. Regarding future access to the lands to the east, I acknowledge that the KCC Road Design Report recommended its termination but that this was subsequently omitted in the Planner's Report. I note that the adjoining lands to the east were zoned 'Strategic Reserve' in the LAP 2017 (now expired), the main objective for which was to '*provide for longer term expansion*'. And while the applicant's response to the appeal has acknowledged potential alternative means of access to these lands, I consider that the provision of potential future access would nonetheless constitute proper planning, notwithstanding the expiration of the LAP and absence of a zoning objective for the adjoining lands. Of course, this potential access would not have any traffic impact unless permission was subsequently granted on the adjoining lands to the east. I consider that the potential traffic implications of any such access can only be properly assessed as part of any such future development proposal and that it would be premature at this stage to omit the potential access.
- 7.4.4. Consistent with the above, the key access issue in this case is the suitability of the existing Mayfield Road access to accommodate the additional traffic associated with the proposed development. I note that it is proposed to use direct access off Rockshire Road for temporary construction purposes and, therefore, impacts will be limited to the operational traffic.
- 7.4.5. The applicant's Further Information response included a Traffic and Transport Assessment (TTA). The existing traffic volumes (AM and PM Peaks) were estimated based on available traffic data (2021) and the existing number of housing units (64) using this access. Using this data together with industry standard guidance and future growth factors, the Annual Average Daily Traffic (AADT) for Rockshire Road was estimated at 3,700 vehicles per day (two-way). This was considered low for an urban area. Using a robust growth rate of 19% between 2023 and 2040, the AADT for the Future Design Year (2040) was estimated as 4,400 veh/day.
- 7.4.6. The traffic associated with the development was estimated using the TRICS database, resulting in 5 no. arrivals and 15 no. departures during the AM Peak and 14 no. arrivals and 8 no. departures during the PM Peak. The estimated traffic was then assigned and distributed based on existing traffic survey patterns and access to the surrounding local network.

- 7.4.7. The Junction Capacity Analysis was undertaken using the PICADY programme for uncontrolled priority junctions. Under this analysis, a Ratio to Flow Capacity (RFC) above 85% would be considered above capacity and queues/delays would be expected. The analysis compares conditions for the year 2040 'with' and 'without' the proposed development. It shows that the junction operates significantly below capacity with a maximum RFC of only 13% 'with development traffic'. An additional scenario was also considered whereby the 'right-turn lane' on Rockshire Road may be removed to facilitate cycle improvements. Even in this scenario however, the maximum RFC (14%) would still be significantly below the 85% threshold.
- 7.4.8. Having regard to the foregoing, I consider that the TTA has adequately considered the traffic impact of the proposed development, and I am satisfied that it will have no unacceptable capacity/congestion impacts in terms of the Mayfield Road – Rockshire Road junction.
- 7.4.9. I have also considered the condition of the remainder of the Mayfield Road connection between the Rockshire Road junction and the proposed connection to the proposed development. It is a relatively short length of road and is of standard residential construction in terms of width, surface, footpaths, lighting, etc. I acknowledge that some of the existing houses have only 1 car parking space and that some level of on-street parking occurs. However, this is not uncommon and can often help to improve traffic safety by reducing vehicle speeds. Accordingly, I see no reasonable constraints on the extension of this access road to serve the proposed development.
- 7.4.10. Regarding parking for the proposed development, 2 spaces have been provided for each dwelling (total of 44 no. dwelling spaces). In addition to this, 1.25 spaces have been provided for each of the 12 apartments (total of 15 spaces) and 9 no. visitor spaces have been provided (at a rate of 0.25 spaces per unit). This provides a total of 68 no. spaces, and I note that this is in accordance with Development Plan standards (Table 12.3).
- 7.4.11. SPPR 3(iii) of the Compact Settlements Guidelines outlines that in peripheral locations such as this, the maximum rate of car parking provision for residential development, where such provision is justified to the satisfaction the planning authority, shall be 2 no. spaces per dwelling (including visitor parking). This would

result in a maximum of 68 no. spaces which would be consistent with both the Development Plan standards and the applicant's proposals. I acknowledge that inadequate parking has been a significant concern for adjoining residents. However, I consider that the proposal for 68 no. spaces is acceptable in accordance foregoing requirements, and I do not consider that there would be any unacceptable impacts for the existing properties.

7.4.12. A total of 24 no. bicycle spaces are proposed for the duplex units and this would comply with the requirements of the CDP and the Apartments Guidelines. It would also comply with SPPR 4 of the Compact Settlements Guidelines.

7.4.13. The applicant's TTA also addresses a range of other issues based on the revised layout submitted as Further Information. The issues can be summarised as follows:

- Sightlines at the existing access onto Rockshire Road exceed 45 metres in accordance with DMURS requirements.
- A swept path analysis has been carried out for the internal road network to ensure adequate turning areas for multiple vehicle types.
- The development appropriately connects with existing pedestrian facilities and is within walk/cycle distance of many services and facilities.
- A DMURS compliant Quality Audit has been carried out to address access, walking, non-motorised users, cycling, and Road Safety. All the Audit recommendations have been accepted and incorporated into the proposed development. I am satisfied that the recommendations are appropriate and that they satisfactorily address the requirements of DMURS in accordance with Policy and Objective 4.1 of the Compact Settlement Guidelines.

7.4.14. In conclusion, I consider that the proposed access arrangements are acceptable and would not result in any unacceptable traffic impacts in terms of capacity and/or safety. The proposed development would suitably integrate with existing road, pedestrian and cycle facilities, and has been satisfactorily designed in accordance with relevant principles and standards as outlined in DMURS.

7.5. Impacts on Residential Amenity

- 7.5.1. I acknowledge that existing residents of the adjoining area have raised significant concerns in relation to perceived adverse impacts on their residential amenity.

Overbearing / Visual Impacts

- 7.5.2. In terms of the character and visual impact of the development, I have previously outlined that it predominantly consists of 2-storey housing which would be consistent with the height, scale, and character of existing development. I note that concerns have been raised about the proximity and visual impact of the development adjoining No. 16 Mayfield Road (appellant Caroline Bannon), where the side-to-side separation distances is stated by the applicant to be 2 metres. However, it would appear to be greater than this and in compliance with section 13.9 of the Development Plan which requires a minimum distance of 2.3 metres. I am satisfied that this can be achieved subject to clarification by condition in the event of a grant of permission, and that there would be no significant impacts on the residential amenities of adjoining properties.

- 7.5.3. I acknowledge that the duplex blocks incorporate a third storey, although at c. 10.5m high they are not significantly higher than some of the proposed houses (c. 9.5 metres). Furthermore, the duplex units are proposed at a lower part of the site. As is shown in the Design Statement (section drawings D-D and E-E) the finished floor level of the proposed duplex blocks is significantly below those of the existing adjoining dwellings. Furthermore, Block 7 would be c. 23.6 metres from the main rear building line of the existing dwellings to the east (including appellant Darragh Reynolds, No. 20), and c. 14 metres from the main rear building line of the existing dwellings to the south. Having regard to these separation distances and the limited height and scale of the proposed, I do not consider that there would be any unacceptable visual or overbearing impacts on existing properties.

Separation Distances and overlooking / privacy impacts

- 7.5.4. Section 13.9 of the Development Plan states that, '*In general, there should be adequate separation (traditionally about 22 m between 2-storey dwellings) between opposing first floor windows*'. However, it outlines that a relaxation of this standard

may be allowed where careful positioning of opposing windows can prevent overlooking.

- 7.5.5. The southern elevation of Block 7 does not have any windows above ground floor level that would have implications for the adjoining dwelling to the south. I note that there is a first-floor rear balcony at the southern end of the block and privacy screening should be provided at its southern end in the event of a grant of permission.
- 7.5.6. As previously outlined, the applicant's response to the appeal demonstrates that the separation distance between the Block 7 balconies and the main rear building line of the properties to the east (including no. 20) would be c. 23.6m. This would exceed the requirements of the Development Plan, albeit that those requirements are 'general' and refer to a distance of 'about' 22 metres.
- 7.5.7. The applicant's appeal response also acknowledges the ground floor rear extension to No. 20, which would have a separation distance of 18.8 metres from the Block 7 balconies. However, it should be noted that section 13.9 of the Development Plan refers to distances between '*opposing first floor windows*'. Therefore, given that this relates to an existing ground floor extension, I do not consider that the reference to 22 metres applies. Even if it did, it would apply to the proposed windows (rather than balconies) and result in a greater separation of c. 20.8 metres, which would be 'generally' consistent with the Development Plan standard of 'about' 22 metres. Accordingly, I do not consider that the proposed development would be inconsistent with section 13.9 of the Development Plan, and I am satisfied that the proposed separation distances are adequate to ensure that there will be no unacceptable overlooking or privacy impacts from the surrounding properties and their adjoining private gardens.
- 7.5.8. Notwithstanding the above, I note that SPPR 1 of the Compact Settlement Guidelines also outline that a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy

measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.

- 7.5.9. As previously outlined, Block 7 would be a very minimum of 18.8 metres from properties to the east which would exceed the 16-metre standard. And while it would be c. 14 metres from the properties to the south, the southern elevation does not include habitable windows above ground level to be affected by SPPR 1. Similarly, the proposed terraced block adjoining No. 16 Mayfield Road does not include any windows on its southern side elevation.
- 7.5.10. Accordingly, while I do not consider that the proposed separation distances are inconsistent with Development Plan policy and I am not relying on SPPR 1 of the Compacts Settlement Guidelines, I am nonetheless satisfied that the proposed development is consistent with SPPR 1.

Daylight / Sunlight Impacts

- 7.5.11. Concerns have been raised that the proposed development will lead to overshadowing of adjoining properties, particularly from the proposed duplex blocks.
- 7.5.12. At the outset it should be noted that the vast majority of existing properties are located to the south of the proposed development and overshadowing concerns would not arise. I acknowledge that no.'s 19-23 Mayfield Road are located to the east of the duplex blocks. However, given the relatively low level of the proposed blocks and the significant separation distances as previously discussed, I consider that overshadowing impacts would be limited to late winter hours and would not unacceptably detract from sunlight availability.
- 7.5.13. Similarly, having considered the relationship between the proposed duplex blocks and the adjoining houses in Mayfield Road (to the east) and Mayfield Avenue (to the south), I do not consider that there would be any significant impacts on daylight to the existing properties.
- 7.5.14. As highlighted by the applicant, the planning authority did not require a daylight/sunlight assessment for the proposed development. The Development Plan does not set out any such requirements apart from references to the provisions of the Building Height Guidelines in proposals for 'increased height'. As previously outlined, the proposed development is only marginally higher than existing development and I do not consider that these requirements apply. This is supported

by the Compact Settlements Guidelines (s.5.3.7) which outlines that a detailed technical assessment is not necessary in all cases. It states that it should be clear from the assessment of architectural drawings (including sections) in the case of low-rise housing with good separation from existing and proposed buildings that undue impact would not arise, and planning authorities may apply a level of discretion in this regard. Appendix C of the Guidelines also confirms that Daylight and Sunlight Assessment should only be required where considered necessary by the planning authority.

- 7.5.15. Having regard to the foregoing, I am satisfied that there is adequate information on file to conclude that the proposed development will not significantly impact on daylight and sunlight levels to existing properties.

Anti-social Behaviour

- 7.5.16. Concerns have been raised that the proposed development will lead to anti-social behaviour, particularly regarding the proposed communal open space area to the rear of the duplex blocks.

- 7.5.17. However, I consider that the proposed communal space has been appropriately designed and integrated into the development. It will be suitably overlooked by the main living spaces and private amenity spaces in each duplex unit, and I am satisfied that it will function successfully as a secure communal space. Accordingly, I do not consider that there is any reasonable evidence to conclude that it would lead to anti-social behaviour.

Construction / Waste Management

- 7.5.18. While some concerns were raised about construction impacts, including waste, I note that the applicant's Further Information response included a Resource & Waste Management Plan and Outline Construction & Environmental Management Plan. I have reviewed these proposals and am satisfied that they are satisfactory subject to final agreement with the local authority. Proposals for operational waste management were also submitted and are also considered acceptable.

7.6. Surface Water Attenuation

- 7.6.1. The appeal raises concerns that the existing surface water attenuation tank requires upgrading and that the development may proceed in advance of same. It also highlights concerns that planning permission may be required for the works and contends that it is inappropriate to deal with this matter outside the remit of the current application.
- 7.6.2. The applicant's Further Information response included an Engineering Assessment Report by Frank Fox & Associates. Section 3 deals with surface water and confirms intentions to connect to the existing attenuation system which was designed and installed to cater for the application site based on planning permission ref. no. 05/217. Surveys and investigations were carried out of the existing tank and attenuation calculations were completed which demonstrate that the existing tank can accommodate the proposed development during an extreme weather event (plus 10% extra capacity for climate change).
- 7.6.3. In an accompanying cover letter from Frank Fox & Associates, it is stated that *'Photos of the existing hydro- brake system related to the existing attenuation tank are indicated in the engineering assessment with a proposal to replace the same subject to a successful planning application'*. The KCC Planner's report interprets this as being a reference to upgrading works that would require a separate planning permission, and states that a condition should apply to prevent commencement of development prior to the granting of permission and completion of these upgrading works. However, no such condition was ultimately applied.
- 7.6.4. The applicant's response to the appeal clarifies that the Frank Fox letter referred to a requirement to upgrade the hydro-brake system only, and states that this would not require planning permission. Subsequently, the planning authority has confirmed that it would be satisfied with a condition requiring the upgrade of the attenuation tank prior to the occupation of any houses and that details would be agreed prior to its installation.
- 7.6.5. Based on the above, I am satisfied that this matter has been clarified and that the phrase *'subject to a successful planning application'* refers to the current application. The existing infrastructure has been found to have adequate capacity subject to minor upgrading works (i.e. the hydro-brake) and I am satisfied that this would not

require a separate planning permission. Accordingly, a condition should be applied to any permission requiring the agreement and completion of the upgrading works as suggested by the applicant and the planning authority.

7.7. Design & Layout

- 7.7.1. In this regard, the County Development Plan makes several references to the need to have regard to 'Sustainable Residential Development in Urban Areas' (2009) and its companion document 'Urban Design Manual: A best practice guide'. However, these 2009 Guidelines have since been replaced by the Compact Settlement Guidelines (2024), which are to be accompanied by an updated but unpublished Design Manual. In advance of the updated manual, I consider it appropriate to consider the 'Key Indicators of Quality Design and Placemaking' as outlined in section 4.4 and Appendix D of the Compact Settlement Guidelines.

Sustainable and Efficient Movement

- 7.7.2. It is proposed to provide several pedestrian/cycle connections to the existing residential area to the south and Rockshire Road to the west. Provision has also been made for potential future connection to the east. Therefore, while it is acknowledged that this is a peripheral location, I am satisfied that the proposed development will contribute to establishing a permeable and legible network of streets and spaces.
- 7.7.3. As outlined in section 7.3 of this report, I acknowledge that existing public transport services are limited in the area. However, the site is within reasonable walking distance of improved transport services at Ferrybank and the city centre. Public transport services along Rockshire Road would also be significantly improved under Bus Connects. The Ferrybank area also offers a wide range of services and amenities within walking distance of the development.
- 7.7.4. As outlined in section 7.4 of this report, I am satisfied that the development has been designed in accordance with DMURS to calm traffic and enable safe and comfortable movement of vulnerable users. Car parking has also been provided in a manner that is consistent with SPPR4 of the Guidelines and is acceptable given the peripheral location of the site.

Mix of Land Uses

- 7.7.5. This is a relatively small-scale extension to a previously permitted residential development at a peripheral location. Accordingly, I do not consider it necessary to provide a mix of uses in a way that might be expected in larger developments or in more central locations. However, as outlined in section 7.3 of this report, I consider that the proposed development would positively contribute to an improved mix of house types in accordance with CDP policy.
- 7.7.6. As previously outlined, the site has an unfinished appearance which does not positively contribute to the character of the area. The proposed development would support the regeneration and revitalisation of a long-standing under-utilised site. I am satisfied that this would enhance the public realm so as to create a more liveable environment.

Green and Blue Infrastructure

- 7.7.7. The site is not located within a sensitive landscape or townscape. However, a Tree and Hedgerow Survey has identified the valuable features along the site boundaries, and these will be retained in the development.
- 7.7.8. It is proposed to provide a large linear open space along Rockshire Road, which will connect to an existing similar space within the Mayfield development. This space will be planted/landscaped to create and conserve ecological links and to promote active travel and healthier lifestyles. It is also proposed to provide other public open spaces centrally within the site. I am satisfied that the spaces will be universally accessible and will cater for a range of active and passive recreational uses.
- 7.7.9. The surface water proposals for the site are already largely in place through the installation of the underground attenuation tank. Nonetheless, I consider that the retention of existing vegetation and the proposed planting will promote biodiversity, urban greening, water quality, and flood mitigation.

Responsive Built Form

- 7.7.10. The layout mainly consists of three rows of dwellings. The eastern row continues the existing pattern of development and building line within Mayfield Road. The northern row provides strong definition of the northern site periphery. Finally, the duplex blocks mirror the rear of no.'s 19-23 Mayfield Road, while also picking up on the

western building line of No. 6 Mayfield Avenue. The blocks form a coherent and legible urban structure in terms of layout, while the 3-storey duplex blocks create a strong new identity overlooking the proposed open space and Rockshire Road to the west. The development would significantly improve the character of the area at this northern entrance to the environs of Waterford City. The blocks are also adequately sited and distanced to ensure access to daylight and sunlight for existing and proposed dwellings.

7.7.11. The proposed blocks suitably overlook the proposed streets and public spaces to provide a suitable level of activity and surveillance. The siting of the duplex blocks also creates an enclosed communal space to the rear which is suitable for the nature of this semi-private amenity.

7.7.12. It is considered that the block layout responds successfully to the prevailing pattern of development. And while the design and character of the development is different to existing properties, I consider that it will provide suitable transitions which will safeguard the character and amenities of existing properties. A Design Statement has been submitted and I am satisfied that the development will be sustainable, distinctive, and will complement the urban structure and promote a strong sense of identity.

Public Open Space - New Issue

7.7.13. Section 13.20.3 of the Development Plan outlines that the Council will require a minimum public open space provision of 2.4 hectares per 1,000 population (based on units with an occupancy rate of 2.8 persons per unit). A reduction to this standard will only be permitted in exceptional circumstances as determined by the local authority. Where such a relaxation occurs the provision of open space within any scheme should not be below 10% of the site area. The proposed 34 units would therefore equate to 95.2 persons, which would require 2,284.8m² of public open space based on 2.4 hectares per 1,000 population.

7.7.14. The proposal includes 1,178m² (or 13.6%) public open space within the applicant's ownership (i.e. the 'net site area'). The planning authority assessed the application on this basis and deemed proposals to be satisfactory. However, there was no discussion of the shortfall on the requirements of s.13.20.3 of the Development Plan,

which I would consider to be a material contravention (i.e. only if the Board adopts the planning authority's approach of considering the 'net site area' only).

- 7.7.15. However, there is a further 1,053m² that previously formed part of the original development (P.A. Reg. Ref. 05/217) but has since been transferred to the ownership of KCC (i.e. the attenuation tank and pumping station area). This would amount to a total of 2,231m² or 22.9% of the 'gross site area' (0.972 ha). As previously outlined in section 7.3 of this report, I consider that this portion will be integrated into the development as part of a larger landscaped space and can be considered 'public open space' in accordance with the Compact Settlements Guidelines. Notwithstanding this, the proposal (2,231m²) would still fall short of the minimum CDP requirement (2,284.8m²), albeit by a negligible margin which I would not consider to be a 'material' contravention.
- 7.7.16. The quantitative shortfall in public open space has not been specifically raised in the appeal. Accordingly, it is considered a **new issue**, and the Board may wish to seek the views of the parties.
- 7.7.17. However, I am ultimately satisfied that the quantity of public open space is satisfactory having regard to Policy & Objective 5.1 of the Compact Settlement Guidelines. This outlines that development plan requirements for public open space shall be not less than a minimum of 10% of net site area and not more than a maximum of 15% of net site area save in exceptional circumstances. In this regard, the current KCC CDP requirement for 2,284.8m² would equate to 26% of the site area within the applicant's ownership, or 23% of the overall site. Therefore, in either scenario, the CDP requirements are not consistent with Policy & Objective 5.1, but the proposed development would comply with the minimum requirement for 10% of both the 'net' and 'gross' site areas. I do not consider that there are exceptional circumstances in this case that would require an excess of 15%.
- 7.7.18. Therefore, while I consider that the overall 'gross' site area can be considered and there would not be a material contravention of the Development Plan, I am satisfied that, even if the Board considers that there is a material contravention of the CDP, permission can be granted in accordance with s.37(2)(a) of the Act of 2000 having regard to Policy & Objective 5.1 of the Compact Settlement Guidelines.

- 7.7.19. In terms of the quality of public open space, I have previously outlined that the proposed open space along Rockshire Road would make a significant positive contribution. It would extend the existing open space within the Mayfield estate to create a quality linear space which would contribute to improved biodiversity and sustainable movement. The other main public open space is centrally located within the site. It is easily accessible for all dwellings and would be overlooked by a large number of units to provide passive surveillance.
- 7.7.20. Therefore, subject to the final agreement of landscaping and play proposals, I am satisfied that the proposed development would provide a suitable quantity and quality of public open space that will be suitable for a range of user needs.

Conclusion

- 7.7.21. Having regard to the foregoing, I am satisfied that the proposed design and layout satisfactorily addresses the 'Key Indicators of Quality Design and Placemaking' as outlined in the Compact Settlement Guidelines. The proposed development is of an appropriate urban design which will create a sense of place based on an authentic identity that is specific to the application site.

7.8. Other Issues

Residential Standards

- 7.8.1. The application details the overall floor areas and individual room areas for the proposed houses and apartments. It satisfactorily demonstrates that the proposed development will comply with the standards outlined in 'Sustainable Urban Housing: Design Standards for New Apartments' (2023) and 'Quality Housing for Sustainable Communities' (2007), which is also consistent with CDP requirements. All proposed units are dual aspect, and I am satisfied that they will have adequate access to daylight and sunlight.
- 7.8.2. The duplex units will also be provided with private amenity space and communal amenity space which is consistent with the requirements of the Apartments Guidelines and the CDP. The communal space (239.7m²) will significantly exceed the minimum requirement of 72m² and will be suitably designed. The proposed houses will also have private gardens which will exceed the minimum areas as outlined in the CDP and the Compact Settlement Guidelines (SPPR 2).

- 7.8.3. Having regard to the foregoing and other sections of my assessment, I am satisfied that the proposed development has been suitably designed and will provide a suitable level of residential amenity for future occupants.

Compact Settlements Guidelines (2024)

- 7.8.4. I am conscious that these Guidelines have been introduced since the making of the appeal and the Board may wish to consider the implications of same. The material provisions that are raised in my assessment are discussed in the table below.

Table 3 – Implications of the Compact Settlement Guidelines

Provision	Issues	Comment
Policy & Objective 3.1	Density	While I have outlined that the proposed density (35-39 dph) is consistent with the recommended ranges in the Guidelines (s. 3.3), my conclusion was ultimately based on the qualitative criteria outlined in section 3.4.2 of the Guidelines, which is generally consistent with the criteria outlined in s. 13.4.1 of the CDP. Furthermore, the recommended density ranges in the new Guidelines are consistent with those that previously existing in the Sustainable Residential Development Guidelines (2009), i.e. 35-50 dph in 'Outer Suburban / 'Greenfield' sites'.
Policy & Objective 4.1	DMURS	It was already a requirement to have regard to the principles, approaches and standards set out in DMURS prior to the introduction of the Guidelines.
Policy & Objective 4.2	Quality urban design and placemaking	The 'Key Indicators' in s. 4.4 set out guidance in relation to 'Sustainable and Efficient Movement', 'Mix and Distribution of Uses', 'Green & Blue Infrastructure', 'Public Open Space', and 'Built Form'. These are fundamental issues which are comprehensively covered in CDP policy and other national Guidelines.
SPPR 1	Separation Distances	Although the guidelines refer to a reduced standard of 16m compared to the CDP (22m), both documents allow for shorter distances and flexibility. As outlined in s. 7.5 of this report, I am satisfied that the proposals are acceptable in accordance with CDP policy.

SPPR 2	Private Open Space	Although the guidelines refer to reduced areas compared to the CDP, I am satisfied that the proposals still comply with the higher CDP requirements.
SPPR 3	Car Parking	As outlined in s. 7.4 of this report, I am satisfied that the proposals are consistent with both the Guidelines and the CDP standards.
SPPR 4	Cycle Parking	As outlined in s. 7.4 of this report, I am satisfied that the proposals are consistent with both the Guidelines and the CDP standards.
Policy & Objective 5.1	Public Open Space	As outlined in s. 7.7 of this report, I consider that the proposals are consistent with the requirements of the Guidelines. However, both the proposed development and the requirements of the Guidelines are not consistent with the CDP. The Guidelines also clarify how public open space should be quantified and this has implications for the assessment of the appeal. This is considered to be a new issue , and the Board may wish to seek the views of the parties.
Section 5.3.7	Daylight	As outlined in sections 7.5 and 7.8.1 of this report, I am satisfied that daylight and sunlight standards will be acceptable for existing and proposed properties.

7.8.5. Having regard to the above table, I consider that the Compact Settlements Guidelines only has new material implications in respect of the quantity of public open space. This is considered to be a **new issue**, and the Board may wish to seek the views of the parties.

Part V

7.8.6. I note that the planning authority decision includes a condition to comply with Part V requirements and the Housing Strategy. In this regard, Objective 6F in the CDP is to *'To require 10% of the land zoned for residential use, or for a mixture of residential and other uses, be made available for the provision of social housing'*. However, given the expiration of the LAP as previously discussed, the land is no longer zoned for any use, and I do not consider that this objective applies.

- 7.8.7. I acknowledge that section 94(4)(c)(ii) of the Act of 2000 also outlines that the Housing Strategy shall provide that Part V provisions apply to '*any land which is not zoned for residential use, or for a mixture of residential and other uses, but in respect of which permission for the development of houses is granted*'. However, this provision has not been reflected in the KCC CDP and its accompanying Housing Strategy.
- 7.8.8. Accordingly, in the event of a grant of permission, I do not consider that a Part V condition should apply. This is linked to the **new issue** regarding the LAP expiration, and the Board may wish to seek the views of the Board.

8.0 AA Screening

- 8.1. An AA Screening exercise has been completed. See Appendix 3 of this report for further details. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.
- 8.2. This conclusion is based on:
- Objective information presented in the applicant's reports;
 - The limited zone of influence of potential impacts;
 - Standard construction and operational measures for surface water and wastewater management, which would be employed regardless of proximity to a European site and the effectiveness of same;
 - Distance from European Sites;
 - The limited potential for pathways to any European site; and
 - The nature and extent of predicted impacts, which would not affect the conservation objectives of any European Sites.
- 8.3. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

9.0 Recommendation

While I have highlighted **new issues** for the consideration of the Board, it is my recommendation that permission be **GRANTED** for the proposed development, subject to conditions, and for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to the planning history of the site, including an extant permission; its partially developed nature and the availability of adequate services; its relationship with, and connections to, the adjoining residential development to the south; and the incorporation of potential housing yields from lands previously zoned under the Ferrybank-Belview Local Area Plan 2017 into higher level growth targets set out in the Kilkenny City and County Development Plan 2021-2027 and the Regional Spatial & Economic Strategy for the Southern Region; the Board considered that the development of the site for residential purposes would be consistent with the proper planning and sustainable development of the area.

Having regard to the provisions of the Kilkenny City and County Development Plan 2021-2027; the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage (January 2024); Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage (July 2023); and Delivering Homes, Sustaining Communities and the accompanying Best Practice Guidelines - Quality Housing for Sustainable Communities, issued by the Department of the Environment, Heritage and Local Government in 2007; the pattern and character of development in the area; and the design and scale of the proposed development; the Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and quality of residential development at this peripheral location, would not seriously injure the amenities of surrounding properties or detract from the character or visual amenity of the area, would be adequately served by existing and proposed infrastructure, and would be acceptable in terms of traffic safety and convenience.

The Board considered that the proposed development would be compliant with the Kilkenny City and County Development Plan 2021-2027, with the exception of the proposed quantity of public open space, which would fall marginally short of the requirements of section 13.20.3 of the Plan. However, the Board did not consider that this would materially contravene the Development Plan and concluded that the quantity of public open space would be acceptable having regard to Policy and Objective 5.1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).

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 the 14th day of November 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) Privacy screening / planting (at least 1.5 metres in width) shall be provided around the private amenity spaces of the ground floor duplex units.
 - (b) Privacy screening (at least 1.8 metres high) shall be provided on the southern side of the first-floor balcony space for Duplex Unit F4'h'.

- (c) The first-floor balcony spaces shall otherwise be bounded by obscured glazing.
- (d) The separation distance between the side of House no. 22 and No. 16 Mayfield Road shall be at least 2.3 metres.

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

Reason: To protect the residential amenities of existing and future residents.

- 3. The hydro-brake associated with the existing on-site attenuation system shall be upgraded in accordance with details to be submitted to, and agreed in writing with, the planning authority prior to commencement of development. No unit within the proposed development shall be occupied until the agreed works have been completed to the satisfaction of the planning authority.

Reason: In the interest of public health and surface water management.

- 4. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

- 5. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

- 6. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works, and shall

comply, in all respects, with the standards set out in Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. Details of same shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of amenity and of traffic and pedestrian safety.

7. Precise details of the proposed pedestrian connections to Rockshire Road shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of amenity and of traffic and pedestrian safety.

8. All 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.

Reason: In the interest of sustainable transport.

9. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of existing trees to be retained in accordance with the Tree and Hedgerow Survey. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity, public safety, and nature conservation.

10. 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.

Reason: In the interests of visual and residential amenity.

11. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health and surface water management.

12. Prior to the commencement of development, the developer shall enter into Connection Agreements with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

13. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Proposals shall include details of existing trees to be retained, play facilities, and boundary treatments.

Reason: In the interest of residential and visual amenity.

14. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of

facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each unit shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

15. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at site offices at all times.

Reason: In the interest of sustainable waste management.

16. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) Location of areas for construction site offices and staff facilities;
 - (c) Details of site security fencing and hoardings;

- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (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;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Provision of parking for existing properties during the construction period;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) 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;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority of the site and materials compound(s) including area(s) identified for the storage of construction refuse;

Reason: In the interest of amenities, public health and safety, and environmental protection.

17. Site development and building works shall be carried out only between the hours of 0700 to 1900 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 amenities of property in the vicinity.

18. All areas not intended to be taken in charge by the local authority, shall be maintained by a legally-constituted management company. Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

19. (a) Prior to the commencement of 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 or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential 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.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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.

20. 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.

21. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and

Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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.

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.

Stephen Ward
Senior Planning Inspector

3rd of December 2024

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-318813-24		
Proposed Development Summary	Construction of 8 duplex and 27 houses with associated site works.		
Development Address	Rockshire Road, Ballyrobin, Ferrybank, Co. Kilkenny		
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	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Part 2, 10 (b)(i) - Construction of more than 500 dwelling units. Part 2, 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.	Proceed to Q.3
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	X	Does not equal or exceed 500 dwelling units. Does not equal or exceed 10 hectares.	Proceed to Q.4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			

		Threshold	Comment (if relevant)	Conclusion
No				
Yes	X	<p>Class 10(b)(i) – Construction of more than 500 dwelling units.</p> <p>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.</p>	<p>Involves construction of 34 no. dwellings.</p> <p>Involves an area of 0.972ha in part of a built-up area</p>	Preliminary Examination Required

5. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		

Inspector: _____

Date: _____

Appendix 2 - Form 2
EIA Preliminary Examination

An Bord Pleanála Case Reference	318813-24
Proposed Development Summary	Construction of 8 duplex and 27 houses with associated site works.
Development Address	Rockshire Road, Ballyrobin, Ferrybank, Co. Kilkenny
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
Characteristics of proposed development	<p>The development is on a small site of less than 1 hectare and is effectively proposed as a small extension (34 dwellings) to a larger residential development. The nature of the development is consistent with existing residential development and other supporting services in the area.</p> <p>The development does not involve significant demolition works. It does not require the use of substantial natural resources, and the water supply requirements are typical of residential development. The construction stage would be relatively simple and short and would not give rise to significant nuisance or pollution. The main emissions are surface water and wastewater, and they would be managed appropriately through connections to the existing public systems.</p> <p>The development, by virtue of its type, does not pose a risk of major accident and/or disaster, and would not be vulnerable to climate change. It presents no significant risks to human health.</p>
Location of development	<p>The site is located on the northern periphery of Ferrybank urban village, which itself forms part of the wider northern environs of Waterford City. The site has been partially developed through the installation of an underground attenuation tank, foul pumping station, and other temporary construction-related works. It is surrounded by a combination of existing housing (south), undeveloped rural land (east and north), and a golf course (west).</p> <p>The nearest Natura 2000 site is the Lower River Suir SAC, which is located c. 1km south of the appeal site. Granferry pNHA is located c. 2km to the northwest. There are no significant watercourses in the</p>

	immediate vicinity of the site. There are no significant landscape designations affected by the development and there are no other significant heritage features affected by the development.	
Types and characteristics of potential impacts	<p>The construction stage will not be significant in terms of duration or complexity and would be typical of previous development in the area. An Outline Construction and Environmental Management Plan has been included and this will ensure that construction stage effects will be appropriately managed.</p> <p>The main operational effects relate to surface water and wastewater emissions. However, these will be directed to the existing public systems and will have only negligible impacts on the wider drainage networks and emissions.</p> <p>Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector:

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 3

AA Screening Determination

Screening for Appropriate Assessment Screening Determination

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

1. Site Description

The site is located on the northern periphery of Ferrybank urban village, which itself forms part of the wider northern environs of Waterford City. It has a stated area of 0.972ha and is distanced c. 1.5km north of the city centre and c. 1km northwest of Ferrybank village centre. The site has been partially developed through the installation of an underground attenuation tank, foul pumping station, and other temporary construction-related works. It is surrounded by a combination of existing housing (south), undeveloped land (east and north), and a golf course (west).

The nearest Natura 2000 site is the Lower River Suir SAC, which is located c. 1km south of the appeal site.

2. Development Description

Permission is sought for the construction of a residential development of 34 no. units in 7 no. blocks, together with associated road access, boundary treatments, foul and surface water drainage, landscaping, and site works.

Storm water within the development is to be diverted to the existing attenuation tank in the northwest corner of the site. Foul drainage is to be diverted to the existing foul pumping station in the northwest corner of the site. It is proposed to connect to the existing Uisce Eireann watermain serving Mayfield Road to the south.

3. Submissions

While third-party submissions raised some concerns about on-site wildlife impacts, no submissions raised the question of potential impacts on Natura 2000 sites.

4. Potential impact mechanisms from the project

The site is not within or adjoining any Natura 2000 sites and I do not consider that there is potential for any direct impacts such as habitat loss, direct emissions, or species mortality/disturbance. Furthermore, the site is already disturbed and does not contain significant vegetation. Therefore, I am satisfied that the site is not an ex-situ foraging or roosting site for QI species.

There are no rivers or streams in the vicinity of the site that would provide a hydrological pathway to the Lower River Suir SAC at construction or operational stage.

It is proposed to direct all operational surface water to the existing on-site attention system and then to the wider public drainage system. This involves a potential indirect pathway to the Lower River Suir SAC.

It is proposed to direct all operational wastewater to the public sewer system. The Wastewater Treatment Plant outfalls to the River Suir. This involves a potential indirect pathway to the Lower River Suir SAC.

Having regard to the nature of the site and its distance and lack of connectivity with Natura 2000 sites, I do not consider that there would be any other potential impact mechanisms.

5. European Sites at risk

Having regard to the potential impact mechanisms from the proposal, the European site(s) and qualifying features potentially at risk are outlined in the following table.

Table 1 European Sites at risk from impacts of the proposed project

Effect mechanism	European Site(s)	Impact pathway/Zone of influence	Qualifying interest features at risk
Surface water emissions	Lower River Suir SAC	Indirect Pathway via public drainage system	Atlantic salt meadows; Mediterranean salt meadows; Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation; Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels; Old sessile
Wastewater Emissions	Lower River Suir SAC	Indirect Pathway via public drainage system and WWTP outfall	

			oak woods with Ilex and Blechnum in the British Isles; Alluvial forests with Alnus glutinosa and Fraxinus excelsior; Taxus baccata woods of the British Isles; Freshwater Pearl Mussel; White-clawed Crayfish; Sea Lamprey; Brook Lamprey; River Lamprey; Twaite Shad; Salmon; Otter.
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Having regard to the above table, the Lower River Suir SAC is considered to be the only Natura 2000 site at risk from the proposed development.

The Lower River Suir SAC consists of the freshwater stretches of the River Suir immediately south of Thurles, the tidal stretches as far as the confluence with the Barrow/Nore immediately east of Cheekpoint in Co. Waterford, and many tributaries including the Clodiagh in Co. Waterford, the Lingaun, Anner, Nier, Tar, Aherlow, Multeen and Clodiagh in Co. Tipperary.

The site contains excellent examples of a number of Annex I habitats, including the priority habitats alluvial forest and Yew woodland. The site also supports populations of several important animal species, some listed on Annex II of the Habitats Directive or listed in the Irish Red Data Book. The presence of two legally protected plants (Flora (Protection) Order, 2022) and the ornithological importance of the site adds further to the ecological interest and importance.

6. Likely significant effects on the European site(s) 'alone'

Taking account of baseline conditions and the effects of ongoing operational plans and projects, it is now considered whether there is a likely significant effect 'alone'. The effect mechanisms (A) Surface Water and (B) Wastewater are considered and the potential impacts on conservation objectives are then summarized in the following Table 2.

(A) Surface water

There are no watercourses in the vicinity of the site to create a hydrological pathway to the Natura 2000 site.

The construction phase will be temporary, and the application includes an Outline Construction and Environmental Management Plan. This includes a Surface Water Management Plan to address potential downstream impacts. However, it is my view that these are best practice standard construction management measures which have not been designed or intended to avoid or reduce any harmful effects of the project on a European Site.

For the operational stage, surface water will connect to the existing attenuation system and the wider drainage network. The subject site and the proposed development are relatively small in the context of surrounding development and would not significantly impact on the existing drainage system. Therefore, I consider that the potential for significant surface water effects to downstream sensitivities during the operational phase is negligible.

(B) Wastewater

It is proposed to connect to the existing wastewater system and onwards to treatment at the Waterford City Wastewater Treatment Plant. This plant outfalls to the River Suir and therefore there is an indirect connection to the Lower River Suir SAC.

The proposed development is of limited scale in comparison to the overall loading associated with this WWTP. Uisce Eireann correspondence has confirmed that there is no objection to the proposed development. Furthermore, I note that Uisce Eireann Wastewater Treatment Capacity Register (June 2023) indicates that there is available capacity in the plant.

Therefore, having regard to the limited scale of the development and the available capacity of the wastewater treatment plant, I consider that the impacts of the development on the wastewater outfall would be negligible.

Table 2: Could the project undermine the conservation objectives 'alone'

European Site and qualifying feature	Conservation objective (summary)	Could the conservation objectives be undermined (Y/N)?	
		Effect (A)	Effect (B)
Lower River Suir SAC			
Atlantic salt meadows; Mediterranean salt meadows; Old sessile oak woods with Ilex and Blechnum in the British Isles; Alluvial forests with Alnus glutinosa and Fraxinus excelsior; Taxus baccata woods of the British Isles; Freshwater Pearl Mussel; Sea Lamprey; Brook Lamprey; River Lamprey; Twaite Shad; Salmon.	To restore favourable conservation condition.	No	No
Water courses of plain to montane levels with the Ranunculon fluitantis and Callitricho-Batrachion vegetation; Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels; White-clawed Crayfish; Otter.	To maintain favourable conservation condition.	No	No

I conclude that the proposed development would have no likely significant effect 'alone' on any qualifying features of the Lower River Suir SAC. Further AA screening of in-combination effects with other plans and projects is required.

7. Likely significant effects on the European site(s) 'in-combination with other plans and projects'

Having regard to the foregoing, I consider that the potential for in-combination effects is limited to the cumulative impact of Surface Water Drainage and Wastewater emissions associated with other developments in the area. I note that there are no other significant planning permissions immediately adjoining the site, but that a range of other developments have been permitted in the wider area.

I also note that the Kilkenny County Development Plan 2021-2027 includes a range of policies and objectives to protect water quality, water regime, and Natura 2000 sites, and that any approved projects would have to demonstrate compliance with same.

I acknowledge that other developments have a potential cumulative impact on the surface water and wastewater drainage network. However, consistent with the current application, I am satisfied that they have demonstrated that there would be no significant residual effects on hydrology and Natura 2000 sites.

I conclude that the proposed development would have no likely significant effect in combination with other plans and projects on the qualifying features of any European site(s). No further assessment is required for the project.

8. Overall Conclusion - Screening Determination

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

This conclusion is based on:

- Objective information presented in the applicant's reports;
- The limited zone of influence of potential impacts;
- Standard construction and operational measures for surface water and wastewater management, which would be employed regardless of proximity to a European site and the effectiveness of same;
- Distance from European Sites;
- The limited potential for pathways to any European site; and
- The nature and extent of predicted impacts, which would not affect the conservation objectives of any European Sites.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.