



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319654-24

<b>Development</b>	272 no. residential units, a creche/community use building, three ESB substations, and all associated site works ( <a href="http://www.broomfieldwestlrd.ie">www.broomfieldwestlrd.ie</a> )
<b>Location</b>	Broomfield West, Midleton, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	23/06277
<b>Applicant</b>	Castle Rock Homes (Midleton) Ltd.
<b>Type of Application</b>	Large-Scale Residential Development (LRD)
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	<ol style="list-style-type: none"><li>1. First Party v Conditions</li><li>2. Third Parties v Grant of Permission</li></ol>
<b>Appellants</b>	<ol style="list-style-type: none"><li>1. Castle Rock Homes (Midleton) Ltd. (Applicant, First Party)</li><li>2. Maurice Ring Jnr &amp; Others (Third Party)</li><li>3. Ian &amp; Kate O'Loughlin (Third Party)</li></ol>

**Observers**

1. Uisce Éireann
2. Pádraig O'Neill

**Date of Site Inspection**

3<sup>rd</sup> July 2024

**Inspector**

Anthony Kelly

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## **1.0 Site Location and Description**

- 1.1. The site is located at the northern edge of Midleton, immediately adjacent to the north of existing residential development (detached houses, Hollyridge, and Blossomhill). There is a local road (L7630) along the western and northern boundary of the site. The town's water treatment plant is in the western area of the site, and the plant site is surrounded by the subject site on its northern, eastern, and southern boundaries.
- 1.2. The site is a greenfield site. It is at a high ground level in comparison to the town itself. It is an exposed and visible site. It comprises two fields, a triangular northern field and an irregularly shaped southern field. The water treatment plant appears to have originally been part of the southern field. The northern part of the northern field is a relative plateau however ground levels fall rapidly from the southern part of the northern field in a southerly direction.
- 1.3. The Steeples housing development (which appears to be part occupied and part under construction) is on the opposite side of the L7630. There is agricultural land to the north and east, and residential development adjacent to the south.
- 1.4. The site has an area of 8.29 hectares with a net area of 7.95 hectares<sup>1</sup>.

## **2.0 Proposed Development**

- 2.1. Permission is sought for 272 no. residential units, a creche (278sqm) and community use (132sqm) building, three ESB substations, and all associated site development works including footpaths, car and bicycle parking, drainage, bicycle and bin stores, lighting, landscaping/amenity areas, and road widening works along the eastern side of the L7630 and provision of a footpath and pedestrian crossing. Access will be via four new vehicular access points from the L7630 and a new pedestrian connection to Blossom Hill.
- 2.2. The following tables set out some key aspects of the proposed development.

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<sup>1</sup> The net site area excludes the public road area to be widened. I consider this to be reasonable.

**Table 1 – Key Figures**

Site Area (Gross / Net)	8.29 hectares / 7.95 hectares
Number of Units	272 no. initially. Reduced to 268 no. at further information stage.
Building Heights	Two-three storeys
Net Density (Dwellings per hectare (dph))	Approx. 34.2dph initially, reduced to approx. 33.7dph at further information stage
Dual Aspect	The eight apartments are all dual aspect
Open Space / Amenities	<u>Public Open Space</u> – 18% initially, increased in 18.5% at further information stage.  <u>Amenities</u> – Creche/community building.
Part V	27 no. houses, duplexes, and apartments
Pedestrian / Cyclist Infrastructure	Widened L7630, footpath along the roadside boundary including across the water treatment plant, a pedestrian crossing across the L7630 at the south west of the site, and two permeability links to Blossomhill
Car and Bicycle Parking	<u>Car</u> – Initially 354 no. private spaces and 64 no. public / residents only / creche/community / roadside spaces.  At further information stage 350 no. and 63 no. respectively.  <u>Bicycle</u> – Initially 388 no. private and 44 no. public spaces.  At further information stage 382 no. and 44 no. respectively.

**Table 2 – Unit Breakdown in Original Application**

	Bedroom Number				
Type	1-Bed	2-Bed	3-Bed	4-Bed	Total
Houses	0	96	94	22	212 (77.9%)
Duplexes	26	26	0	0	52 (19.1%)
Apartments	8	0	0	0	8 (3.0%)
Total	34 (12.5%)	122 (44.8%)	94 (34.6%)	22 (8.1%)	272 (100%)

**Table 3 – Unit Breakdown on Foot of Further Information Response**

	Bedroom Number				
Type	1-Bed	2-Bed	3-Bed	4-Bed	Total
Houses	0	98	96	18	212 (79.1%)
Duplexes	24	24	0	0	48 (17.9%)
Apartments	8	0	0	0	8 (3.0%)
Total	32 (12.0%)	122 (45.5%)	96 (35.8%)	18 (6.7%)	268 (100%)

- 2.3. The site is a standard residential development, albeit on a challenging site in terms of its ground levels which are significantly higher than the floor levels of the houses to the south. Four separate vehicular access points are proposed, despite the relatively limited roadside boundary length. The housing layout and internal road network is largely on an east-west orientation. Public open space areas are dispersed throughout the site. Some of these open space areas are linked though there is no dominant open space area. The majority of proposed units are standard semi-detached and terraced houses. The two two-storey apartment blocks (8 no. units) are located along the L7630 immediately north of the water treatment plant. The duplex blocks and the creche are located in the south west area. Pedestrian permeability is provided to the adjoining Blossomhill development at two locations. Possible future vehicular permeability is indicated to land to the east. There are a number of shared surface areas throughout.

2.4. In addition to standard plans and particulars the planning application was accompanied by a number of supporting documents. These include (but are not limited to):

- a 'Planning and Design Statement' prepared by McCutcheon Halley and dated November 2023,
- a 'Response to Cork County Council Pre-Application Consultation Opinion' prepared by McCutcheon Halley and dated November 2023,
- a 'Statement of Consistency' prepared by McCutcheon Halley and dated November 2023,
- an 'Environmental Impact Assessment (EIA) Screening Report' (EIA screening report) prepared by McCutcheon Halley and dated November 2023,
- An 'Appropriate Assessment – Stage 1 Screening Report' (AA screening report) prepared by Malone O'Regan Environmental and dated November 2023,
- an 'Engineering Infrastructure Report' prepared by Brian O'Kennedy & Associates Ltd. and dated 3<sup>rd</sup> May 2023,
- a 'Construction Environmental Management Plan' (CEMP) prepared by Malone O'Regan Environmental and dated November 2023,
- a 'Traffic & Transport Assessment' (TTA) prepared by Hegsons Design Consultancy Ltd. and dated November 2023,
- a 'Stage 1 / 2 Road Safety Audit' (RSA) prepared by Hegsons Design Consultancy Ltd. and dated November 2023,
- an 'Ecological Impact Assessment' (EcIA) prepared by Malone O'Regan Environmental and dated November 2023,
- a 'Landscape & Visual Impact Assessment' (LVIA) prepared by Forestbird Design and dated 8<sup>th</sup> November 2023,
- a 'Hedgerow appraisal and arboricultural assessment' prepared by County Tree Care Ltd. and dated 15<sup>th</sup> September 2023,
- an 'Archaeological Assessment' prepared by John Cronin & Associates dated November 2023,

- a 'Resource and Waste Management Plan' (RWMP) prepared by Brian O'Kennedy & Associates Ltd. and dated 19<sup>th</sup> October 2023, and,
- 'Verified View Photomontages and CGIs for Proposed Residential Development' prepared by G-Net 3D and dated November 2023.

2.5. Further information was sought by Cork Co. Co. on 17<sup>th</sup> January 2024 and a further information response was received on 15<sup>th</sup> March 2024. The further information response included:

- an 'Engineering Infrastructure Report' prepared by Brian O'Kennedy & Associates Ltd. and dated 3<sup>rd</sup> May 2023 [sic],
- a 'Traffic & Transport Assessment – Addendum' (TTA Addendum) prepared by Hegsons Design Consultancy Ltd. and dated March 2024,
- a 'Revised Ecological Impact Assessment' (revised EclA) prepared by Malone O'Regan Environmental and dated March 2024, and,
- 'Verified View Photomontages and CGIs for Proposed Residential Development' prepared by G-Net 3D and dated February 2024.

### **3.0 Planning Authority Pre-Application Opinion**

3.1. The LRD meeting took place on 11<sup>th</sup> July 2023 between the applicant and Cork Co. Co.

3.2. In the LRD opinion subsequently issued the local authority was of the opinion that the documents submitted required further consideration and amendment to constitute a reasonable basis for an LRD application. The local authority identified issues to be addressed to result in a reasonable basis on which to make the application. These included compliance with objective MD-R-26 of the Cork County Development Plan (CCDP) 2022-2028, site layout/design and visual impact, access, traffic and transport, surface water, AA/ecology, EIA screening, archaeology, environmental issues/emissions, public lighting, and part V.



## 4.0 Planning Authority Decision

### 4.1. Decision

- 4.1.1. Cork Co. Co. granted permission for the proposed development subject to 54 no. conditions. Four of these conditions are subject of the first party appeal. These are:

Condition 6 – This requires the omission of 22 no. houses in the northern area (nos. 215-224 and 239-246) and the provision of public open space in lieu.

Condition 7 – This relates to phasing.

Condition 8 – This requires the replacement of eight duplex units (two three-storey blocks) with two-storey structures which would result in the loss of four 1-bed units.

Condition 52 – This requires a special contribution of €965,175 to the local authority in respect of works proposed to be carried out for the provision of the Northern Relief Road, cycleway, footpaths, and traffic signalling.

### 4.2. Planning Authority Reports

#### Planning Reports

- 4.2.1. Planning Reports were prepared by the local authority for the application, both on foot of the original planning application and subsequent to the applicant's further information response.
- 4.2.2. The Executive Planner's report on the original planning application contained, inter alia, a site description, planning history, a policy context, and a summary of internal reports and third-party submissions. The issues considered in the assessment can be summarised as follows:

*Policy context* – The proposed development generally accords with the zoning objective.

*General layout* – Issues identified at pre-application stage were referenced. While open space provision has been improved, it gives the appearance of residual space with concerns over its usability. The interfaces between the proposed units and public road/open space have improved. The inclusion of 13 no. three-storey blocks in the south west area generate issues that have not been mitigated. Alterations have been

made to the internal road layout which has reduced the car dominance and enhanced the pedestrian permeability. Retaining structures around the perimeter are satisfactory but impact the character and usability of the central open space area. The proposed density of 34dph was accepted at pre-planning stage, however the layout, visual and residential amenity concerns will likely require a reduction. A reasonable housing mix was provided.

*Visual impact* – The eight viewpoints in the LVIA are reasonable. It is a prominent and visible site. The visual impact can be deemed acceptable.

*Amenity* – The wider open space deficit has been highlighted.

*Impact on third-party amenity* – While light will not be affected in any significant manner, a strong feeling of overbearance for existing occupants to the south is likely to be created. Overlooking is also referenced. It is recommended that eight units are omitted, and the area landscaped.

*Traffic and transport* – Concerns about traffic impact are set out.

*Servicing* – Works are required to create wastewater capacity. The water services engineer is broadly satisfied in principle subject to a ‘non-commencement’ condition pending Uisce Éireann agreement. Permission is required to connect to the private storm sewer.

*AA / Ecology* – Further information is required.

*Childcare* – The proposed creche has been sized and located to accommodate the proposed development and Blossomhill. The location is acceptable.

*Other issues* – The absence of car parking for the one-bed apartments and deficit of parking for the creche is a concern and may cause a conflict but the suggested reduction in units should help alleviate this.

*Conclusion* – Some layout concerns raised at pre-planning have not been satisfactorily resolved and there are also issues around ecology and traffic data. Further information is recommended.

- 4.2.3. A report from a Senior Planner was also prepared on foot of the initial planning application and the recommendation to seek further information was agreed with.

4.2.4. Further information was sought by the local authority on 17<sup>th</sup> January 2024 under the headings of ecology, traffic transport, and design/layout. The further information response was received on 15<sup>th</sup> March 2024.

4.2.5. As with the original planning application, two separate Planning Reports were prepared on foot of the further information response. The Executive Planner's Report assessed the applicant's response. This can be summarised as follows:

*Ecology* – The Ecology section was satisfied that concerns have been adequately addressed subject to conditions.

*Traffic transport* – The Area Engineer's comments are noted, and the proposed development was discussed with same. The proposed Northern Relief Road would significantly alleviate traffic flows in the area.

*Design / Layout* – The applicant proposed to remove four duplex units rather than the 16 no. requested by the local authority with increased planting. The planner's assessment proposes substituting the two eastern-most duplex units to two-storey typologies. In terms of open space, while the suggested revision improved that particular area, the fundamental concern i.e. overall usability, was not addressed.

The Executive Planner's Report recommended a grant of permission subject to 43 no. conditions.

4.2.6. The Senior Planner's Report concurred with the recommendation to grant permission. Inter alia, the importance of the Northern Relief Road was noted, it was considered the applicant had failed to address design and layout issues, and a rationale was provided for the application of certain conditions. 54 no. conditions were attached.

### **Other Technical Reports**

**Area Engineer** – The initial Area Engineer's report provided commentary under several headings, though primarily roads and transportation. Further information was recommended relating to roads issues and permission to discharge to the private storm sewer.

A second report was received on foot of the further information response. The applicant's response to the issues raised was briefly summarised and a grant of permission was recommended subject to conditions.

**Water Services** – Commentary was provided and there was no objection to the granting of permission subject to conditions.

**Environment** – Some commentary was provided and there was no objection subject to conditions.

**Ecology** – The initial Ecology report provided commentary and requested further information relating to tree/hedgerow loss, bat survey, badger survey, and the landscape plan.

A second report was received on foot of the further information response and there was no objection to the proposed development subject to conditions.

**Estates Primary** – Commentary was provided and, should permission be granted, conditions should apply.

**Traffic & Transport** – A report was received on foot of the further information response. There was no objection subject to conditions.

**Engineering Report** – A report prepared on foot of the further information response recommended a condition requiring a special financial contribution.

**Housing Officer** – No objection.

**Public Lighting** – Further information was recommended<sup>2</sup>.

#### 4.3. Prescribed Bodies

**Uisce Éireann** – Two separate correspondences were received by the local authority on foot of the initial planning application. The correspondence dated 13<sup>th</sup> December 2023 indicated no objection subject to the constraints outlined in the confirmation of feasibility and standard conditions. Correspondence dated 18<sup>th</sup> December 2023 stated, in relation to water, that it was feasible without infrastructure upgrade. Wastewater is feasible subject to infrastructure upgrades by Uisce Éireann. Works are required to create additional capacity. Two projects are currently being progressed. The first is due for completion in Q4 2023 and ‘the proposed connection could be

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<sup>2</sup> The content of the Public Lighting report prepared on foot of the further information response is the same as that initially prepared on foot of the submission of the planning application. In seeking further information, the first Planning Report notes that ‘in line with the spirit of the LRD legislation, I have not included the public lighting F.I. items as same would be an issue that could be addressed via condition’ (page 142 of 240).

completed as soon as possibly practicable after this date'. Localised upsizing of existing sewers may be required, with details to be agreed at connection application stage. In terms of a 'planning recommendation', there is a 12" watermain crossing the site to the south of the water treatment plant. Dwellings are shown above this. Further information is recommended for the applicant to submit a Diversion Application Form to Uisce Éireann.

**Transport Infrastructure Ireland (TII)** – The proposed development is at variance with official policy in relation to control of development on/affecting national roads as the site is located within an area considered for a future national road scheme and it could prejudice plans for the design of the scheme. The application is premature pending the determination of the route (Midleton to Youghal constraints study area).

**Inland Fisheries Ireland** – There should be sufficient capacity so that effluent does not overload existing treatment facilities, result in polluting of waters, or cause or contribute to non-compliance with existing legislative requirements.

**Iarnród Éireann** – No objection in principle.

#### **4.4. Third Party Observations**

4.4.1. 12 no. observations were received from local residents. The main issues raised are largely covered by the third party grounds of appeal with the exception of the following:

- Excessive density / overdevelopment
- The impact of construction phase nuisance on local residents
- Water and sewage capacity
- Capacity of educational and social facilities
- Flood risk
- Permeability to Blossomhill

## **5.0 Planning History**

5.1. There has been no previous planning history on site apart from the following Residential Zoned Land Tax (RZLT) application.

P.A. Reg. Ref. DZRLT473473355 / ABP Reg. Ref. ABP-316756-23 – In 2023, the Board allowed an appeal by the applicant against the local authority decision to include the site on the map of the RZLT because the existing wastewater treatment infrastructure capacity to serve the site had not been demonstrated and as such the site could not be considered in scope for the RZLT.

5.2. The relevant extant planning history in the vicinity is as follows:

*Opposite side of the L7630 to the north west*

P.A. Reg. Ref. 23/5461 – In 2024 permission was granted for 16 no. residential housing units, drainage, landscaping, and all associated site development and infrastructural works, accessed from The Steeples.

P.A. Reg. Ref. 21/5664 – In 2021 permission was granted for a temporary waste water treatment system to serve 18/7236, including ancillary links, connections to the public foul system, local servicing and access off the L7630 local road.

P.A. Reg. Ref. 18/7236 – In September 2019 permission was granted for demolition of sheds and construction of 41 no. houses. This development is currently under construction (The Steeples).

## 6.0 Policy Context

### 6.1. Project Ireland 2040 National Planning Framework (NPF)

6.1.1. The NPF is a high level strategic plan to shape the future growth and development of the country to 2040. It is focused on delivering 10 National Strategic Outcomes (NSOs).

6.1.2. Relevant National Policy Objectives (NPOs) include:

NPO 4 – Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

NPO 33 – Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

**6.2. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)**

- 6.2.1. The Guidelines set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. There is a renewed focus in the Guidelines on, inter alia, the interaction between residential density, housing standards, and quality urban design and placemaking to support sustainable and compact growth.
- 6.2.2. The site is in an urban extension area of a Metropolitan Town (see paragraph 8.2.2 of this inspector's report). As such, as per table 3.3, residential densities in the range 35dph to 50dph (net) shall generally be applied.

**6.3. Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (July 2023)**

- 6.3.1. The overall purpose of these Guidelines is to strike an effective regulatory balance in setting out planning guidance to achieve both high quality apartment development and a significantly increased overall level of apartment output. They apply to all housing developments that include apartments that may be made available for sale, whether for owner occupation or for individual lease.

**6.4. Regional Spatial and Economic Strategy for the Southern Region (2020) (RSES)**

- 6.4.1. This is a strategic regional development framework which establishes a broad framework for the way in which society, environment, economy, and the use of land should evolve.
- 6.4.2. Midleton is located within the Cork Metropolitan Area Spatial Plan boundary as shown on page 41 of the RSES. It is identified as a Metropolitan Town. It is included in section 7.3 as a strategic residential growth node on the metropolitan rail line. It is briefly described. It is stated that there is a potential residential yield of 5,255 no. units and infrastructure priorities are identified.

## **6.5. Cork County Development Plan 2022-2028 (CCDP)**

- 6.5.1. Midleton is designated as a Main/Large Town in the Plan. The subject site is zoned for 'Residential' development and the site is adjacent to the development boundary of the town. Land immediately adjacent to the east and north is unzoned. The site is in a 'High Value Landscape' area.
- 6.5.2. Midleton is described in detail in section 3.3 (pages 207-247) of volume 4 (South Cork) of the Plan. This 7 hectare site has specific objective MD-R-26. This is,
- 'Medium A Density Residential Development to include a mix of house types and subject to the following:
- a) traffic impact assessment and road safety audit, and associated proposals for road upgrades/improvements to accommodate the increased traffic volumes on the road network, locally and in the wider Midleton context, including access to local services and amenities, the Northern Relief Road and the N25 (junction capacity etc.).
  - b) Proposals shall include provision for pedestrian and cyclist connectivity to the train station, town centre and to other developments to the south and west (to Mill road and the school).
  - c) the availability of water services.
  - d) The design, layout and finishes of the scheme shall seek to minimise visual impact given the elevated nature of the site and shall include a detailed landscaping proposal.'
- 6.5.3. A Medium A density, as referenced above, is 30-50dph as per table 4.1 / objective HOU 4-7 of volume 1 (Main Policy Material). This objective includes the comment 'In towns with an existing/planned high quality public transport service a minimum density of 35 units/ha is recommended'. In relation to public transport, page 96 of the Plan states, inter alia, 'Within the County Metropolitan Area this will mean higher frequency inter-urban rail services of 10 mins for ... Midleton ...'
- 6.5.4. The Core Strategy Statement is contained in appendix C. This states that the population target of 19,423 will require the delivery of 2,647 no. units for the plan period.



## **6.6. Natural Heritage Designations**

- 6.6.1. The nearest designated areas of natural heritage are Great Island Channel special area of conservation (SAC), Cork Harbour special protection area (SPA), and Great Island Channel proposed natural heritage area (pNHA), all overlapping, approx. 1.65km to the south.

## **6.7. EIA Screening**

- 6.7.1. Paragraph 10(b) of Part 2 of Schedule 5 of the Planning & Development Regulations, 2001 (as amended), and s.172 (1)(a) of the Planning & Development Act, 2000 (as amended), provides that EIA is required for infrastructure projects that would equal or exceed, inter alia:

- construction of more than 500 dwelling units, or,
- 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. A business district means a district within a city or town in which the predominant land use is retail or commercial use.

- 6.7.2. Paragraph 15 of Part 2 provides that EIA is required for 'Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7'. Section 172 (b) of the 2000 Act (as amended) has similar provision.

- 6.7.3. The proposed development of 272 no. residential units, and a creche/community building, on a site of 8.29 hectares on residentially zoned greenfield land on the edge of the town is below the applicable numerical and area thresholds for mandatory EIA.

- 6.7.4. Article 109 (2B)(a) of the 2001 Regulations states 'Where a planning application for sub-threshold development is not accompanied by an EIAR but is accompanied by the information specified in Schedule 7A and sub-article (2A) ... the Board shall carry out an examination of, at the least, the nature, size or location of the development for the purposes of a screening determination'.

- 6.7.5. In my opinion, the application includes the information specified in Schedule 7A of the 2001 Regulations, informing on the characteristics of the proposed development and

its likely significant effects on the environment. The application was accompanied by a number of relevant supporting assessments and documents such as an EIA Screening Report, an AA Screening Report, an EclA, a TTA, a CEMP, a LVIA, an Archaeological Assessment, and an Engineering Infrastructure Report, and I have had regard to same in my EIA screening.

6.7.6. The third party grounds of appeal or observations received by the Board do not state that an EIA is required.

6.7.7. Having regard to the nature, size, and location of the proposed development and to the provisions of Schedule 7A of the 2001 Regulations (as amended), I have concluded that the proposed development is not likely to have significant effects on the environment, as set out in the appendices to this inspector's report. EIA, therefore, is not required. In this regard I note that the proposed development is residential in nature, the number of units proposed is well below the applicable numerical threshold, the site area is below the applicable area threshold, my screening for Appropriate Assessment in section 9 of this inspector's report concludes that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European sites, and the development location on a greenfield site surrounded primarily by agricultural and residential land and roads infrastructure, does not have any particular environmental sensitivity.

## **7.0 The Appeal**

### **7.1. First Party Appeal**

7.1.1. A first party appeal which seeks to amend or remove four conditions was received by the Board. The main issues raised can be summarised as follows:

#### *Condition 6*

7.1.2. This requires the omission of 22 no. houses in the northern area (nos. 215-224 and 239-246) and the provision of public open space in lieu<sup>3</sup>. There are three aspects to the appeal of this condition:

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<sup>3</sup> Condition 6 is set out in full in paragraph 8.3.1 of this inspector's report.

- Lack of clarity – The condition refers to the loss of 22 no. houses, however there are only 18 no. houses specifically cited i.e. 215-224 (10 no.) and 239-246 (8 no.). Secondly, in relation to subsection (b), the numbering of open space areas differs slightly between the original and further information response layouts. In the further information response open space area 2 is in the northern corner but it was not identified as same in the original application. In the response the original area 2 became area 3. Reverting further information area 2 to its original layout would result in unit type changes and reduce the area to a residual green area. It appears the Council is referring to open space 2 as per the original layout/open space 3 in the further information layout.
- Inconsistency in assessment – The further information requested the same removal of units as required by condition 6. The reasons given for this were to minimise the visual impact of the elevated site and to break up a continuous and extensive breach of the ridgeline. Photomontages demonstrated this would have no discernible visual impact. The Planning Report on the further information response then stated the fundamental concern was that the tiered nature of the scheme confines much open space to the areas between the tiers and the peripheral nature of the open space. There are also contradictions in the Planning Report which states on one page that 12-18% open space is requested but on another that 10-15% would be acceptable.
- Unnecessary removal of units – The reason for the condition is to provide quality and useable public open space and to minimise visual impact. The further information response layout provides an appropriate level of useable open space and there is no justification for the removal of the units. The further information layout provides 10 no. public open space areas ranging from 0.05 hectares to 0.24 hectares; a total of 1.47 hectares/18.5% of net area. Original open space 2/further information open space 3 (1,800sqm) is a centrally located, level, and connected space with constant passive surveillance. The conditioned open space would be along the northern boundary with insufficient surveillance, would be poorly integrated, and would be at the top of a steep site. In terms of size (4,000sqm), it is more suited to a regional amenity than open space serving a residential development. There is not sufficient rationale to exclude the units. The removal of

22 no. units would reduce the density to 30.9dph. It is unlikely that it would be possible to re-insert the units.

- 7.1.3. The Board is requested to remove the condition.

*Condition 7*

- 7.1.4. This condition relates to phasing<sup>4</sup>. Subsection (a) imposes an unreasonable requirement to have the creche operational as part of phase 1, suggesting phase 2 cannot commence until this happens, imposing unnecessary delays. The creche will be operated by an external operator and therefore this is not completely within the developer's control. It is requested that (a) is modified to omit the word 'operational'.

- 7.1.5. Subsection (c) imposes an unreasonable requirement to have open space completed before any phase 3 dwellings are occupied. Many landscaping elements are subject to appropriate times of the year and may not be completed until a year after construction. The condition is unreasonable and may result in completed units lying empty.

*Condition 8*

- 7.1.6. This condition requires the replacement of two three-storey blocks (eight duplex units) with two-storey structures which would result in the loss of four 1-bed units<sup>5</sup>. The condition critically misunderstands the topography of the site. Both the duplex units have ground floor accesses and is not possible to simply remove the one-bed apartment. If it was possible, it would result in the loss four one-bed units, a unit type severely lacking in the area.

- 7.1.7. The reason for the condition is in the interest of residential amenity, however this is unfounded. This was raised at further information. Some units were removed with additional detail provided on boundary treatments and distances. The Planning Report indicated overlooking concern had been addressed. Existing houses to the east do not line up directly with the proposed apartments, rather with the end of streets, and it is not clear what residential amenity the condition would protect. If visible, the units would help provide passive surveillance to the existing and proposed culs-de-sac and possible future connections.

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<sup>4</sup> Condition 7 is set out in full in paragraph 8.4.1 of this inspector's report.

<sup>5</sup> Condition 8 is set out in full in paragraph 8.5.1 of this inspector's report.

### *Condition 52*

- 7.1.8. This condition requires a special contribution of €965,175 to the local authority in respect of works proposed to be carried out for the provision of the Northern Relief Road, cycleway, footpaths, and traffic signalling<sup>6</sup>.
- 7.1.9. Section 48(2)(c) of the Planning & Development Act, 2000 (as amended) states a special contribution may only be imposed where specific exceptional costs not covered by a scheme are incurred in respect of public infrastructure facilities which benefit the proposed development. Section 48(12) requires a special contribution condition to specify the particular works. In this case it is for the Northern Relief Road, cycleway, footpaths, and traffic signalling. These are specified in two internal engineering reports which are referenced in the Senior Planner's Report. The Development Management Guidelines (2007) sets out the criteria for a special contribution. The condition combines four separate elements. The applicant considers the grouping of the elements will make it more challenging to have funds returned if/when they are not completed.
- 7.1.10. The cycleway is the Ballinacurra to Midleton Cycleway. The proposed development does not fall within the route of this cycleway and while it will benefit Midleton as a whole it is not appropriate to levy a special contribution for it. No such contribution was levied under 23/5461. The Board is requested to omit this special contribution.
- 7.1.11. The footpath refers to a footpath to the train station. There is no rationale on why the renewal/improvement works are required or what they entail. The cost estimated appears to entail the replacement of an existing footpath. The Board is requested to omit this special contribution.
- 7.1.12. The traffic signals refer to adjustments at the junction of Mill Road and the basis for it is the time required to facilitate the adjustment of the timing and sequencing of the signals each year for five years based on engineer's costs. It facilitates a service rather than a specific element of infrastructure and there is no means to monitor whether the service is delivered or not. These are standard operating costs, do not meet the requirements of a special contribution, and it is requested that it is removed.

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<sup>6</sup> Condition 52 is set out in full in paragraph 8.6.1 of this inspector's report.

7.1.13. In terms of the Northern Relief Road there is no design or permission in place for the delivery of this road. The estimated cost (€25-35 million) has a variation of €10m, evidence that it is still at inception and unlikely to be commenced within the five-year period outlined in the condition. It is also part of a wider objective of the County Development Plan 2022 and should be funded under the general contribution scheme. It is requested that it is removed.

7.1.14. The special contributions are inconsistent with Board decisions which generally require that they are based on precise costings, works are specific to the proposed development, and the works are exceptional in that they should not be part of a wider improvement scheme. A number of precedents are set out in an appendix.

## **7.2. Third Party Appeals**

7.2.1. Third party appeals were received from:

1. Maurice Ring Jnr., Broomfield West, Midleton P25 W2C9, Maurice Ring, Broomfield West, Midleton, P25 WK24, & Lisa McSweeney, Broomfield West, Midleton, P25 Y6X9 (these are the three detached houses, one bungalow and two 1 ½ storey houses, adjacent to the south west corner of the site. The bungalow is accessed off the L7630 and the 1 ½ storey houses are accessed from the cul-de-sac of Broomfield Ridge).
2. Ian & Kate O'Loughlin, 38 Blossomhill, Broomfield Village, Midleton, P25 H1W6 (this is the detached house to the south east of the proposed duplex units. The site overlooks the rear garden area of the property).

7.2.2. The main points made in the appeals, which contain a number of layout plans, section drawings, and photographs etc., can be summarised as follows:

### Maurice Ring Jnr & Others

- The local authority Planning Reports did not take the appellants' properties into consideration. The properties are not illustrated on layout or section drawings. Concerns expressed in relation to Hollyridge and Blossomhill properties over overbearance, overlooking, and screening should equally apply to the appellants' properties.

- The duplex units and creche overlooking the appellants' properties should be omitted or reduced in size / units numbered 1-48 should be omitted or reduced to two-storey.
- Proposed boundary treatment is unsuitable and would lead to overlooking and loss of light. The proposed boundary and walkway are too close to appellants' properties. Noise and light (car and public) pollution impact.
- A wall/retaining wall is required along the appellants' properties.
- The L7630 is not suitable to accommodate the traffic that will be generated. There is only one speed ramp and cars travel at excessive speeds. Since the redevelopment of the L7630, sightlines from the appellant's bungalow onto the L7630 are not available. Nuisance from construction vehicles using the L7630 is referenced and construction vehicles should not be permitted to use it.
- The first entrance should be removed, and one vehicular entrance is quite adequate. It is proposed to connect a footpath to the 800mm wide rubbing strip outside the bungalow which was not intended for pedestrians. A footpath should be 1.8 metres wide.
- Inadequate car parking provision for the creche will lead to traffic chaos.
- Concern expressed about flood impact.

#### Ian & Kate O'Loughlin

- Direct overlooking of living and bedroom areas which are already below the site ground levels, overbearing impact, loss of west-facing light, devaluation of property, and effect on mental health and wellness.
- The original Council recommendation to remove eight duplexes should be upheld to protect the privacy of the appellants' property. Privacy planting and screening should be completed prior to commencement of development.
- Concern is expressed about the impact of surface water runoff from the proposed development and the impact of the proposed development on the structural integrity of the existing common boundary wall.
- Increased traffic congestion in the local area from additional housing. Proximity to the rail line cannot be taken as de facto relief for these pressures.

- Contravention of the County Development Plan framework to protect skylines and ridgelines from development. The topography is problematic. The need for expansion in this direction is questionable. There will be a visual impact.
- The area lacks amenities and services and the proposed development provides minimum green areas. There are frequent power outages, limited educational availability, and closed GP care. It is at odds with 'sustainable communities'.

### 7.3. First Party Response

- 7.3.1. The applicant has submitted a response to the two separate third party appeals. It is stated that the Maurice Ring Jnr. & Other appellants purchased a strip of land from the applicant at a significantly reduced rate to build their houses knowing the applicant's future intention for the site. The third party appeals are addressed collectively and can be summarised under the headings as per the applicant's response.

#### *Impact on residential amenity*

- 7.3.2. No. 38 Blossomhill was clearly considered as separation distances were given to it and it was labelled on a boundary section drawing. The 33 metres-38 metres separation exceeds required separation distances. A woodland corridor will also provide appropriate screening. Any reduction in daylight would be minimal.
- 7.3.3. The suggestion that the creche would result in a complete loss of privacy to Maurice Ring Jnr & Others is a gross exaggeration. The creche is a modest two-storey building with a ground floor level slightly below the existing ground, and it will not tower over any adjacent property as per section DD and photomontage 7. It is approx. 25.6 metres from the southern site boundary/Ring house.
- 7.3.4. It is suggested that the southern boundary treatment is not sufficient and will lead to an invasion of privacy. The proposed separation distances between the proposed duplexes and the southern boundary/McSweeney property (approx. 20 metres at ground floor and 26 metres from the upper floors) exceed required separation distances. The separation distance between the creche and the Ring house (approx. 25.6 metres) also exceeds requirements. It is suggested the proposed boundary and walkway are too close to the McSweeney and Ring houses and walls should be constructed. The applicant considers that the amendments to the planting/screening



along this boundary, including a 1.8 metres high evergreen hedge which would be softer than a wall, as per the further information response, is sufficient. If deemed necessary by the Board the applicant can provide additional screening or adjust the location of the pathway.

- 7.3.5. Maurice Ring Jnr. & Others suggest removing all duplexes or reducing them to two storeys in height. It is not possible to simply reduce the structures to two storeys because of the topography. They have been designed to work with the topography and are only two storeys on their northern sides. Removing the units would reduce the overall density and would not be in line with national or local policy.

#### *Traffic*

- 7.3.6. The TTA addendum submitted as part of the further information response specifically addresses the junction cited in the O'Loughlin appeal and concludes that the traffic impact would be minimal on the overall operating capacity of the junctions in close proximity.

#### *The L7630 road*

- 7.3.7. Maurice Ring Jnr. & Others suggest the L7630 is not suitable for construction or operational traffic. The proposed development includes road improvements and the provision of a footpath, creating a safer road.
- 7.3.8. It is not within the applicant's control to widen the footpath to the front of the Ring house or address the sightline issues. The L7630 is the only access to the site and this would remain the case for any development of this zoned land.

#### *Flooding*

- 7.3.9. No detail is provided on how both appellants think flooding will occur to their properties. The Flood Risk Assessment noted no streams or watercourses, trial holes did not find a water table, and there is no fluvial, tidal, or pluvial flood risk.

#### *Visual impact*

- 7.3.10. This issue was raised in the O'Loughlin appeal. The LVIA notes the proposed development is not out of character with the area. Existing developments already break the ridgeline and the proposed development follows the contours of the ridgeline and hilltop.

### *Lack of amenities and services*

- 7.3.11. This issue was raised in the O'Loughlin appeal. Midleton is a metropolitan town on the rail network. New residential units are to be provided supporting the continued development of the town. The development of zoned residential land is in line with the County Development Plan 2022.

## **7.4. Third Party Responses**

- 7.4.1. A third party response to the first party appeal was received from Maurice Ring Jnr. and Others. The response relates to condition 8. The applicant considers the Council has a poor understanding of the topography but this also applies to the applicant itself as both parties have failed to acknowledge the appellants' properties and concerns raised. The applicant states it has addressed overlooking concerns however there will be serious overbearance of the appellants' properties, significant invasion of privacy, and complete loss of security.

## **7.5. Local Authority Response**

- 7.5.1. A response to the appeals was received by the Board from Cork Co. Co. Separate Planning, Traffic & Transport/Sustainable Travel Unit, and Engineering section reports were received and the main issues raised can be summarised as follows:

### *Planning*

- 7.5.2. The Uisce Éireann submission comments should be considered/included by the Board.

### *Traffic & transport/sustainable travel unit*

- 7.5.3. Special contributions were sought for the cycleway (€295,575), footpath (€160,000), and traffic signal engineers (€9,600). Detail of how these figures were calculated is set out. The levies identify the nature and scope of works, explain the basis of calculation, and are proportionate to the scale of the application as required. Supporting transport policies in the County Development Plan are cited which seek to deliver modal shift from the use of the car to sustainable transport modes.

## *Engineering*

- 7.5.4. The design of the proposed Northern Relief Road, Phase 3, is currently being progressed. The proposed development will specifically benefit from this road. Traffic concerns in relation to the proposed development will be significantly reduced. It is appropriate that a contribution is made to its construction, and the contribution is at the lower end of the construction estimate.

## **7.6. Observations**

- 7.6.1. Observations were received from:

1. Uisce Éireann
2. Pádraig O'Neill, 37 Blossomhill, Broomfield Village, Midleton (adjacent to the south of the appellants at No. 38 Blossomhill).

- 7.6.2. The main issues raised can be summarised as follows:

1. Uisce Éireann

- 7.6.3. The certificate of feasibility issued to the applicant noted that a 12" watermain crosses the site immediately south of the water treatment plant. This was again referenced in the Uisce Éireann submission to the local authority which noted that houses were located above the pipe and in order to assess the feasibility of building near/under the infrastructure, the applicant was requested to engage with Uisce Éireann through the diversions application process through further information.

- 7.6.4. Where there are proposals to build over/near/divert services it is the applicant's responsibility to submit details to Uisce Éireann for assessment of feasibility. Where the Board decide to grant permission it is requested to insert a condition that a diversion enquiry be submitted to Uisce Éireann and where necessary, the applicant shall enter into a Diversion Agreement prior to construction.

2. Pádraig O'Neill

### *Observation against the first party appeal*

- Condition 7 should be retained and enhanced. A creche was not built by the same developer as part of the Blossomhill development. The condition should be for the

creche to be delivered in phase 1A and then completion of Blossomhill e.g. final builds and landscaping.

- In relation to condition 8, the engineer was within their knowledge role to conclude that the duplex units would be overbearing. The Planning Report contradicts the first party appeal in relation to overlooking. Photomontages have not been provided supporting the statement that there will be no visual impact or loss of amenity from nos. 37/38 Blossomhill or Hollyridge. The applicant was aware of topographical issues before the site was purchased.

*Observation in support of the third party O'Loughlin appeal*

- Concerns are expressed in relation to:
  - Proposed height and scale / elevated nature of the site in relation to adjacent properties
  - Eyesore / protection/breaking of skylines and ridgelines / an application in Glounthaune was refused permission for reasons including the elevated nature of the site and adverse impact on the character of the area
  - Overlooking / loss of sunlight
  - Density
  - Filling of land, runoff, and impact on retaining wall
  - Increased traffic congestion / inadequate connectivity/lack of cycle lanes / the updated TTA was prepared prior to the opening of the Midleton – Youghal greenway
  - Removal of hedgerows
  - While the woodland buffer is welcomed, detail of delivery and planting was not provided. This should be provided in phase 1 and it should be fenced off to prevent it becoming a walking area, defeating the purpose of it to protect privacy.

## 8.0 Planning Assessment

Having examined the application details and all other documentation on file, including the first and third party grounds of appeal and the responses to same, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal, other than those set out in detail within the EIA Screening and AA section, are as follows:

- Zoning
- Density
- Local Authority Condition 6
- Local Authority Condition 7
- Local Authority Condition 8
- Local Authority Condition 52
- Impact on Adjoining Residential Amenity
- Residential Amenity for Future Occupants
- Transportation
- Uisce Éireann

### 8.1. Zoning

- 8.1.1. The subject site is zoned for 'Residential' development in the CCDP 2022-2028. Paragraph 18.3.13 of the Plan states 'Residential Areas are intended primarily for housing development but may also include a range of other uses, particularly those that have the potential to foster the development of new residential communities. These are uses that benefit from a close relationship to the immediate community and have high standards of amenity, such as crèches, schools, nursing homes or homes for older people, open space, recreation and amenity uses'.
- 8.1.2. The Childcare Facilities Guidelines for Planning Authorities (2001) states that 'in new communities/new housing areas, planning authorities should require the provision of at least one childcare facility for new housing areas and other areas of residential

development ...' (appendix 2). The proposed creche, and the proposed community use floor space, would foster development of the community.

- 8.1.3. Having regard to the foregoing, I consider that the principle of the proposed development is acceptable, subject to the detailed considerations below.

## **8.2. Density**

- 8.2.1. There is an onus on the relevant authorities to ensure that residential development is carried out at a suitable density to ensure the appropriate development of land. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) and the CCDP 2022-2028 are relevant documents in this regard.
- 8.2.2. The site is in an urban extension area of a Metropolitan Town as set out in the Guidelines. Table 3.3 (Areas and Density Ranges – Metropolitan Towns and Villages) states that 'urban extension refers to greenfield lands at the edge of the existing built-up footprint that are zoned for residential or mixed-use (including residential) development. It is a policy and objective of these Guidelines that residential densities in the range 35 dph to 50 dph (net) shall generally be applied at ... edge locations of Metropolitan Towns ...'
- 8.2.3. CCDP 2022-2028 objective MD-R-26 specifically applies to the site. It refers to a Medium A density, which is 30-50dph as per table 4.1 / objective HOU 4-7 of the Plan. The objective includes the comment 'In towns with an existing/planned high quality public transport service a minimum density of 35 units/ha is recommended'. In relation to public transport, page 96 of the Plan states, inter alia, 'Within the County Metropolitan Area this will mean higher frequency inter-urban rail services of 10 mins for ... Midleton ...'
- 8.2.4. Having regard to the foregoing two policy documents a minimum density of 30dph is required with a minimum of 35dph encouraged. I note, as set out in the local authority's Planning Reports, that the topography and visual prominence of the site results in some difficulties in terms of density.
- 8.2.5. As originally proposed by the applicant, 272 no. units on a 7.95 hectares site is a net density of approx. 34.2dph. Four units were removed as part of the further information response. This results in a density of approx. 33.7dph (268 no. units / 7.95 hectares).

Condition 6 of the local authority decision removed 18 no. units. This would result in a density of approx. 31.4dph (250 no. units / 7.95 hectares), notwithstanding that the condition states the omitted dwellings may be re-inserted elsewhere across the site. Further, removing another four units as required by condition 8 would give a density of approx. 30.9dph (246 no. units / 7.95 hectares). Therefore, in my opinion, the additional removal of the residential units as per the Council's decision would still achieve an acceptable density on site, albeit in the lowest end of the range considered to be appropriate under the relevant density framework.

8.2.6. Notwithstanding, I have considered the local authority's conditions, the general site layout, impact on adjoining residential amenity etc. in the following sections of my inspector's report, in particular sections 8.3 (Local Authority Condition 6) and 8.5 (Local Authority Condition 8), and I have concluded that the most appropriate layout is that submitted as part of the applicant's further information response which has a density of 33.7dph (268 no. units). I consider this layout and density to be appropriate and acceptable for this site. This section (section 8.2) should be read in conjunction with those sections for a broader understanding of my conclusion in relation to density.

### **8.3. Local Authority Condition 6**

8.3.1. This condition states,

*'This permission omits 22no. dwellings at the Northern end of the site, namely, unit numbers 215-224 and 239-246, and the insertion of Public OPen Space at this location. Prior to commencement of development, a revised site layout plan and scaled drawings shall be submitted to the Planning Authority for written agreement writing incorporating the following design changes:*

*(a) Omission of 22no. dwellings at the Northern end of the site (proposed unit numbers 215-224 and 239-246). In place of the omitted dwellings a large, usable and fully accessble area of public open space area shall be provided at this location. The omitted dwellings may be re-inserted elsewhere across the site (including within more residual areas of proposed open space) by way of a separate planning application.*

*(b) Proposed Open Space area 2 (as identified on revised drawings submitted on the 15/03/2024) shall revert to its original iteration as shown on drawings submitted on the 14/11/2023.*

*Reason: In order to provide quality and useable public open space and in order to minimise visual impact on the wider landscape.’ [sic]*

*Background to the condition*

- 8.3.2. The 18 no. houses referenced in subsection (a), (not 22 no. as per the condition), are located in the northern area of the site where there is a relative plateau. At pre-planning stage the local authority recommended that a larger open space area at the northern part of the site be provided. While improvements were made in the original planning application submission, with 18% of the site area provided as open space, enlarged open spaces, and six of nine open space areas greater than 800sqm, the local authority did not consider that the fundamental concerns, that open space was located between tiered blocks or around the site perimeter, and its useability for residents, had been addressed. Open space in the northern area could also soften the visual impact of the proposed development at its highest point and break up an otherwise continuous and extensive breach of the ridgeline in combination with The Steeples.
- 8.3.3. Item 3 (c) of the further information request sought the removal of the 18 no. houses and re-orientation of eight more to provide appropriate passive surveillance. It was also stated that units lost could be replaced elsewhere across the development.
- 8.3.4. In response, the applicant increased the area of usable open space on site to 18.5% net. The applicant states that revised photomontages show a negligible visual impact from the removal of the 18 no. units, though I agree with the local authority that their concern was more aimed towards increasing usable open space provision rather than to reducing the visual impact. Though a new open space area was not provided, open space area 3 (previously open space area 2) was increased in area from 0.092 hectares to 0.185 hectares as a result of the removal of four houses and an amendment to the footprint and plots of other houses. The applicant considered that this enhanced and more central space, including pollinator shrubs and a playground, was a more appropriate solution.
- 8.3.5. While the local authority acknowledged that the revision had improved the useability of that particular open space area, the fundamental concern was not considered to



have been addressed i.e. much 'ornamental' open space was confined within tiers with open space outside these areas tending to be more peripheral or residual. The local authority remained of the opinion that an appropriately scaled and proportioned usable open space area was required. In this regard it envisaged that open space 3 and the houses affected by the alterations to same, as per the further information response, could be returned to their original iterations. The local authority considered that the omitted houses could be reinserted elsewhere across the site, subject to a separate planning application. The local authority Planning Report considered that the proposal is only considered to be acceptable on the basis of the conditions, including that related to public open space.

- 8.3.6. The first party grounds of appeal in relation to this condition is summarised in paragraphs 7.1.2 and 7.1.3 of this inspector's report. In its response to the first party grounds of appeal, the local authority does not engage specifically with condition 6.

*Number of units*

- 8.3.7. I agree with the applicant that there is an error in the number of houses being omitted. Removing house numbers 215-224 and 239-246 results in the omission of 18 no. houses, not 22 no. This is referenced both in the condition and in the local authority Planning Reports. It is possible the local authority is including the four duplex units omitted by the applicant in the further information response in citing 22 no. units, but only 18 no. are specifically affected by condition 6.

*Open space area referenced in subsection (b)*

- 8.3.8. While the applicant refers to ambiguity in this subsection I agree that it references the open space area increased in size as part of the further information response ('amenity space 2' in the original layout and 'amenity space 3' in the further information site layout), rather than the peripheral open space area in the extreme northern corner of the site.

*Inconsistency*

- 8.3.9. The applicant considers there is an inconsistency in the assessment of the open space issue and the reasoning behind the condition i.e. whether it is for the purpose of improving useable open space provision or to minimise the visual impact. While both issues were referenced in the four local authority Planning Reports prepared by two

different Planning Officers, my opinion, having read them all, is that the primary rationale behind this issue/condition is the provision of useable public open space. Notwithstanding, both useable open space and visual impact are cited in the reason for the condition.

*Condition 6 (a)*

- 8.3.10. The condition requires a significant alteration to phase 3 of the proposed development by way of the removal of 18 no. houses. I note that the condition does not state that house nos. 225-228 and 235-238 shall be reorientated to address the open space area being created. This formed part of the further information request. The condition, therefore, would result in the open space area having negligible passive surveillance from houses. Should the Board consider that the local authority condition is appropriate, I recommend that these eight houses, or however many considered to be appropriate, should be reorientated to overlook/provide additional passive surveillance over the newly created open space area.

*Public open space provision as per the original planning application*

- 8.3.11. Public open space in the proposed development was described, in the applicant's Statement of Consistency, as creating a series of spaces linked together with pedestrian friendly routes. This connectivity is formalised with footpaths and pocket spaces, planting, and seating, and through shared surfaces. Open space is easy to maintain and well overlooked.
- 8.3.12. The landscape strategy was set out in a booklet prepared by Forestbird Design. The estate is designed around a central spine. Illustrations show these both east-west and north-south in the larger part of the site area and east-west in the south west area. There are some age-specific areas 'but most areas are community oriented and aimed at integrating all ages' (landscape strategy – part 1). There are nine designated open spaces and five ancillary spaces. 18% of the net site area is used as open space<sup>7</sup>. The nine spaces are individually described in the landscape strategy – part 2. The nine spaces range in area from 450sqm (an 8 metres x 40 metres fenced level grass pitch) to 2,400sqm (spanning the width of the site and includes the central retaining wall. It

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<sup>7</sup> Paragraph 14.5.11 of the CCDP 2022-2028 states, inter alia and in relation to public open space provision, 'Generally, at least 12% to 18% of a site for development excluding areas unsuitable for house construction should be allocated to the provision of public open space'.

includes amenity areas that are up to 17 metres deep and level). A ‘foraging corridor’ is also proposed. A ‘central terrace’ (1,450sqm) is a sloping green with four separate level terraces with different uses. The ‘lower central garden’ (800sqm) is also sloping with level lawns top and bottom. The open space area for the two rows of duplex units (‘duplex social green’, 1,100sqm) is between both.

- 8.3.13. Detailed section drawings were submitted with the application, and further information response, showing the proposed ground and finished floor levels (FFLs), and the extent of cut and fill required, primarily in a north-south direction. Section drawings through the central terrace and lateral spine open space amenity areas are shown in drawing nos. L214 and L215 in the Forestbird Design document. Retaining walls are required in the lateral spine open space areas. Similar occurs in Blossomhill<sup>8</sup>. The landscape strategy – part 2 states that the proposed wall will be constructed using the same finish and will be lower than the existing Blossomhill wall.

*Public open space provision as per the further information response*

- 8.3.14. As set out in paragraphs 8.3.2 and 8.3.3, further information was sought because of local authority concerns relating to the open space provision and its useability for residents.
- 8.3.15. In response, the applicant did not omit the houses as requested and provide a new open space area. However, the percentage of open space on site was increased to 18.5%. The rationale for this is summarised in paragraph 8.3.4 and the local authority’s assessment of same is set out in paragraph 8.3.5.

*Assessment of the public open space issue*

- 8.3.16. While I understand the local authority’s rationale, I consider, having regard to the documentation on file, that the most appropriate open space solution for the site is that put forward by the applicant as part of the further information response. I consider the original open space provision, as described in paragraphs 8.3.11 to 8.3.13, together with the amended ‘northern hilltop’ amenity area, would result in acceptable usable open space areas for future residents and would, in terms of the overall 18.5% open space area, provide a substantial area of the site for this purpose.

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<sup>8</sup> Given the site topography and necessity for retaining walls, I consider it appropriate to include the same condition in my recommended conditions (as condition 9) as was included in the local authority’s decision (condition 20), as recommended by its Estates Primary Department.

- 8.3.17. The topography of the site is a challenge in terms of providing housing at an acceptable density and providing adequate, usable, open space areas. Two of the proposed open space areas are particularly affected by the topography, the central terrace and the lateral spine. However, I consider that the section drawings through these areas illustrate areas that are not so affected by the ground level changes that they are not usable. A number of different amenities are proposed for these areas e.g. lawns, orchard/wildflower meadow, sustainable urban drainage systems (SuDS), a grass pitch, and a biodiversity slope, with seating.
- 8.3.18. While there is no large, kickabout space, there are two small grass pitches proposed and other areas could also be utilised on a more limited scale. The open space areas are well-linked in terms of a green corridor throughout the central and peripheral areas i.e. open space areas within the site are not isolated.
- 8.3.19. I consider that the main drawback of the local authority's condition is the envisaged location of the focal/primary area of open space in the northern area of the site. This space would be located on the periphery of the site, at the top of a relatively steep site, and would not be overlooked by many residents. The amended open space area as part of the further information is located slightly closer to the centre of the site and would have better passive surveillance. In this regard I consider that proposed unit nos. 250 and 251 can be redesigned as dual frontage houses to increase passive surveillance to this area.
- 8.3.20. There would be an urban edge to the north western/northern boundary of the site and the L7630 which would be significantly diluted by the local authority condition. Though I acknowledge the rural nature of the site as it currently exists, it is proposed to widen the road and provide a footpath in line with recent works along the L7630 closer to Middleton. In addition, permission was granted for 16 no. houses under 23/5461, as an addition to The Steeples, on the opposite side of the L7630 to the north west/north. These houses would also provide an urban edge to the L7630.
- 8.3.21. Reference is made in the local authority Planning Reports to the impact on the ridgeline. Third party observations also refer to the ridgeline. Apart from the fact that The Steeples development already has a substantial visual impact, the subject site is zoned for residential development. Given the visual prominence of the site and the requirement to achieve an acceptable density, developing the site in line with the

provisions of the CCDP 2022-2028 would inevitably impact on the ridgeline. I consider that the heights of the proposed units i.e. three storey in the lower area and two-storey in the central and upper areas, are suitable at this location and help to reduce the visual impact as much as reasonably possible.

#### *Conclusion*

8.3.22. I consider that the open space provision as per the applicant's further information response is acceptable at this location, and I do not consider that the local authority's condition 6 is warranted. I consider that the open space proposed would be generous in terms of overall net site area (18.5%), would provide a variety of different amenity uses, the various spaces are well-linked throughout the site, and it adequately addresses difficulties presented by the site topography.

#### **8.4. Local Authority Condition 7**

8.4.1. This condition states,

*'The scheme shall be developed in accordance with the phasing plan submitted on the 14/11/2023.*

*(a) The creche facility shall be constructed and operational as part of phase 1.*

*(b) Phase 3 shall not be commenced without final agreement of the Planning Authority on the public Open Space design revisions requested under condition above.*

*(c) No phase 3 dwellings shall be occupied until such time as the required public open space/amenity areas are constructed/implemented.*

*Reason: To ensure satisfactory design, construction and maintenance of the septic tank drainage system.'* [sic]

8.4.2. The applicant's position in relation to this condition is summarised in paragraphs 7.1.4 and 7.1.5 of this inspector's report. Subsections (a) and (c) are questioned by the applicant. The phasing plan referenced contained the creche and duplex units in phase 1, 74 no. housing units in phase 2, and 146 no. units in the northern area of the site, including the apartments, in phase 3.

*Subsection (a)*

- 8.4.3. The key issue is the use of the word 'operational'. The applicant considers that it is unreasonable to have the creche operational as part of phase 1 as this would be operated by an external operator, not the developer. The applicant has no objection to a condition that the creche be constructed and made available for an operator.
- 8.4.4. I agree with the applicant that it is unduly onerous for it to be a requirement of the condition that the creche be operational as part of phase 1. I consider that a more appropriate wording is that it is fully fitted out and suitable for immediate occupation and operation as per recent Board decisions e.g. ABP-319343-24 and ABP-318365-23.

*Subsection (c)*

- 8.4.5. As with subsection (a), I agree with the applicant that the wording of subsection (c) is unduly onerous. While it is clearly important that open space areas are delivered in tandem with housing units, landscaping can be carried out on an ongoing basis and I consider that it is unreasonable to require the open space area for the specific phase to be fully completed prior to the occupation of any house, of which the phasing plan cites there would be 146 no.

*The reason for the condition*

- 8.4.6. Though not mentioned in the first party appeal, the local authority reason for including the condition is clearly an error, given that there is no septic tank drainage system involved.

*Third party observation*

- 8.4.7. The observation from Pádraig O'Neill states, inter alia, that the proposed creche should be delivered as a phase 1A and then that completion of the Blossomhill estate should be carried out. These are completely different applications (the current application and the Blossomhill application) and a condition relating to a separate development is not appropriate. There is an appropriate mechanism available to pursue through the local authority should a development/permission not have been carried out in accordance with its conditions i.e. the enforcement process.

### *Conclusion*

- 8.4.8. I consider that both subsections (a) and (c) of condition 6 are unduly onerous and relevant standard conditions are appropriate should permission be granted.

### **8.5. Local Authority Condition 8**

- 8.5.1. This condition states,

*‘Prior to commencement of development, a revised site layout plan/scaled drawings shall be submitted to the Planning Authority for written agreement incorporating the following design changes:*

- (a) The proposed 3 storey structures on the Eastern end of both upper and lower row at Southern end of site (containing units numbers 9-10, 19-20 and 33-34, 47-48) shall be omitted and replaced with two storey structures, resulting in the loss of 4 x 1-bed units (Type M).*

*Reason: In the interests of residential amenity’. [sic]*

- 8.5.2. My consideration, assessment, and conclusion in this section relates solely to the local authority’s condition 8, which is concerned with addressing the potential overlooking and overbearing impact of the proposed duplex units on existing properties in Blossomhill and Hollyridge. Though interlinked, wider issues of overlooking and overbearing impact on other third party properties are set out under ‘Overlooking impact’ and ‘Overbearing impact’ in paragraphs 8.7.2-8.7.11 and 8.7.12-8.7.14 respectively of section 8.7 (Impact on Adjoining Residential Amenity) of this inspector’s report.

### *Background to the condition*

- 8.5.3. Third party observations received by the local authority on foot of the original planning application raised issues of overlooking and overbearing impact, particularly from the proposed creche and duplex units in the south western area of the site. 52 no. duplex units were proposed in 13 no. buildings, seven on the upper level and six on the lower level.
- 8.5.4. The potential for impact from the three storey units on existing residential amenity, given the difference in ground levels, was noted in the local authority Planning Reports prepared for the original planning application. The boundary with Blossomhill and

Hollyridge is a green metal palisade fence though this does not protect the rear and sides of adjacent properties from view. Boundary planting and a woodland buffer was shown in this location on the landscape masterplan drawing. The Planner's Report expressed concern about the combination of the higher ground levels of the subject site, the three-storey typology, and the proposed FFLs compared to existing houses, which could lead to overbearance and overlooking impact. The proximity of vehicular turning areas to the boundary were also considered to be a concern.

- 8.5.5. Item 3(b) of the further information request sought the omission of 16 no. duplex units in four blocks to protect the residential amenities and privacy of extant houses. It was requested that their footprints be landscaped to provide an additional visual and screening buffer to Blossomhill and Hollyridge.
- 8.5.6. In response, the applicant considered that the removal of four blocks (16 no. units) would be excessive and instead removed one block (four units) in the south east corner as well as the turning areas. The revised landscape masterplan showed a relatively extensive woodland buffer in the south eastern area comprising 105 no. tall, medium, and small trees with the shortest trees closest to the boundary. A modest mound would also act as a physical deterrent. The boundary illustrated on the revised 'southern section – boundaries' drawing remained as 'existing steel fencing unaltered'.
- 8.5.7. The local authority Planning Report for the further information response stated it appeared that overlooking had been addressed from the upper row of duplexes, with reference made to separation distances, though overlooking from first floor balconies on the lower row of duplexes was still a concern. Also of concern was the potential overbearing impact of the three storey nature of the duplexes. It was considered that replacing the eastern-most blocks at both upper and lower levels with a two storey typology would soften overbearing and limit overlooking. Condition 8 was therefore attached to the permission.

*Assessment of overlooking and overbearing impact on nos. 110, 38, and 37 Blossomhill and no. 1 Hollyridge*

- 8.5.8. Given the three storey typology of the proposed duplex units, the proximity of the proposed units to the site boundary, and the difference in ground levels between the subject site and existing houses and gardens, the potential for undue impact on



existing properties is an important issue, as raised in submissions and as referenced by the local authority.

8.5.9. In my assessment of the overlooking issue I am considering the applicant's further information response layout, therefore all duplex unit numbers relate to the layout as per the further information response details. In this regard I note the significant increase in proposed tree planting to the south east of the proposed duplex units. I consider that this would have a beneficial impact in screening the proposed development from the adjacent houses in Blossomhill and Hollyridge.

8.5.10. I consider that the houses in Blossomhill and Hollyridge referenced in the above subheading are most affected by the proposed development/being protected in condition 8. I assess these individually as follows:

1. No. 110 Blossomhill – This is a detached, two-storey house at the end of a cul-de-sac. It has a FFL of 40.67 and its rear garden has a similar ground level. Its rear garden area is higher than the subject site as the subject site slopes down in a southerly direction whereas no. 110 maintains a flat level across the site. The side of the house is very visible from the site.

Duplex blocks 33/34/47/48 and 9/10/19/20 are both approx. 22 metres from no. 110, to the north west and south west respectively. Block 33/34/47/48 has a FFL of 42.31m and block 9/10/19/20 has a FFL of 36.00m.

In terms of overlooking, both blocks have an oblique sightline relationship with no. 110 and an approx. 22 metres separation distance from both is provided, in excess of the 16 metres cited in specific planning policy requirement (SPPR) 1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), I do not consider any undue overlooking would arise.

Given the respective FFLs, the 22 metres separation distance, and the proposed boundary planting I do not consider that any undue overbearing impact would occur to the existing house.

I consider that reducing the scale of block 33/34/47/48 to a two storey typology is not warranted as it would have no undue adverse impact on no. 110 Blossomhill in its current typology, and by extension other houses on the cul-de-sac, and it

would be approx. 42 metres from the site boundary with no. 38 Blossomhill and would have negligible impact on that house/property.

2. No. 38 Blossomhill – This is the property of Ian & Kate O’Loughlin who submitted a third party appeal to the grant of permission. It is a detached two-storey house to the east of the lower row of duplex units and it backs onto the subject site. Its rear elevation and garden area are highly visible from the subject site. The house has an indicated FFL of 32.00 and the rear garden area is at a similar level. The FFL of the closest duplex block, 9/10/19/20, is 36.00.

There is an indicated separation distance of 33.4 metres between the respective structures, more than double the 16 metres distance cited in SPPR 1 of the Compact Settlement Guidelines 2024, and approx. 18 metres between the proposed duplex block and the site boundary. Notwithstanding, I note that the proposed duplex block has a higher FFL and it has first floor patios. A relatively substantial woodland buffer has been proposed as part of the revised landscaping. This buffer is illustrated on both the ‘Proposed Part Site Layout Southern Section’ (drawing no. 22/6732-P-1101 Rev B) and on ‘Boundary Section L6’ (drawing no. L216) which were submitted as part of the further information response. The section drawing is particularly informative. In my opinion, this section drawing is sufficient to conclude that the proposed development would not result in any undue adverse overlooking impact to no. 38. Notwithstanding, I consider it reasonable to include a condition, should permission be granted, to the effect that the landscaping be in place prior to occupation of the duplex units.

In terms of overbearing impact I consider that the section drawing clearly shows that overbearing impact would not be significant. Though the duplex block is a three storey building it is located approx. 18 metres from the site boundary and would be screened by the proposed landscaping. Significant differences in ground levels is a feature of the Blossomhill development, including between nos. 110 and 38. The FFL of no.110 is 40.67 and its garden has a similar ground level. This is approx. 8 metres higher than its immediate neighbour to the south, the O’Riordan house, with a substantial retaining wall between both. I consider that the impact on the proposed development would be substantially less than the impact of the existing adjacent retaining wall.

Having regard to the foregoing, and while I acknowledge that any development on the subject site would have an impact on its receiving environment, and to adjoining properties, I do not consider that the proposed development would have such undue overlooking or overbearing impact on no. 38 that the duplex block typology should be amended.

3. No. 37 Blossomhill – This is the property of Pádraig O'Neill who submitted an observation on the grounds of appeal. It is a semi-detached two-storey house to the east of the lower row of duplex units and it backs onto the subject site. As with its neighbour to the north, no. 38, its rear elevation and garden area are highly visible from the subject site. The house has an indicated FFL of 31.20 and the rear garden area is at a similar level. The FFL of the closest duplex block, 9/10/19/20, is 36.00.

I consider the potential overlooking and overbearing impact on no. 37 to be slightly less than that experienced by no. 38. There is a separation distance of approx. 39 metres between the respective structures, and approx. 23 metres from the proposed duplex block to the site boundary. The proposed woodland buffer would significantly help screen and provide privacy to the house.

4. No. 1 Hollyridge – This is a detached, 1 ½ storey house at the end of a cul-de-sac to the south of the proposed duplex units. It has a FFL of 30.29. The house and garden area are visible from the subject site.

Duplex block 9/10/19/20 is the closest proposed structure to the house, approx. 26 metres away, and there is a separation distance of approx. 21 metres to the site boundary. As cited previously, the FFL of block 9/10/19/20 is 36.00m.

The proposed duplex block faces directly south. However, despite the higher ground level and three storey typology, I do not consider overlooking to be a particular concern for this property. I note the proposed woodland buffer, the separation distances involved, and, as the house is oriented in an east-west direction, the side roof area would be most visible. Overlooking would be primarily directed to the front/west of the house which is visible in any event. I do not consider overlooking to be a particular concern.

Similarly, given the separation distances and the proposed woodland buffer, I do not consider the potential overbearing impact to be so adverse that the three storey typology would require amendment.

### *Conclusion*

- 8.5.11. As noted in paragraph 8.5.2, this section solely considers condition 8 of the local authority decision. Wider issues impacting adjoining residential amenity are considered in section 8.7 of this inspector's report.
- 8.5.12. I acknowledge that development of the type proposed would have an impact on the receiving environment and the amenity enjoyed by current residents. However, the site is zoned for residential development and therefore it is likely to be developed at some stage. Notwithstanding, development should not have an undue adverse impact on existing residential amenity.
- 8.5.13. The local authority condition was attached in the interests of residential amenity. However, further to my detailed consideration of the potential impact of the proposed development on nos. 110, 38, and 37 Blossomhill and no. 1 Hollyridge, I do not consider that the requirement of the condition i.e. the amendment of the two duplex blocks to omit the ground floor 1-bed units, is warranted. In this regard I have taken into consideration the respective finished floor levels, the separation distances involved, the proposed woodland buffer, the existing ground level differences in Blossomhill, and the orientation of the houses. I consider that the proposed duplex units are acceptable as set out in the applicant's further information response to the local authority.

### **8.6. Local Authority Condition 52**

- 8.6.1. This condition states,

*'At least one month before commencing development or at the discretion of the Planning Authority within such further period or periods of time as it may nominate in writing, the developer shall pay a special contribution of €965175.00 to Cork County Council, updated monthly in accordance with the Consumer Price Index from the date of grant of permission to the date of payment, in respect of specific exceptional costs not covered in the Council's General Contributions Scheme, in respect of works proposed to be carried out, for the provision of Northern Relief Road, cycleway,*

*footpaths, traffic signalling The payment of the said contribution shall be subject to the following: : - (a) where the works in question – (i) are not commenced within 5 years of the date of payment of the contribution (or final instalment if paid by phased payment), (ii) have commenced but have not been completed within 7 years of the date of payment of the contribution (or final instalment if paid by phased payment), or (iii) where the Council has decided not to proceed with the proposed works or part thereof, the contribution shall, subject to paragraph (b) below, be refunded to the applicant together with any interest which may have accrued over the period while held by the Council. (b) Where under sub-paragraphs (ii) or (iii) of paragraph (a) above, any local authority has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion to those proposed works which have not been carried out. (c) payment of interest at the prevailing interest rate payable by the Council's Treasurer on the Council's General Account on the contribution or any instalments thereof that have been paid, so long and in so far as it is or they are retained unexpended by the Council.*

*Reason: It is considered appropriate that the developer should contribute towards these specific exceptional costs, for works which will benefit the proposed development'. [sic]*

#### *Background to the condition*

- 8.6.2. The requirement for a special contribution was not referenced in any of the internal local authority department reports prepared on foot of the original planning application. In the Planning Report general contributions and supplementary contributions are referenced, but not special contributions.
- 8.6.3. The requirement for a special contribution was referenced in internal local authority department reports based on the further information response. These can be summarised as follows:
- Traffic & Transport – This report cites conditions to be attached to a permission including €295,575 towards the construction of 350 metres of the Ballinacurra to Midleton cycleway along the Northern Relief Road and Mill Road (R626), €160,000 towards the construction of 400 metres of footpath construction works to improve connectivity to the train station, and €9,600 towards traffic signal

engineering for a five year period. Calculations supporting these figures are provided.

- Engineering Report – Proposals are being developed for the remainder of the Midleton Northern Relief Road to link to the N25 to the east of Midleton and this should provide significant additional capacity to roads infrastructure in the vicinity. The development of this would be of significant benefit to traffic capacity in the area and would reduce the detrimental effect of the proposed development. It is reasonable the application should contribute towards its cost. The application represents over 10% of the units proposed for the town in the Plan period and it will directly benefit. Cost estimates range from €25m-€35m. It is recommended that a special contribution of €500,000 is levied towards the construction of the remainder of the Northern Relief Road, which is 2% of the lower order estimate.

This was the only condition attached to the Engineering Report.

8.6.4. The Senior Planner's report includes the four special contributions, €965,175 in total.

8.6.5. The grounds of the applicant's appeal against this condition are summarised in paragraphs 7.1.8-7.1.14 of this inspector's report and the local authority's response to same is summarised in paragraphs 7.5.3-7.5.4.

*Legislative basis for special contributions and relevant guidelines and publications*

8.6.6. Section 48 (2)(c) of the Planning & Development Act, 2000 (as amended), states.

'A planning authority may, in addition to the terms of a scheme<sup>9</sup>, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development'.

8.6.7. Section 48 (12) of the Act (as amended), states,

'Where payment of a special contribution is required in accordance with subsection (2) (c), the following provisions shall apply —

(a) the condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates,

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<sup>9</sup> A development contribution scheme.

(b) where the works in question —

(i) are not commenced within 5 years of the date of payment to the authority of the contribution (or final instalment thereof, if paid by phased payment under subsection (15)(a)),

(ii) have commenced, but have not been completed within 7 years of the date of payment to the authority of the contribution (or final instalment thereof, if paid by phased payment under subsection (15)(a)), or,

(iii) where the local authority decides not to proceed with the proposed works or part thereof,

the contribution shall, subject to paragraph (c), be refunded to the applicant together with any interest that may have accrued over the period while held by the local authority,

(c) where under subparagraph (ii) or (iii) of paragraph (b), any local authority has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion to those proposed works which have not been carried out’.

8.6.8. Special contributions are specifically referenced in section 7.12 of the Development Management Guidelines for Planning Authorities (2007) as follows,

‘... ‘special’ contribution requirements in respect of a particular development may be imposed under section 48(2)(c) of the Planning Act where specific exceptional costs not covered by a scheme are incurred by a local authority in the provision of public infrastructure and facilities which benefit the proposed development. A condition requiring a special contribution must be amenable to implementation under the terms of section 48(12) of the Planning Act; therefore it is essential that the basis for the calculation of the contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development. Circumstances which might warrant the attachment of a special contribution condition would include where the costs are incurred directly as a result of, or in order to facilitate, the development in question and are properly attributable

to it. Where the benefit deriving from the particular infrastructure or facility is more widespread (e.g. extends to other lands in the vicinity) consideration should be given to adopting a revised development contribution scheme or, as provided for in the Planning Act, adopting a separate development contribution scheme for the relevant geographical area ...'

8.6.9. The Development Contributions Guidelines for Planning Authorities (2013) states,

'A special development contribution may be imposed under section 48(2)(c) where specific exceptional costs, which are not covered by the general contribution scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed development, such as a new road junction or the relocation of piped services. The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution' (page 5).

8.6.10. Special contributions are referenced in the CCDP 2022-2028 in paragraph 19.7.6,

'... planning authorities may, by further conditions attached to planning permissions, require the payment of a 'special contribution' in the case of a particular development where specific exceptional costs not covered by the Development Contribution Scheme are incurred in respect of public infrastructure and facilities which benefit the development'.

8.6.11. It appears that the Cork Co. Co. Development Contribution Scheme dates to 2004 for a 20 year period ('The Scheme, as adopted, is for a period of twenty years' (page 3)) with rates altered in 2015 'until further notice'. Special contributions are referenced on page 9 of the 2004 Scheme, including,

'In addition to the terms of the Scheme, a Special Contribution may also be required, under Section 48(2)(c) of the Act, in respect of **any** development where specific exceptional costs not covered by the Cork County Council Development Contribution Scheme are incurred by any Local Authority in respect of public infrastructure and facilities which benefit the proposed development'.



*Assessment of the special contribution condition*

8.6.12. Further to section 48 (2)(c) of the Planning & Development Act, 2000 (as amended), four essential requirements or characteristics are necessary to justify attachment of a special contribution condition. The payment must be required:

- (a) in respect of a development,
- (b) specific exceptional costs must be incurred as a result of or in order to facilitate it,
- (c) such costs cannot be covered by a Development Contribution Scheme made under sections 48 or 49 of the Act (as amended), and,
- (d) it must relate to public infrastructure and facilities which would benefit the proposed development.

*The special contribution in respect of traffic signalling*

8.6.13. The grounds for appealing against this element of the special contribution and the local authority's rationale for it are set out in paragraphs 7.1.12, 7.5.3, 8.6.2 and 8.6.3 of this inspector's report.

8.6.14. Section 48 (2)(c) of the Planning & Development Act, 2000 (as amended) states that 'A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development ...' (underline added). Section 3 (a) of the Act (as amended) states 'development', in this context, means 'the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land'. Section 2 (1) of the Act (as amended) states that 'works', 'includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure ...'

8.6.15. The local authority states that the special contribution in relation to traffic signalling is 'towards traffic signal engineers' and the €9,600 contribution is calculated on their rates of pay. Therefore, the rationale for this element of the special contribution relates to paying engineers to adjust the timings and sequencing of traffic signals at a junction and not to 'development' or the carrying out of 'works'.

8.6.16. Having regard to the foregoing, in my opinion, the special contribution in respect of traffic signalling cannot be justified as it does not relate to a particular 'development'.

*The special contribution in respect of footpaths*

- 8.6.17. The grounds for appealing against this element of the special contribution and the local authority's rationale for it are set out in paragraphs 7.1.11, 7.5.3, 8.6.2 and 8.6.3 of this inspector's report. The applicant is already proposing to provide a footpath along its L7630 roadside boundary, including across the water treatment plant site, and a pedestrian crossing to connect to the existing footpath network.
- 8.6.18. Having regard to the four essential requirements or characteristics necessary to justify attachment of a 'special contribution condition' as per paragraph 8.6.12, it appears that the first requirement has been satisfied in that the special contribution relates to a 'development' i.e. the construction of a footpath.
- 8.6.19. However, the wording of the justification for the special contribution is unclear and there are number of ambiguities. It appears that the contribution is for a newly constructed 400 metres long footpath and that is what the calculation is based on ('Cost of constructing 2m wide concrete footpath per square meter') [sic]. However, the local authority's Traffic & Transport report states that the contribution includes 'renewal and improvement'. Therefore it is unclear as to whether the contribution is for a new footpath, or renewal/improvement of an existing footpath. Further, the specific location of this footpath has not been identified. It is unclear if the 400 metres is along the L7630 from the site to the train station, where there is already pedestrian connectivity but it could also be, for example, to the east of the train station on McSweeney Terrace which would 'improve connectivity to Midleton train station' as per the Sustainable Travel Unit/Traffic and Transport report but would not benefit the proposed development as per a requirement of section 48 (2)(c). In addition, the specific wording of the condition itself states the special contribution is 'for the provision of ... footpaths ...', implying there is more than one footpath involved.
- 8.6.20. In short, the local authority has not adequately identified whether this is a new footpath or a renewal/improvement of an existing one, has not identified where in Midleton it is, and as a result it is not clear whether it would or would not benefit the proposed development. Further to this, the applicant would also encounter difficulty, in the event of seeking a refund under section 48 (12), to ascertain whether or not the footpath works to which the €160,000 refers were commenced or completed.

8.6.21. Further, I do not consider that any such costs arising could not be covered by the Development Contribution Scheme that is in place. The 2004 Scheme, which still appears to be the relevant scheme, includes 'roads' as a service identified for contributions. Section 2 (1) of the Planning & Development Act, 2000 (as amended) states that 'road', 'has the same meaning as in the Roads Act, 1993'. A road is defined in section 2 (1)(a) as including 'any ... footpath ...'. Therefore a footpath is included in the definition of a road as per relevant legislation and therefore, insofar as it relates to this planning application, I consider any costs as identified by the local authority should be covered by the Development Contribution Scheme. There are no robust exceptional costs identified by the local authority in this case.

8.6.22. Having regard to the foregoing, in my opinion, the special contribution in respect of the footpath(s) cannot be justified as it does not adequately identify the development and therefore it is not clear whether it would actually benefit the proposed development, it would not allow the applicant to know whether or not it was entitled to a refund or part-refund in future, it does not relate to a specific exceptional cost, and it should be funded under the general Development Contribution Scheme.

*The special contribution in respect of the cycleway*

8.6.23. The grounds for appealing against this element of the special contribution and the local authority's rationale for it are set out in paragraphs 7.1.10, 7.5.3, 8.6.2 and 8.6.3 of this inspector's report.

8.6.24. Having regard to the four essential requirements or characteristics necessary to justify attachment of a 'special contribution condition' as per paragraph 8.6.12, it appears that the first requirement has been satisfied in that the special contribution relates to a 'development' i.e. the construction/provision of a cycleway.

8.6.25. Table D2 (Settlement Specific Key Infrastructure) of the CCDP 2022-2028, for Midleton, includes 'Local cycle connection from Banshane and Ballinacurra to town north of N25'. Figure 4.3.3 of volume 4 of the CCDP 2022-2028 appears to show the cycleway in question. The proposed site is approx. 500 metres from the nearest point of the cycleway which is the Northern Relief Road/Mill Road/L7630 junction. The local authority has calculated that the 'current 1.1km phase' of the cycleway would cost €2,815.36 per metre. It is calculated that there are 630 no. dwellings between the proposed development and the Mill Road junction to which the proposed development

would add 272 no.<sup>10</sup> Therefore there would be 902 no. dwellings in total, of which the proposed development's 272 no. comprises 30.155%, and 30% of the €985,250 is €295,575 which is what has been levied in this condition.

8.6.26. While I acknowledge the basis of the calculation, I consider that there are a number of issues in relation to the calculation and the basis for it in the first instance.

- The 'current 1.1km phase' is not illustrated or identified so it is unknown as to what specific section of the cycleway it relates to. This would likely cause an issue for the applicant should it wish to seek a refund in future.
- It is not clear how it was decided that 350 metres was the distance to be charged for.
- The 630 no. dwellings between the site and Mill Road junction have not been identified and has not been stated as to why these houses were included, what boundary was decided on for this calculation, and reasons for the selection of that specific boundary.
- This cycleway is neither provided as a result of the proposed development nor to facilitate it. While it would, indirectly, benefit the proposed development, the two sites are approx. 500 metres apart. Greenways and cycleways are an increasingly common amenity in Ireland. However it is not appropriate, in my opinion, to seemingly arbitrarily apply special contribution conditions to some developments which are hundreds of metres away while other developments, such as the adjacent Steeples development on the opposite side of the L7630 (12 no. houses granted in January 2024 under 23/5461), as noted by the applicant, are not levied a special contribution.

8.6.27. While there is reference to cyclist connectivity to the train station, town centre, and to the south and west in objective MD-R-26, the proposed development includes provision of a footpath along the entire roadside boundary of the L7630, including along the water treatment plant, and a pedestrian crossing to connect to the existing footpath network and I consider that to be sufficient in terms of MD-R-26 in this regard.

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<sup>10</sup> The calculation of the special contribution in relation to the cycleway does not appear to have taken into consideration the removal of residential units by condition.

8.6.28. Having regard to the foregoing, I do not consider that the, seemingly arbitrary, special contribution for the cycleway is appropriate because it is not an exceptional cost in the context of their increasing presence throughout the country. Further, the cost of the cycleway is not incurred because of the proposed development, and it is not required to facilitate the proposed development.

*The special contribution in respect of the Northern Relief Road*

8.6.29. The grounds for appealing against this element of the special contribution and the local authority's rationale for it are set out in paragraphs 7.1.13, 7.5.4, 8.6.2 and 8.6.3 of this inspector's report.

8.6.30. Having regard to the four essential requirements or characteristics necessary to justify attachment of a 'special contribution condition' as per paragraph 8.6.12, it appears that the first requirement has been satisfied in that the special contribution relates to a 'development' i.e. a road.

8.6.31. Volume 4 of the CCDP 2022-2028 (paragraph 3.3.81) states phase 1 of the Northern Relief Road has been complete and phases 2 and 3 are dependent on the availability of finance. Two potential routes are indicatively shown on the Midleton zoning map for the southern portion of Phase 3. The zoning map shows the westernmost point on Broomfield/L9425 close to Meadowlands Lane and then travelling relatively briefly in an eastern direction and then south to the R907/Youghal Road, just north of the N25 on the eastern side of the town. This is objective no. MD-U-01.

8.6.32. In its response to the grounds of appeal, the local authority state that the design of phase 3 of the Northern Relief Road is currently being progressed. It is not clear what route phase 2 is to take. However, given that phase 1 has been complete and noting the westernmost point of phase 3 as per the zoning map, it appears that it may be broadly from the Northern Relief Road/Mill Road/L7630 junction, north east along the L7630/Avoncore Place before turning eastwards along Broomfield/L9425. Phase 2 appears to be an upgrade of an existing route rather than a largely new route as phase 3 would be.

8.6.33. I note the provisions of objective MD-R-26 of volume 4 of the CCDP 2022-2028, as set out in paragraph 6.5.2 of this inspector's report. This states that the proposed residential development would be subject to, inter alia, '... associated proposals for road upgrades / improvements to accommodate the increased traffic volumes on the

road network, locally and in the wider Midleton context, including access to local services and amenities, the Northern Relief Road and the N25 (junction capacity etc.)', i.e. it specifically references the Northern Relief Road.

8.6.34. It is clear that, while the planning application was granted permission, there are notable traffic congestion issues on the local road network in the vicinity of the site which would be exacerbated by the proposed development. I note the report of the Senior Planner which states 'The completion of the Northern Relief Road is key piece of infrastructure to serve the completed development ... The Roads Engineer and T & T Engineer recommend the attachment of various Development Contributions for future works, Relief Road ... given the capacity issues and deficiencies of the road network ... and the benefit of such works serving the development' [sic].

8.6.35. The legislation (section 48 (12)(a)) requires that the particular works proposed to be carried out are specified. I consider that it is specified i.e. the Northern Relief Road. I consider it unduly onerous to have a specific costing at this stage for a development of the type proposed. I consider that a cost estimate range is acceptable given the scale of the proposed development and I note the local authority uses the lower costing to calculate the special contribution. I consider the 2%/€500,000 special development contribution applied (€1,838.24 per residential unit) to be reasonable, given that the nature of the road network serving the site effectively means that every trip to and from the site would be via the L7630 and therefore the proposed Northern Relief Route, though the Board may consider a lower or higher contribution to be more appropriate.

8.6.36. However, it is a requirement that these exceptional costs could not be covered by a Development Contribution Scheme made under section 48 or 49. A section 49 supplementary contribution scheme is already in place at this location in respect of the Cork-Midleton railway line. However, one is not in place for the Northern Relief Road.

8.6.37. The section 48 scheme in place for Cork Co. Co. is the scheme prepared in 2004. There are three particular elements of this scheme relevant to this application and the special contribution condition for the Northern Relief Road. These are:

- Page 3 states 'The General Scheme ... Reflects the objectives as set out in the County Development Plan, namely: ... Roads and Traffic Management ...' This implies that objectives set out in the Plan are to be funded by the section 48 development contributions scheme. As it is a twenty year scheme this implies that

it also relates to development plans adopted after the plan that was in place at the time the scheme was adopted. Specific objective MD-U-01 is the Northern Relief Road.

- Page 4 states 'The contributions applicable to decisions to grant planning permission on and after **1st September, 2004**, were calculated by dividing the planned expenditure on the provision of services over twenty years by the amount of development that is projected to happen during that period. The services are ... roads ...' This implies that expenditure on roads is to be (part) funded by the section 48 development contributions scheme.
- Page 4 states 'Expenditure on National Roads was excluded from the calculations because the benefit of these works is not limited to the local authority areas within which they are built'. The status of the Northern Relief Road is unclear, however I assume that it is not a national road and is likely a local road. This statement implies that local and regional roads are catered for in the Development Contribution Scheme.

8.6.38. Having regard to the foregoing provisions of the section 48 Development Contribution Scheme adopted by Cork Co. Co. it is my opinion that the proposed road is to be (part) funded by way of development contributions collected under same and no special contribution is warranted in the circumstances. I consider that the special contribution in respect of the Northern Relief Road cannot be justified as it is covered by the section 48 Development Contribution Scheme.

#### *Commencement of works*

8.6.39. The applicant states that it is unlikely the Northern Relief Road development will be commenced within five years, as per the condition wording. However, should this not occur, then the local authority would be obliged to refund the applicant.

#### *Grouping of special contribution elements*

8.6.40. The applicant considers that the grouping of the separate elements of the special contribution condition into a single condition would make it more challenging to have funds returned if required.

8.6.41. In principle, I do not consider that this would be a particular difficulty if the exact amount of the contribution attributed to each individual element i.e. traffic signals, footpath,

cycleway, and Northern Relief Road, is clearly outlined in supporting documentation, as it is in this case in the local authority's Planning Reports.

### *Conclusion*

- 8.6.42. In my opinion none of the four separate elements of the special contribution condition; traffic signalling, footpath, cycleway, and Northern Relief Road, can be justified under section 48 (2)(c), and I recommend that they are not included in any grant of permission that may issue.

## **8.7. Impact on Adjoining Residential Amenity**

- 8.7.1. The third party appeals and the observation on the grounds of appeal, have referred to the impact of the proposed development on their residential amenity. I consider the following issues to be relevant: overlooking impact, overbearing impact, daylight and sunlight, construction phase nuisance, and devaluation of property.

### *Overlooking impact*

- 8.7.2. I note initially that overlooking impact to the existing properties to the east and south east of the proposed duplex units (nos. 110, 38, and 37 Blossomhill and no. 1 Hollyridge) has been assessed in detail in section 8.5 of this inspector's report and I have concluded that no undue adverse overlooking impact would arise.
- 8.7.3. There would be no overlooking impact from the proposed development to the west or north west as these areas overlook the public road, L7630.
- 8.7.4. There is unzoned agricultural land adjacent to the east of the site. It is proposed to construct a number of houses (nos. 172, 190, 191, 202, 203, and 209 as per the further information response), immediately adjacent to this boundary. Only two of these, nos. 172 and 209, have first floor east elevation windows. As these are WC windows I do not consider any undue overlooking impact would occur.<sup>11</sup> Also along the eastern boundary, proposed nos. 86 and 87 primarily overlook the internal circulation road and have a separation distance of over 12 metres to the boundary so there is no overlooking concern from these houses.

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<sup>11</sup> I do not consider undue overlooking would occur to agricultural land but given the proximity of the houses to the boundary, and the potential for this land to be zoned in the future, undue overlooking from the proposed development may have an adverse effect on the layout of a future development.



- 8.7.5. There is a long line of houses, proposed nos. 49-86, along the southern boundary facing houses in Blossomhill. These proposed houses have a higher FFL than the houses in Blossomhill, as illustrated on the submitted section drawings. However, given the separation distances involved, a minimum of approx. 50 metres, I do not consider that overlooking is a concern.
- 8.7.6. Paragraphs 8.7.6-8.7.11 address overlooking impact to the Maurice Ring Jnr. observation houses. The local authority Planning Reports prepared for the original planning application acknowledge the potential for impact on existing residential amenity. While Hollyridge and Blossomhill were specifically cited the three detached houses as per the Maurice Ring Jnr. observation were not. Neither section D-D nor E-E drawings showed the relative level differences with the Maurice Ring Jnr. observation houses, which is regrettable.
- 8.7.7. The boundary layout drawing submitted with the planning application (drawing no. 22/6732-P-1107) indicates that there is/will be 'existing steel fencing unaltered' along the entire southern site boundary. On site, while there is a green palisade/metal fencing along the boundaries to Blossomhill and Hollyridge, there is an open/limited wire fence boundary to the Maurice Ring Jnr. observation houses, though there is boundary planting along the common boundary with the Ring house (the bungalow addressing the L7630). Immediately north of the Ring house it is indicated that the trees will be retained, and a woodland cluster provided. A 33 metres long 1.8 metres high evergreen hedge was shown along the boundary immediately north of the McSweeney house.
- 8.7.8. One duplex block of four units was removed as part of the applicant's further information response to the local authority, and revised landscaping proposed. While an increased woodland buffer area was provided it is unclear as to how much benefit, if any, the McSweeney house would get from this. It appears that the area along the Maurice Ring Jnr. observation houses remained as previously proposed.
- 8.7.9. I consider that the McSweeney house is the house potentially most affected by the proposed development given that the Ring Jnr. house is to its south side and the Ring house has adjoining trees to be retained and a woodland cluster to be provided. The McSweeney house is very close to the site boundary, it is quite exposed from the site and it has a first floor side elevation window on its north side. However, the first floor

plan for P.A. Reg. Ref. 20/6835 under which it appears the house was constructed, shows this window serves a wardrobe.

8.7.10. There is an indicated separation distance of 16.35 metres from duplex block 1/2/11/12 to the McSweeney site boundary. It appears, from an inspection of the site layout plan for 20/6835, that any overlooking that would occur would affect the front/east/'public view' area of the site or the side of the house where there are no habitable first floor windows. Overlooking to the rear area is not likely given the presence of the house itself and the oblique sightlines. This does not take into consideration the proposed 1.8 metres high evergreen hedge which, as with the assessment of condition 8, should also be in place prior to occupation of any duplex unit. I consider it appropriate that the 2.2 metres high steel palisade fence be extended across the full width of the southern boundary. Having regard to the foregoing, I do not consider there would be any undue overlooking impact to the existing houses to the south from the proposed duplex units.

8.7.11. I do not consider the proposed split-level two storey community/creche building would result in overlooking impact to the Ring or McSweeney houses. Existing vegetation along the boundary is to be retained and a small woodland cluster provided. There would be a separation distance of 25 metres – 35 metres from the building to the boundary.

#### *Overbearing impact*

8.7.12. I note initially that overbearing impact to the existing properties to the east and south east of the proposed duplex units (nos. 110, 38, and 37 Blossomhill and no. 1 Hollyridge) have been assessed in detail in section 8.5 of this inspector's report and I have concluded that no undue adverse overbearing impact would arise.

8.7.13. There is a long line of houses, proposed nos. 49-86, along the southern boundary facing houses in Blossomhill. These proposed houses have a higher FFL than the houses in Blossomhill, as illustrated on the submitted section drawings. However, given the separation distances involved, a minimum of approx. 50 metres, the relatively limited scale of the proposed two storey houses, and the content of the section drawings, I do not consider that overbearing impact is a concern.

8.7.14. Similarly, given the separation distances involved and the relatively limited scale of both the duplex units and the community/creche building, I do not consider there would

be any undue adverse overbearing impact on the Maurice Ring Jnr. observation houses.

*Daylight and sunlight*

- 8.7.15. Concern is expressed in observations about the potential for impact on daylight and sunlight on existing properties. The Planning Reports state that the local authority is satisfied that the proposal will not affect light in any significant manner because the proposed development is to the north/north west of existing development.
- 8.7.16. The CCDP 2022-2028 does not appear to have any requirement for a daylight or sunlight assessment insofar as it would affect the proposed development. I note the provisions of the Compact Settlement Guidelines (2024). Section 5.3.7 (Daylight) (a) states, inter alia, 'Planning authorities do not need to undertake a detailed technical assessment in relation to daylight performance in all cases. 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'.
- 8.7.17. I agree with the local authority's assessment. While the proposed development would be at a higher ground level than existing properties, I consider that the combination of the separation distances involved, the relatively low-rise nature of the proposed development, and the footprints of the proposed structures in relation to the sun path and existing properties, would not result in any significant impact on daylight and sunlight.

*Construction phase nuisance*

- 8.7.18. The construction phase of any development has a degree of nuisance to nearby receptors and this is an inevitable consequence of development. The size of the site is such that construction activity would not always be taking place adjacent to residential property. A construction management plan and CEMP would be included, as standard, in any grant of permission which would include mitigation measures to reduce the impact of the proposed development on neighbouring areas as much as practicable.

### *Devaluation of property*

- 8.7.19. Having regard to the relevant zoning of the subject site, the location of the site within the boundary of Midleton, the existing pattern of development in the vicinity, the ground/FFL differences within Blossomhill, and the overall assessment contained within this inspector's report, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that it would adversely affect the value of property in the vicinity.

## **8.8. Residential Amenity for Future Occupants**

- 8.8.1. This section briefly summarises relevant aspects and standards of the proposed development that would affect the amenity of future residents. The main issue in this regard that was raised during the course of the application with the local authority related to public open space areas. I have addressed this issue in detail in section 8.3 of this inspector's report.

### *Site layout*

- 8.8.2. The site layout was outlined in paragraph 2.3 of this inspector's report and it was also referenced in section 8.3. The site topography has a significant part to play in the site layout given, for example, the requirement for retaining walls. Potential future vehicular access is indicated to unzoned land to the east and pedestrian permeability would be provided at two locations to Blossomhill which would significantly improve permeability at this location. Additional future permeability to the unzoned land to the east is also possible.
- 8.8.3. I consider that the internal development arrangement in terms of overlooking and passive surveillance of public spaces (both green spaces and roads) is appropriate. Duplex units at the eastern end of each of the two rows have appropriate surveillance of areas that could otherwise be inadequately overlooked. I consider other houses at ends of terraces overlooking roads or open space have an appropriate dual frontage design. However, I consider that the A3/A4 house types submitted as part of the further information response to the local authority i.e. nos. 214, 229, 234, 246, 247, 250, and 251 as shown on the further information site layout plan, should be revised to show a more appropriate dual frontage design.
- 8.8.4. Overall, I consider that the proposed site layout is acceptable.

### *Design and external materials*

- 8.8.5. The proposed houses comprise semi-detached and terraced units. There is a design consistency in the semi-detached units with prominent two-storey gable structures to the front. There is some red brick to the ground floor front elevations with render elsewhere and black roof tiles. I consider that these are acceptable, subject to the dual frontage revisions as referenced previously. The terrace blocks have a different design style to the semi-detached houses. Features of the terraced houses include flat roof single storey and sloped or flat roof two storey gable features to the front, a mix of units both in terms of the number of units in a terrace and the number of bedrooms within the terrace units, and dual frontage designs where appropriate. One type of terrace block has no gable features. The external finishes are also brick, render, and black roof tiles. I consider they are also acceptable in design.
- 8.8.6. There is only one type of duplex building. As a result of the site topography, both the lower ground floor one-bed unit and the ground/first floor two-bed unit can be accessed at 'ground' levels. As with the houses, the elevations are mainly render with some brick. A sloped zinc roof is proposed.
- 8.8.7. The eight one-bed apartments are contained in two detached structures designed to present as 'standard' housing along the L7630, as opposed to an apartment building. Render, brick, and black roof tile are the proposed finishes.
- 8.8.8. The proposed creche/community building is a split-level structure with two separate community rooms on the ground floor and a creche with space for 88 no. children and open space associated with same on the upper ground floor. It is quite a contemporary style structure with both sloped and flat roof areas and it is visually interesting.
- 8.8.9. I consider that the proposed housing structures follow a consistent theme in terms of design with enough alterations to avoid undue monotony. Some rendered images have been submitted with the application showing indicative views within the development and of the house types which are beneficial in visualising the proposed development. I consider the structure designs and external materials to be acceptable.

### *Housing mix*

- 8.8.10. The housing mix is set out in tables 2/3 of this inspector's report. The planning application sought 34 no. one-bed units, 122 no. two-bed units, 94 no. three-bed units,

and 22 no. four-bed units. As part of the further information response to the local authority this was revised to 32 no. one-bed units, 122 no. two-bed units, 96 no. three-bed units, and 18 no. four-bed units, giving a revised total of 268 no. units.

Objective HOU 4-6 (a) of the CCDP 2022-2028 seeks to secure the development of a mix of house types and sizes throughout the county to meet the needs of the likely future population across all age groups. Objective MD-R-26 of the CCDP requires, inter alia, a mix of house types. I consider that the housing mix proposed complies with the provisions of the CCDP 2022-2028 and is acceptable.

*Floor areas and private open space provision*

8.8.11. For the purpose of this subsection I refer to the Housing Quality Assessment submitted with the applicant's response to the local authority's further information request.

8.8.12. I am satisfied that floor areas for the proposed houses satisfy the requirements of table 5.1 of the Quality Housing for Sustainable Communities Guidelines (2007). I am also satisfied that minimum private open space standards for houses as per SPPR 2 of the Compact Settlement Guidelines (2024) are exceeded in all cases.

8.8.13. As part of the applicant's further information response, rear garden areas for a number of terraced houses were reduced to a 10 metres depth to accommodate the larger open space area. I note that SPPR 1 of the 2024 Guidelines reduced separation distances to a minimum of 16 metres, therefore no undue overlooking is considered to arise despite the reduction in garden depths at this location. I am satisfied that no undue overlooking within the proposed development would occur.

8.8.14. In terms of compliance with the SPPRs of the Sustainable Urban Housing: Design Standards for New Apartments (2023), the development compares as follows:

SPPR 1 – This SPPR is complied with because fewer than 50% of the units in the housing development are one bedroom apartment units (32 no. (12%)).

SPPR 2 – This SPPR does not apply because this is not a building refurbishment scheme.

SPPR 3 – This SPPR is complied with because minimum floor areas are provided.

SPPR 4 – The floor plan drawings show all apartments are dual aspect.

SPPR 5 – The Housing Quality Assessment and section drawings cite a 2.7 metres ground floor floor to ceiling height.

SPPR 6 – There are no lift/stair cores proposed.

SPPR 7 – The application is not for shared accommodation / co-living.

8.8.15. Therefore the proposed development complies with the SPPRs.

8.8.16. Appendix 1 of the Guidelines relates to floor areas and standards. The proposed development complies with these standards in relation to aggregate areas for kitchen/living/dining rooms, aggregate bedroom areas, storage areas, and private open space apart from the storage space in the two-bed duplex apartments. 6sqm is required. However, the applicant's Housing Quality Assessment shows 4.3sqm is provided and the floor plans drawing indicates only 3.4sqm is provided. Communal space is provided to the rear/south east of the two apartment buildings along the L7630.

*Objective MD-R-26*

8.8.17. This objective relates specifically to the subject site as per paragraph 6.5.2 of this inspector's report. It contains four sub-objectives, (a) to (d), which can be assessed as follows:

(a) traffic issues – A TTA was submitted with the planning application, and this is assessed in the following section (section 8.9 (Transportation)) of this inspector's report. A Stage 1 / 2 Road Safety Audit was also submitted as part of the planning application. Road upgrades are referenced in the objective. I note that the L7630 along much of the roadside boundary of the subject site has recently been upgraded as part of The Steeples development and the additional section along the L7630 to the north west of the site is to be widened and improved as part of the proposed development. The Northern Relief Road and junction capacities are also referenced in section 8.9 and have already been referenced in section 8.6 (Local Authority Condition 52) of this inspector's report.

(b) connectivity – The proposed development includes provision of a new footpath along the roadside boundary, including across the water treatment plant site, a pedestrian crossing at the south west part of the site to connect to the wider

footpath network, and pedestrian/cycle connectivity at two locations with Blossomhill.

- (c) water services – Uisce Éireann has indicated no objection to the proposed development subject to conditions (see section 8.10 (Uisce Éireann)) of this inspector's report and surface water is to drain, via SuDS, to the public system.
- (d) visual impact – The design and external finishes of the proposed development are considered in paragraphs 8.8.5-8.8.9, above. The houses, apartments, and creche/communal building are two storeys in scale and the three storey duplex units are at the lowest ground level area on site. The topography of the site effectively means that some degree of visual impact is unavoidable, as the zoned nature of the site means that it is likely to be developed. I consider that the scale and height of the proposed structures achieves a reasonable balance between minimising visual impact and achieving a reasonable density.

8.8.18. I consider the proposed development to be consistent with the provisions of objective MD-R-26 of the CCDP 2022-2028.

## **8.9. Transportation**

8.9.1. Concern about the nature of the L7630 and increased traffic congestion on the local road network were referenced in the third party grounds of appeal.

### *Local authority assessment*

8.9.2. As part of the planning application the applicant prepared, inter alia, a TTA. This contained, among other items, a traffic survey, proposals to widen the L7630 along the extent of the site including a footpath, predicted traffic generation, distribution, and growth, and an assessment of the traffic impacts on junctions. The TTA concluded that 'traffic impact of the proposed development would be minimal on the overall operating capacity of the junctions in close proximity to the subject site even when the site is fully operational during the peak periods ... it is envisaged that any transport implications of the proposed development would be minimal and have insignificant implication on the adjoining road network'.

8.9.3. The Area Engineer prepared a relatively detailed report under a number of roads and transportation subheadings, including traffic. Some further information items were



recommended, included a more detailed traffic survey. The Planning Officer's reports noted the Area Engineer's comments. The report also stated that the NRDO (presumably the National Roads Design Office) engineer had no objection or comment in relation to the proposed development. The local authority's further information request included traffic and transport issues.

8.9.4. The further information response included a TTA Addendum which was based on a seven day survey as opposed to the one day survey in the original TTA. The same conclusion is reached as that set out in paragraph 8.9.2 of this inspector's report. The applicant also clarified some issues relating to the road widening.

8.9.5. The Area Engineer prepared an updated report based on the further information response. While concerns remained about junction capacities in the area, there was nothing in the TTA Addendum to warrant a refusal of permission. A grant of permission, subject to conditions, was recommended. A report was prepared on the further information response by Traffic & Transport. Again, despite concerns being expressed, there was no objection to a grant of permission subject to conditions. Similarly, an Engineering Report outlined concern about traffic congestion but also recommended permission. The Planners Report states this was discussed with the Area Engineer, and it was accepted that traffic flows would be significantly alleviated by the proposed Northern Relief Road. The Northern Relief Road was also cited in the Senior Planner's report as a key piece of infrastructure to serve the proposed development.

#### *Prescribed bodies*

8.9.6. A submission was received from TII. It stated that the proposed development was at variance with official policy because the subject site is within an area considered for a future national road scheme. The proposed development could prejudice plans for same and would therefore be premature pending the determination of the route.

8.9.7. In considering the TII submission, the Planning Officer's report noted that the proposal was contiguous to existing development and that a residential development, presumably The Steeples, had also been permitted.

8.9.8. I note the TII's document 'National Development Plan Roads Capital Programme & Greenways Delivery Status Update Joint Committee on Transport and Communications' dated 14<sup>th</sup> February 2024. The 'N25 Midleton to Youghal' project is

referenced on page 26. The red line boundary of the project is vast and, in addition to the Planning Officer's comments, I would add that the subject site is zoned for residential development and to refuse permission on the basis of a possible future road line would be unreasonable in the circumstances.

#### *Multiple access points*

- 8.9.9. The proposed development is served by four different access points which is more than would normally be considered appropriate, in particular as all four accesses are off the same road. There does not appear to be any rationale provided for this within the application documentation and the issue was not raised by any of the local authority departments. It is possible that it may be related to topographical issues though there is a direct through link between the two more northerly access points (site entrance nos. 3 and 4).
- 8.9.10. I consider that site entrance no. 4 could be omitted by condition and a pedestrian/cycle access provided in lieu, with the remainder of the area given over to open space.

#### *Construction nuisance*

- 8.9.11. The Maurice Ring Jnr. and Others grounds of appeal refers to construction phase traffic nuisance. The L7630 is the only realistic construction route to the subject site. The site is zoned and therefore its development is acceptable in principle. A Construction Management Plan would be included as a condition of permission, as standard, if permitted. Wider issues of speed limits and traffic calming on the public roads is not a matter for this planning application appeal. While the footpath to the front of the Ring house may not be adequate the proposed upgraded pedestrian crossing just south of proposed entrance no. 1 would allow pedestrians to cross to the western side footpath and vice versa.

#### *Permeability*

- 8.9.12. One of the submissions received by the local authority cited opposition to the proposed permeability links from the proposed development to Blossomhill. Two such pedestrian links are proposed. Permeability is supported and encouraged through the planning framework and the provision of these links is a positive element of the proposed development. The proposed filtered permeability would allow easier access to the creche for Blossomhill residents, would allow residents of the two developments to

visit each other and interact, fostering a wider community, without having to travel longer distances along busier public roads, and would allow for increased use of sustainable modes of transportation. The potential for future vehicular connectivity to agricultural land to the east is also a positive aspect of the site layout.

### *Conclusion*

8.9.13. Having regard to the foregoing, I consider that the proposed development is acceptable in terms of its impact on traffic and transportation. While some reservations were expressed in relation to the impact of additional traffic on junctions in the local area, none of the relevant internal sections recommended a refusal of permission, and the decision was made by the local authority to grant permission. I consider that the proposed development, which is on zoned land, would not have such an impact on the local traffic network that permission should be refused on this basis.

## **8.10. Uisce Éireann**

8.10.1. Uisce Éireann has made an observation on the grounds of appeal and this issue has also been referenced in the local authority's response to the grounds of appeal.

8.10.2. As summarised in section 4.3 of this inspector's report, two separate correspondences were received by the local authority from Uisce Éireann on foot of the original planning application. The correspondence dated 18<sup>th</sup> December 2023, inter alia, notes the presence of a 12" watermain crossing the site to the south of the water treatment plant above which it is proposed to construct houses. The watermain may have to be diverted. The houses, watermain, and proposed diversion route of same were shown on the 'Proposed Site Layout Plan Existing Services Diversions' layout (drawing no. 22/6372-P-1341 Rev A).

8.10.3. Although Uisce Éireann recommended further information be sought requiring the applicant to engage with its Diversions Team, this was not included as part of the local authority's further information request. The issue was not referenced in the Planning Reports on foot of the further information response or specifically in the conditions included in the local authority's grant of permission.

8.10.4. In its observation to the Board, Uisce Éireann again note the presence of the watermain and its location beneath proposed houses, and that the applicant had been requested to engage with the Diversions Application process. Should the Board decide

to grant permission it is requested to insert a condition that a diversion enquiry is submitted to Uisce Éireann and notes that a diversion agreement may be necessary. The local authority's Planning Section response reproduces the original Uisce Éireann 'planning recommendation' to ensure it is considered by the Board. It appears that the local authority acknowledges that it should have addressed this issue.

- 8.10.5. This issue was raised at an early stage by Uisce Éireann and it is a concern given the presence of the watermain beneath proposed housing units. The applicant is aware of the issue given that a diversion route has been illustrated on the layout drawings. The Uisce Éireann comments do not imply that there would be any engineering or servicing difficulties with a diverted route or that an agreement could not be reached. I do not consider that there would be any undue impact on third parties given the diversion can likely be carried out within the site boundary, as per the services diversions drawings.
- 8.10.6. I consider that a condition requiring the applicant to engage with Uisce Éireann in relation to a diversion enquiry prior to the commencement of development would be reasonable, in the event of a grant of permission.

## **9.0 Appropriate Assessment (AA)**

### **Appropriate Assessment (AA) Screening**

#### Compliance with Article 6(3) of the Habitats Directive

- 9.1. The requirements of article 6(3), as related to screening the need for AA of a project under part XAB, section 177U of the Planning & Development Act, 2000 (as amended), are considered fully in this section.

#### Background on the Application

- 9.2. The applicant has submitted an Appropriate Assessment Stage 1 Screening Report (AA screening report) as part of the planning application. It was prepared by Malone O'Regan Environmental and is dated November 2023.
- 9.3. The report was prepared to inform the local authority with regard to AA screening 'through the research and interpretation of best scientific, geographic and engineering knowledge and in view of the conservation objectives of the surrounding European

sites. This report seeks to determine whether the Proposed Development will, on its own or in-combination with other plans / projects have a significant effect on European sites within a defined zone of influence of the Site' [sic] (page 1). It is stated that relevant guidance documents were adhered to in its preparation, and it is in accordance and compliant with relevant legislation. The AA screening report contains, inter alia, a methodology, field surveys, a site description, identification of European sites, screening and assessment of potential impacts and in-combination effects, and it reaches a conclusion.

- 9.4. The report concludes that 'activities associated with the Proposed Development either alone, or in-combination with other projects or land uses, will not have any direct or indirect significant effects on the conservation objectives of any European European Designated sites ... the progression to Stage 2 of Appropriate Assessment process (i.e., preparation of a Natura Impact Statement) is not considered necessary' [sic].
- 9.5. Having reviewed the application documentation I am satisfied that the information allows for a complete examination and identification of potential significant effects of the development alone, or in combination with other plans and projects, on European sites.

#### Submissions and Observations

- 9.6. Cork Co. Co.'s Planning Reports based on the original planning application noted the provisions of the internal Ecology section report which indicated general satisfaction with the conclusion of the applicant's AA screening report. Though further information was sought on ecology concerns among other issues, it was not related to AA.
- 9.7. The Ecology report based on the further information response stated that the proposed development does not pose a risk of significant effects on any European site, alone or in-combination with other plans and projects. The Planning Reports confirm that the requirement for AA can be screened out.
- 9.8. None of the submissions received by the local authority or by the Board in the grounds of appeal or observations raise any issue in relation to AA.

### Screening for AA – Test of Likely Significant Effects

- 9.9. The project is not directly connected with or necessary to the management of a European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 9.10. The proposed development is examined in relation to any possible interaction with European sites designated SAC and SPA to assess whether it may give rise to significant effects on any European site(s).

### Brief Description of the Development

- 9.11. The proposed development is described in section 2 of this inspector's report and in section 3 of the AA screening report. The development involves the construction of 272 no. residential units, creche and community use building, circulation roads, open space etc.
- 9.12. The site is described on page 8 of the AA screening report as predominantly comprised of agricultural land. It is described in section 3 in the context of e.g. watercourses, infrastructure, access, and construction practices.
- 9.13. I note that the site is in an area identified as extremely vulnerable by the EPA. However, site investigation trial pits did not find any water table as per page 29 of the Engineering Infrastructure Report. GSI mapping shows the underlying soils to be non-karst (page 31).

### European Sites

- 9.14. The development site is not located in or immediately adjacent to a European site. The nearest European sites are the overlapping Great Island Channel SAC and Cork Harbour SPA, approx. 1.65km to the south.
- 9.15. European sites within a zone of interest (Zol) of a proposed development must be evaluated on a case-by-case basis. The applicant's AA screening report identifies four sites which are within a 15km radius in figure 4-1 and table 4-1. The applicant screens out three of these (Great Island Channel SAC, Blackwater River SAC, and Ballycotton Bay SPA) because of the localised nature of the proposed works, lack of impact pathways, and distances involved, and screens in one, Cork Harbour SPA, because of the highly mobile nature of the species for which it is designated.

9.16. In my opinion the European sites within the Zol are those with a realistic hydrological connection, or SPAs where the nature of the site, in this case agricultural fields, may provide an ex-situ area for SPA conservation objective (CO) bird species. Though the 15km Zol cited in the applicant's AA screening report is an arbitrary distance that is not based on any robust science, and therefore Blackwater River SAC, which is approx. 12km to the north, can be screened out because of the absence of any hydrological link, I agree that the other three European sites identified are the only ones that have the potential to be significantly affected by the proposed development. These can be further assessed as follows:

- Great Island Channel SAC was screened out in the applicant's AA screening report solely for the reason provided on page 16 i.e. because all surface water will drain into the existing public infrastructure. While there would be no construction phase impacts because of the absence of any surface water features on site, and therefore no hydrological pathway to any European site exists, there would be an indirect operational phase pathway because surface water would eventually discharge to the Owenacurra River/ which flows into the SAC. However, neither of the two CO habitats for which the SAC is designated, mudflats and sandflats and Atlantic salt meadows, have water quality as any attribute, measure, or target. Therefore, I consider this SAC can be screened out at this stage.
- Cork Harbour SPA is designated for 25 no. species as per statutory instrument S.I. No. 391/2021. Given its proximity, approx. 1.65km to the south of the subject site, I concur with the applicant that this should be screened in.
- Nine of the 11 no. CO species of Ballycotton Bay SPA, approx. 13km to the south east of the subject site, are the same for which Cork Harbour SPA is designated and therefore these species are considered as part of that SPA, below. The two species not shared with Cork Harbour SPA are ringed plover and turnstone. Neither of these would be associated with improved agricultural grassland and neither were recorded in the, albeit relatively limited, bird surveys contained within the revised EcIA (tables 4-5 and 4-6) submitted by the applicant to the local authority. Having regard to the foregoing I consider that Ballycotton Bay SPA can be screened out.

9.17. Therefore, I consider that one European site is relevant for AA screening as set out in table 4.

**Table 4 – European Site Relevant for AA Screening**

European site (site code)	List of conservation objectives (COs) <sup>12</sup>	Distance from and connection to proposed development
Cork Harbour SPA (004030)	<p>Little grebe [A004]</p> <p>Great crested grebe [A005]</p> <p>Cormorant [A017]</p> <p>Grey heron [A028]</p> <p>Shelduck [A048]</p> <p>Wigeon [A050]</p> <p>Teal [A052]</p> <p>Mallard [A053]</p> <p>Pintail [A054]</p> <p>Shoveler [A056]</p> <p>Red-breasted merganser [A069]</p> <p>Oystercatcher [A130]</p> <p>Golden plover [A140]</p> <p>Grey plover [A141]</p> <p>Lapwing [A142]</p> <p>Dunlin [A149]</p> <p>Black-tailed godwit [A156]</p> <p>Bar-tailed godwit [A157]</p> <p>Curlew [A160]</p>	<p>Approx 1.65km to the south as the crow flies. Approx. 2.6km hydrologically via the surface water system (approx. 800 metres) and Owenacurra River (approx. 1.8km)</p>

<sup>12</sup> Mallard and greenshank are species that are included in S.I. No. 391/2021 but are not on the National Parks & Wildlife Service (NPWS) website qualifying interests (QIs) page. Notwithstanding, greenshank does have conservation objectives set in the 'Conservation Objectives Series Cork Harbour SPA 004030' document published by NPWS.



	Redshank [A162] Greenshank [A164] Black-headed gull [A179] Common gull [A182] Lesser black-backed gull [A183] Common tern [A193]	
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### Identification of Likely Effects

9.18. The applicant has identified two aspects of the proposed development which could impact on the European sites:

- Disturbance to species during construction, and,
- Potential impairment of water quality.

9.19. I agree that these are the relevant potential impacts to be considered. The applicant's screening report addressed these two issues in sections 5.1 and 5.2 respectively.

#### *Disturbance to species during construction*

9.20. The applicant's AA screening report states that there would be no direct or indirect loss or disturbance to CO species during the construction phase based on the site location, scale of the proposed development, and separation distance. Onsite habitat is not of high suitability for any of the species.

9.21. I agree with the applicant that there is no potential for significant impact on the CO species during the construction or operational phases from noise disturbance given that the site is on the opposite side of the urban area of Midleton from the SPA.

9.22. I consider it necessary to ascertain whether the proposed development site comprises an important ex-situ site for the relevant bird species. The site comprises improved agricultural grassland on a residential zoned site adjacent to an urban area. Bird surveys, albeit relatively limited, have been carried out. These surveys indicate that, of all the CO species associated with Cork Harbour SPA, the only CO species recorded on site were lesser black-backed gull, common gull, and black headed gull. These gull species have a varied diet, ranging from fish, aquatic insects, and fisheries

waste to terrestrial insects, domestic waste, and young birds<sup>13</sup>. The three species were observed foraging on site during the bird surveys, including 64 no. black headed gulls.

- 9.23. While it has been demonstrated that CO species of the SPA use the fields, I do not consider their degree of usage is overly important. These are coastal birds, associated with an SPA approx. 1.65km away, whose diet includes non-aquatic sources. The fact that they may use the site from time to time does not necessarily render it an important ex-situ site. For example, neither common gull nor black headed gull were noted on the first of the two field survey dates, and only 2 no. and 6 no. lesser black-backed gulls were recorded on both survey dates.
- 9.24. While some of the other CO species may also use the site occasionally e.g. oystercatcher can feed on grasslands and golden plover can feed on beetles, earthworms, and grasslands,<sup>14</sup> I am satisfied that it is not an important ex-situ site for use by any other CO species and the proposed development would not have any adverse effect on population or distribution trends, the two attributes for all species cited in the Conservation Objectives Series document bar common tern which has six attributes, none of which would be adversely affected by the proposed development.
- 9.25. I accept the applicant's assertion in section 5.1 that the habitat is 'not considered to be of high suitability for any of the species for which the SPA is designated ... ' I am satisfied that the proposed development would not have any significant impact on any SPA QI. I also note the zoned nature of the site for residential development and the substantial areas of undeveloped land to the north and east which could be also utilised by SPA CO species.

#### *Potential impairment of water quality*

- 9.26. The use of SuDS during the operational phase would not affect conservation objectives. Surface water would enter the local surface water network after direct infiltration and attenuation. Page 11 of the applicant's AA screening report states, 'As part of the detailed design, SuDS measures have been incorporated on the surface water system to intercept water at source and reduce the run-off from the site'. I note that there are a number of policies and objectives of the CCDP 2022-2028 that require and maximise the use of SuDS e.g. objective WM 11-10 (a) and (c). These indicate

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<sup>13</sup> As per the Birdwatch Ireland website accessed on 17<sup>th</sup> July 2024

<sup>14</sup> Ibid.

that SuDS measures are mandatory for new development other than for reasons of the protection of European sites. The judgement in CJEU Case C-721/21 effectively stated that SuDS measures which remove contaminants can be taken into consideration at screening stage where such features have been incorporated into that project as standard features.

#### In-Combination Effects

- 9.27. Given that I do not consider the proposed development, itself, would have any impact on any European site, I do not consider that it could act in-combination with any other plan or project, to impact any European sites.

#### Mitigation Measures

- 9.28. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.

#### Screening Determination

- 9.29. The proposed development was considered in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended). Having carried out screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European site no. 004030, or any other European site, in view of the sites conservation objectives, and Appropriate Assessment (and submission of a Natura Impact Statement) is not therefore required.

- 9.30. This determination is based on the following:

- the absence of any watercourse on or adjacent to the subject site for the construction phase,
- the hydrological distance between the subject site and the relevant European site in terms of operational phase surface water discharge via the public system,
- the absence of any habitat loss or fragmentation to any European site or annex I habitat,
- the discharge of surface water to the Owenacurra River via the surface water system after appropriate sustainable urban drainage system (SuDS) treatment as required by the Cork County Development Plan 2022-2028,

- the disposal of foul water to the public foul sewer system for required treatment, and,
- the site is not a notably important or suitable site for use by ex-situ conservation objective bird species of Cork Harbour SPA, or other SPAs in the wider vicinity.

## 10.0 Recommendation

10.1. Having regard to the foregoing, I recommend that permission is granted for the Large-Scale Residential Development (LRD) as proposed for the reasons and considerations set out below.

## 11.0 Reasons and Considerations

In coming to its decision the Board had regard to the following:

- (a) the nature, scale, and extent of the proposed development and the pattern of existing development in the area,
- (b) the provisions of the Project Ireland 2040 National Planning Framework,
- (c) the provisions of Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (January 2024),
- (d) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (July 2023),
- (e) the provisions of the Regional Spatial and Economic Strategy for the Southern Region (2020),
- (f) the provisions of the Cork County Development Plan 2022-2028 including the 'Residential' zoning,
- (g) the documentation submitted with the planning application, such as the Environmental Impact Assessment (EIA) Screening Report and the Appropriate Assessment – Stage 1 Screening Report, plus the first and third party grounds of appeal and the responses to same,

- (h) the submissions and observations received on file including from the local authority, prescribed bodies, and third parties,
- (i) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects on European sites,
- (j) the planning history of the site and adjoining areas, and,
- (k) the report of the Planning Inspector.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a greenfield site at the edge of an urban area, the distances to the nearest European sites, the hydrological pathway considerations, the submissions on file, the information submitted as part of the applicant's Appropriate Assessment – Stage 1 Screening Report, and the Inspector's report.

In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

### **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment (EIA) Screening Report submitted by the applicant, which contains information set out in Schedule 7A to the Planning & Development Regulations, 2001 (as amended), identifies and describes adequately the effects of the proposed development on the environment. Having regard to:

- (a) the nature and scale of the proposed development, which is below the thresholds in respect of Paragraphs 10 (b)(i) and (iv) of Part 2 of Schedule 5 of the Planning & Development Regulations, 2001 (as amended),
- (b) the location of the site on land zoned 'Residential' in the Cork County Development Plan 2022- 2028,
- (c) the existing use of the site and the pattern of development in the vicinity,
- (d) the availability of public water and foul services to serve the proposed development,
- (e) the criteria set out in Schedule 7 of the Planning & Development Regulations, 2001 (as amended) and the content of the applicant's Environmental Impact Assessment (EIA) Screening Report, and,
- (f) the measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction Environmental Management Plan,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not, therefore, be required.

### **Proper Planning and Sustainable Development**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the zoning and other provisions of the Cork County Development Plan 2022-2028, would make efficient use of an appropriately zoned greenfield site on the urban edge of Midleton, would positively contribute to an increase in housing stock, would be acceptable in terms of urban design, layout and building height, would be acceptable in terms of pedestrian and traffic safety, and would provide an acceptable form of residential amenity for future occupants. The proposed development would not seriously injure the residential or visual amenities of the area or unduly increase traffic volumes in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 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 received by the local authority on 15<sup>th</sup> March 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the local authority, the developer shall agree such details in writing with the local authority prior to commencement of development or as otherwise indicated and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. This permission authorises 268 no. residential units as per the site layout plan received by the local authority on 15<sup>th</sup> March 2024.

**Reason:** In the interest of clarity.

3. The proposed development shall be amended as follows:
  - (a) the most northerly of the four vehicular access points shall be removed and replaced by a pedestrian/cyclist access point only.
  - (b) revised floor plan and elevations drawings shall be prepared for house types A3/A4 i.e. house numbers 214, 229, 234, 246, 247, 250, and 251, to provide a more active dual frontage appearance to adjoining public spaces.
  - (c) two-bedroom duplex apartment types N1/N2 shall have its storage provision increased to a minimum of 6sqm.

Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with the local authority prior to commencement of development or as otherwise agreed in writing.

**Reason:** In the interests of visual and residential amenity and the proper planning and sustainable development of the area.

4. The mitigation measures identified and contained within the Construction Environmental Management Plan, Ecological Impact Assessment and other plans and particulars submitted with the application shall be implemented in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interests of clarity, and of protecting the environment and public health.

5. Prior to commencement of development the developer shall submit, for the written approval of the local authority:
  - (a) the detailed design of the proposed upgrading works along the local road L7630 which shall be generally as indicated on the documentation received by the local authority,
  - (b) the detailed design of all proposed junctions, both with the local road L7630, and internal junctions,
  - (c) the detailed design of all pedestrian crossings, both across the local road L7630, and across internal circulation roads,
  - (d) the detailed design of all traffic calming proposals,
  - (e) the detailed design of the permeability paths to Blossomhill,
  - (f) the finishes of all walls and boundaries facing public areas.

**Reason:** In the interests of the safety of pedestrian, cyclist, and traffic safety and the proper planning and sustainable development of the area.

6. (a) The developer shall enter into water and/or waste water connection agreement(s) with Uisce Éireann prior to commencement of development.
  - (b) Prior to the commencement of any development the developer shall submit a diversion enquiry to Uisce Éireann. Any alteration required to the proposed development as a result of same shall be submitted to the local authority for agreement in writing prior to the commencement of any development on site.

**Reason:** In the interest of public health.



7. (a) A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The scheme shall include the revised proposals along the southern and eastern boundaries of the Phase 1 area received by the planning authority as part of the further information response as well as the following:

- i. details of all proposed hard surface finishes,
- ii. proposed locations of trees and other landscape planting, including details of proposed species and settings,
- iii. details of proposed street furniture including bollards, lighting fixtures and seating,
- iv. details of proposed boundary treatments at the perimeter of the site, including heights, materials, and finishes. The green palisade fence along the southern site boundary shall be extended the entire width of the ,
- v. layout and finishes of the play areas.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

(b) The existing green palisade fence along much of the southern site boundary shall be extended to the entire width of the southern boundary prior to the occupation of any unit in phase 1.

(c) The landscaping along the eastern and southern boundaries of the phase 1 area shall be provided in full prior to the occupation of any unit in phase 1.

**Reason:** In the interest of residential and visual amenity.

8. Details of the materials, colours, and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the local authority prior to commencement of development. Roof tiles or slate shall be dark grey/blue/black.

**Reason:** In the interest of visual amenity.

9. (a) Prior to commencement of development the developer shall submit for the written approval of the planning authority, drawings that show the extent of all proposed retaining structures. The structures that are to be included in, or that would impact on, any area to be taken in charge by Cork County Council (at the Council's discretion) shall be separately identified on the drawings. For each retaining structure a construction layout plan/drawing showing the extent of the entire retaining structure proposed and any ancillary structures, along with cross section detail, shall be submitted. The site investigation details and geotechnical assumptions on which the design has been based shall be submitted and descriptions, lengths, and retained dimensions of each structure shall be shown.
- (b) Prior to commencement of development the developer shall submit, for the written approval of the planning authority, a certificate from a suitably qualified engineer confirming:
- i. that the retaining structures have been designed in accordance with the relevant and most current design standards,
  - ii. that the structures have a 120-year design life,
  - iii. the design surcharge and live loadings (kN/m<sup>2</sup>),
  - iv. that the designs have been correctly transferred to the contract/construction drawings.
- (c) Within six months of completion of construction, or as otherwise agreed in writing with the planning authority, the developer shall submit, for all retaining structures:
- i. structural design calculations with full reference to the design standards used, including any amendments during construction,
  - ii. as-built drawings and relevant details for all retaining structures, including details showing ground conditions encountered during construction,
  - iii. a letter of certification shall be provided by the design engineer responsible, confirming that the structures have been constructed as per the design and as per the as-built drawings/details. Alternatively, this

certification shall be provided by a suitably qualified structural design engineer,

- iv. other data that would be available for preparation of a safety file for the retaining structures in accordance with the current Safety, Health and Welfare at Work (Construction) Regulations.

**Reason:** In the interest of orderly development.

10. The development shall be constructed in accordance with the phasing plan shown on drawing no. 22/6732-P-1104 Rev. B, as submitted with the application.

**Reason:** In the interest of orderly development.

11.(a) Prior to the completion of phase one of the residential units hereby permitted, the permitted childcare unit and communal unit shall be fully fitted out and suitable for immediate occupation and operation.

(b) Details of all childcare and communal unit signage shall be submitted to, and agreed in writing with, the local authority prior to operation of any of these units.

**Reason:** In the interests of clarity, the orderly development of the site, and the visual amenities of the area.

12. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the local 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.

13. 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.

14. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided in each phase prior to the making available for occupation of any residential unit.

**Reason:** In the interests of residential amenity and public safety.

15. The developer shall facilitate the preservation, recording and protection of archaeological materials that may exist within the phase 1 area of the site. In this regard the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and,
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

16. The internal road network serving the proposed development, including turning bays, junctions with the public road, parking areas, footpaths and kerbs, shared surfaces, raised tables, signage etc. shall be in accordance with the detailed construction standards and requirements of the local authority for such works

and with the relevant provisions of the Design Manual for Urban Roads and Streets (DMURS). In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

17. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the local authority for such works and services.

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

18. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned for the residential and childcare/communal units, and shall be reserved solely for those purposes.

(b) A minimum of 10% of communal/grouped car parking spaces shall be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

(c) Prior to the occupation of the development a Parking Management Plan shall be prepared for the development and submitted to and agreed in writing with the local authority.

(d) Cycle parking and storage shall comply with specific planning policy requirement (SPPR) 4 of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024). All cycle parking details shall be submitted to and agreed in writing with the local

authority and shall be in situ prior to occupation of each phase of the development.

**Reason:** To ensure that adequate car and bicycle parking facilities are available to serve the proposed development.

19. 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 house plot and apartment unit, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** In the interest of residential amenity and to ensure the provision of adequate refuse storage.

20. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) 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.

21. Prior to commencement of development, 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) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the

RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

**Reason:** In the interest of reducing waste and encouraging recycling.

22. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (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) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority;

**Reason:** In the interests of amenities, public health, and safety.

23. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

24. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

**Reason:** In the interests of environmental protection and orderly development.

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



authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act, 2000 (as amended), and of the housing strategy in the development plan of the area.

26. (a) Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning & Development Act, 2000 (as amended), that restricts all houses and duplex 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 specified house unit or duplex 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.

27. 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.

28. 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.

29. The developer shall pay to the planning authority a financial contribution in respect of the Cobh/Midleton – Blarney Suburban Rail Project in accordance

with the terms of the Supplementary Development Contribution Scheme made by the planning authority under Section 49 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 Supplementary Development Contribution Scheme made under Section 49 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.

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Anthony Kelly

Planning Inspector

30<sup>th</sup> July 2024

# Appendix 1

## EIA Preliminary Screening

<b>An Bord Pleanála Case Reference</b>	ABP-319654-24		
<b>Proposed Development Summary</b>	Construction of 272 no. residential units and a creche/community building		
<b>Development Address</b>	Broomfield West, Midleton, Co. Cork		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
Yes		Class.....	EIA Mandatory EIAR required
No	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
No			No EIAR or preliminary examination required
Yes	X	<ul style="list-style-type: none"> <li>construction of more than 500 dwelling units, or,</li> <li>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. A business district means a district within a city or town in which the predominant land use is retail or commercial use.</li> </ul>	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

No		Preliminary Examination required
Yes	X	Screening Determination required

## Appendix 2

### EIA Screening Determination – ABP-319654-24

A. Case Details		
<b>Development Summary</b>	Construction of 272 no. residential units and a creche/community building	
	<b>Yes / No / N/A</b>	<b>Comment (if relevant)</b>
Was a Screening Determination carried out by the PA?	Yes	Concluded that EIA was not required.
Has Schedule 7A information been submitted?	Yes	
Has an AA screening report or NIS been submitted?	Yes	AA Screening Report
Is an IED/IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA?	Yes	AA Screening Report  Development Plan subject to SEA

B. Examination	Where relevant, briefly describe the characteristics of impacts i.e. the nature and extent, and any mitigation measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes / No / Uncertain

<b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b>		
1.1 Is the project significantly different in character or scale to the existing surrounding environment?	While this is a greenfield site on the edge of the town there are existing housing developments adjacent to the south and west	No
1.2 Will construction, operation, decommissioning, or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Topographic changes would be limited. The land use would change from agricultural fields to residential with minor ancillary commercial and communal use. There are no demolition works involved.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals, or energy, especially resources which are non-renewable or in short supply?	Standard construction methods and materials would be used. No significant use of natural resources during the operational phase	No
1.4 Will the project involve the use, storage, transport, handling, or production of substances which would be harmful to human health or the environment?	Construction activities would require use of potentially harmful materials e.g. hydrocarbons, however these are typical of construction sites. A CEMP is submitted with the application	No
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	This is a standard housing development. Typical construction phase activities would be carried out. These would be temporary and localised. Both a CEMP and RWMP are submitted with the application. During the operational phase foul effluent would be discharged to the public system.	No
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters, or the sea?	No significant risk is identified. No pollutants would enter surface waters as there are none on or in the close vicinity of the site. SuDS is proposed on-site and there are public surface water and foul water systems.	No
1.7 Will the project cause noise and vibration or release of light, heat,	The development is a standard residential development. Noise would be generated	No

energy, or electromagnetic radiation?	during the construction phase and mitigation measures are contained in the CEMP.	
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Normal construction phase impacts would be mitigated as per the CEMP. No operational phase impacts are anticipated.	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No particular risk having regard to the nature and scale of development	No
1.10 Will the project affect the social environment (population, employment)	The proposed development would result in a change of use of the site and an increase in population though this would be in line with anticipated growth as per the core strategy and in line with the zoning of the site. There would be an increase in employment during the construction phase with very limited operational phase employment in the creche.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	The proposed development is a zoned greenfield site located adjacent to an established urban area. There is limited additional zoned land in the vicinity.	No
<b>2. Location of Proposed Development</b>		
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:  a) European site (SAC/ SPA/ pSAC/ pSPA)  b) NHA/ pNHA  c) Designated Nature Reserve  d) Designated refuge for flora or fauna  e) Place, site or feature of ecological interest, the preservation / conservation / protection of which	The nearest designated areas of natural heritage to the site are Great Island Channel SAC, Cork Harbour SPA, and Great Island Channel pNHA, all overlapping, approx. 1.65km to the south.  Likely significant effects on European sites are screened out in section 9 of this inspector's report.	No



is an objective of a development plan/ LAP/ draft plan or variation of a plan		
2.2 Could any protected, important, or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?	<p>An EclA (and revised EclA) were submitted with the application. The site mainly comprises agricultural land.</p> <p>No rare or protected species of flora were encountered on site. There was no direct evidence of badgers using the site. Bats are likely to use the site and wider area though no suitable roosting habitats were found on site. Hedgerows/treelines are considered suitable for a range of nesting birds. There is no suitable otter habitat. Mitigation measures are set out in section 5.3 of the revised EclA.</p> <p>The revised EclA concludes that the site is of low ecological value and there will be no significant impact on ecological receptors.</p> <p>The local authority ecology report based on the further information response recommends no objection subject to conditions.</p>	No
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	The Archaeological Assessment submitted with the application indicates a very low potential for archaeological activity on site	No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No such features arise in this zoned location	No
2.5 Are there any water resources including surface waters e.g. rivers, lakes/ponds, coastal or	<p>There are no watercourses on site.</p> <p>A Flood Risk Assessment in the Engineering Infrastructure Report states</p>	No

groundwater which could be affected by the project, particularly in terms of their volume and flood risk?	the site is in within flood zone C. Appropriate mitigation measures are incorporated into the design e.g. discrete sections for drainage and access, SuDS, raised kerbing at appropriate locations.	
2.6 Is the location susceptible to subsidence, landslides, or erosion?	Notwithstanding the topography of the site and the necessity of retaining walls throughout there is no evidence of these risks. Substantial retaining walls are a feature of the adjoining Blossomhill development.	No
2.7 Are there any key transport routes e.g. national primary roads, on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	Notwithstanding that it relates to issues on the localised traffic network, and not to any 'key' transport route, issues related to traffic congestion etc. are referenced throughout this inspector's report, including in section 8.9 (Transportation)	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc.) which could be significantly affected by the project?	There is residential development adjacent to the south and west east of the site. The nature of the proposed development is such that these uses would not be significantly affected, though there would be normal construction phase nuisance. A CEMP has been submitted and a CMP can be conditioned, as standard.	No
<b>3. Any other factors that should be considered which could lead to environmental impacts</b>		
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction / operation phase?	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No

3.3 Are there any other relevant considerations?	No	No
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C. Conclusion		
No real likelihood of significant effects on the environment	X	EIAR not required
Real likelihood of significant effects on the environment		EIAR required

D. Main Reasons and Considerations
<p>Having regard to:</p> <p>(a) the nature and scale of the proposed development, which is below the thresholds in respect of Paragraphs 10 (b) (i) and (iv) of Part 2 of Schedule 5 of the Planning &amp; Development Regulations, 2001 (as amended),</p> <p>(b) the location of the site on land zoned 'Residential' in the Cork County Development Plan 2022-2028,</p> <p>(c) the existing use of the site and the pattern of development in the vicinity,</p> <p>(d) the availability of public water and foul services to serve the proposed development,</p> <p>(e) the criteria set out in Schedule 7 of the Planning &amp; Development Regulations, 2001 (as amended) and the content of the applicant's EIA Screening Report, and,</p> <p>(f) the measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified documents such as the CEMP and EcIA,</p> <p>it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not therefore be required.</p>