



An
Bord
Pleanála

Inspector's Report ABP-320825-24

Development	Construction of 40 houses and all associated site development works.
Location	Lands at Kilminion South, Ballinroad, Dungarvan, Co. Waterford
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	2360646
Applicant(s)	Francis and Bernie Dunne
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Pat & Evelyn McCarthy Karen & Eoin Phelan Sinead & Kieran Kilcawley Claire & Sean Keogh
Observer(s)	None
Date of Site Inspection	23 rd January 2025

Inspector

Matthew McRedmond

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1.0 Site Location and Description

- 1.1. The subject site is located at the rear of Kilminion Close and Kilminion Park housing estates, Ballinroad, Co. Waterford, approximately 2.5km northeast of Dungarvan. The site is approximately 1.6 hectares in area and is currently in agricultural use. Existing residential housing estates Kilminion Park, Park na mBlaith and Kilminion Close bound the site to the south, northeast and east respectively. Additional agricultural land is located to the west and north of the site. Access to the site is via Kilminion Close to the south of the site.

2.0 Proposed Development

- 2.1. The subject proposal comprises the construction of 40no. residential units and all associated site works. The following key details of the scheme are noted:

Site Area	1.6ha
No. of units	40 no. including: 4no. x 4-bed detached 10no. 4-bed semi-detached 12no. 3-bed semi-detached 14no. 2-bed terraced
Density	25 units/hectare
Car Parking Provision	73 spaces
Vehicular entrance	New entrance from Kilminion Close (existing agricultural entrance)
Usable Open Space	16.5% (stated) – 0.27ha in two separate areas of public open space

3.0 Planning Authority Decision

3.1. Decision

On the 21st of August 2024, Waterford City and Council granted permission for the proposed development, as amended at Further Information stage, subject to 25no. standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Local Authority Planner had regard to the material submitted with the application, the locational context of the site, national and local planning policy, the referral responses received, and submissions made on the application. Their assessment included the following:

- The proposed density of 25 units per hectare is below the Compact Settlement Guidelines recommendation of 30-50 units per hectare for key towns/large towns (Dungarvan, including Ballinroad). However, the site is zoned for Low Density Residential, and regard must be had to the character and form of development in the area.
- It is not possible to measure residential amenity impacts without details of spot levels and finished floor levels. These details need to be clarified by further information (FI).
- Approximately 17% public open space is proposed, which is above the 15% recommended, but the northern open space also includes a detention pond that may make this area of open space unusable. Further details are required on proposed open space to provide clarity.
- Separation distances between units 1-4 and 14-18 should be revised. Units 9, 10, 19 and 36 have a reduced separation distance, they are designed so that overlooking of adjoining private open space will not occur.
- Additional details are required in relation to DMURS requirements and minimum footpath widths of 2m in width.

- Car parking and bin storage are acceptable.
- Confirmation of feasibility is required for water and wastewater connections.
- Further information was recommended in relation to a number of items.

Further Information Response

3.2.2. The applicant submitted a further information response in July 2024, which included the following:

- An Archaeological Impact Assessment, which included a geophysical survey. No archaeological features were uncovered during test trenching. No further archaeological measures are considered necessary by the Planning Authority.
- An independent DMURS Quality Audit and Stage 1 and 2 Road Safety Audit. All audit items have been included in the final design and the Planning Authority considers this acceptable.
- Revised layout to omit the originally proposed agricultural access points. The Planning Authority considers this acceptable.
- Detailed study of drainage on site including hydraulic modelling that shows the maximum depth of the retention pond is 244mm with a drainage time of 5 hours in the 1 in 100 year flood event. This will allow for adequate safety of residents and usability of the open space, which is acceptable to the Planning Authority.
- Updated Topographical survey that illustrates, along with separation distances involved, that the level differences between proposed dwellings and existing units will not result in residential amenity impacts.
- Revised site plan illustrating separation distances of units 1-4 and 14-18 (20m minimum), which are acceptable to the Planning Authority.
- Confirmation of feasibility from Uisce Eireann (UE).
- Clarification of red line boundary and land ownership details with updated site layout plan.

Planning Authority Response

The Planning authority considered the submitted further information details to be acceptable and recommended a grant of permission.

3.2.3. Other Technical Reports

- **Roads Section** – Road access and sightlines acceptable. Further detail required on detention pond depth and usability of open space, which was provided by the applicant and considered acceptable. Recommended grant of permission.
- **Environment Section** – Raised no objection to the subject proposal, subject to conditions in relation to construction waste management, hours of working and management of dust.

3.3. Prescribed Bodies

- 3.3.1. Department of Housing, Local Government and Heritage – Recommended that further information was sought in relation to an Archaeological Impact Assessment, which was provided by the applicant at FI stage. The Department concurred with the findings of the archaeological report and no further investigative work or mitigation measures are required from an archaeological point of view.

3.4. Third Party Observations

- 3.4.1. A number of submissions were made at original application stage and at FI stage of the process. The main issues raised can be summarised as follows:
- Concerns in relation to land ownership, site address and mapping.
 - Lack of services and infrastructure in Ballinroad, which will lead to additional journeys to Dungarvan. Ballinroad is already overdeveloped.
 - Road layout insufficient. Sightlines at public road deficient, lacks capacity for traffic from proposed development and will impact on safety of children at play. Traffic assessment inadequate based on the traffic counts submitted which do not take account of busy summer season.
 - Complete plan for the development of wider lands required for Ballinroad.

- Impact on existing storm drainage not provided by the applicant. Water pressure also an issue in the area.
- Overlooking will result from the proposed development due to level differences, impacting on residential amenity and privacy. Proposed houses will overshadow existing gardens. Footpath to the rear of existing properties will result in additional noise and antisocial behaviour.
- Concern in relation to sharing of rear boundary wall.
- Construction impacts of noise and dust on existing residents.
- Water run off into existing gardens a concern due to level differences.
- Environmental impact on biodiversity and wildlife has not been appropriately considered.
- In the event that permission is granted, submissions request a waste management plan, car parking plan for construction phase, noise and dust surveys and traffic management and construction plan to maintain access and road conditions in the existing estate/locality.

4.0 Planning History

Subject Site

There is no planning history for the subject site.

Surrounding Area

WCCC Ref. – 2395: In September 2023 Waterford City and County Council (WCCC) granted permission for the redevelopment of Lord Maguire's Public House and Restaurant to the north east of the subject site. The development includes a ground flood pub/restaurant with residential above.

WCCC Ref. 20762: On lands to the southwest of the subject site, WCCC refused permission in December 2020 for the development of 9 houses due to inappropriate design and layout, impact on road junctions and impacts on archaeology in the area.

Other planning history in the area is historical permissions for the wider housing estates surrounding the subject site and minor extensions and amendments to existing dwellings, which are not specifically relevant to the subject proposal.

5.0 Policy Context

5.1. National and Regional Planning Policy

- 5.1.1. The NPF is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. National Strategic Outcome No. 1 is 'Compact Growth'. Activating strategic areas and achieving effective density and consolidation, rather than more sprawl of urban development, is a top priority.
- 5.1.2. The NPF contains several policy objectives that articulate the delivery of compact urban growth as follows:
- NPO 3 (c) aims to deliver at least 30% of all new homes targeted for settlements other than the five cities, to be within the existing built-up footprints.
 - NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
 - NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
 - NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- 5.1.3. Relevant national policy also includes Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities, 2024 ('the Compact Settlement Guidelines') which require appropriate residential densities (no less than 30-50 units per hectare) in key towns with more than 5,000 population. The Compact Settlement Guidelines supersede the Guidelines on Sustainable Residential Development in Urban Areas and accompanying Urban Design Manual.

5.1.4. It is worth noting the National Planning Framework is currently undergoing a comprehensive review to reflect changing population and demographic projections for Ireland, which will necessitate revised housing targets countrywide. 50,500 new dwellings per annum are required to meet demand, scaling up to 60,000 homes in 2030.

5.2. Rebuilding Ireland – Action Plan on Housing and Homelessness 2016

5.2.1. This is a government initiative which identifies the critical need for accelerating housing supply.

5.3. National Biodiversity Action Plan (NBAP) 2023-2030

5.3.1. The NBAP includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss. Section 59B(1) of the Wildlife (Amendment) Act 2000 (as amended) requires the Board, as a public body, to have regard to the objectives and targets of the NBAP in the performance of its functions, to the extent that they may affect or relate to the functions of the Board. The impact of development on biodiversity, including species and habitats, can be assessed at a European, National and Local level and is taken into account in our decision-making having regard to the Habitats and Birds Directives, Environmental Impact Assessment Directive, Water Framework Directive and Marine Strategy Framework Directive, and other relevant legislation, strategy and policy where applicable.

5.4. Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013

5.4.1. In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S). The Manual seeks to address street design within urban areas (i.e. cities, towns and villages) and it sets out an integrated design approach.

5.5. Regional Spatial and Economic Strategy for the Southern Region

5.5.1. Dungarvan (which includes Ballinroad) is identified as a Key Town within the RSES for the Southern Region. Key towns have a large population with an urban centre which functions as a self-sustaining regional driver. Key towns are also strategically located urban centres that play a significant role in strengthening the urban structure of the region. It is envisaged that local authorities will also plan for significant growth in designated Key Towns.

5.5.2. Regional Policy Objective 24 sets out 8 no. objectives for the development of Dungarvan. The following objective is of relevance:

a. To strengthen the role of Dungarvan as a strategically located urban centre of significant influence in a sub-regional context and in its sub-regional role as a Gaeltacht Service Town, leveraging its strategic location along the Waterford Cork N25 route and to build upon its inherent strengths including historical, cultural and architectural heritage, digital connectivity, skills, innovation and enterprise, tourism (in particular the Waterford Greenway and its potential sustainable expansion), culture and retail services. In respect of its importance to the environment, to tourism, to fishing, and to aquaculture (niche industries supporting rural employment), this RSES supports the environmentally sustainable development and treatment of Dungarvan Harbour and coastline;

5.6. Waterford City and County Development Plan 2022-2028

5.6.1. The Waterford City and County Development Plan 2022-2028 (WCCDP) is the relevant statutory plan that applies to the subject site. The Plan designates Dungarvan (including Ballinroad) as a Key Town within the County Settlement hierarchy.

Zoning

5.6.2. The appeal site has a land use zoning of 'R1 -New Residential' – 'Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure.' R1 lands are phase 1 residential in the WCCDP.

Specific Development Objective

5.6.3. Specific Objective DGD 020 applies to the subject site:

“Lands zoned for new residential development in Ballinroad may facilitate Low Density Residential Development/ Serviced Sites.”

Phasing

5.6.4. Section 2.11.2 of the Development Plan relates to the tiered approach to zoning identified within the plan. Lands zoned for new residential development within the plan are identified as either Phase 1 or Phase 2 lands. The Plan outlines that the phasing approach seeks to ensure that development on larger land holdings follows a sequential pattern and in this regard the following should be noted:

- All lands zoned for new residential development (R1) are considered to be developable during the lifetime of the Development Plan.
- R1 zoned lands not specifically identified as phase 2 shall be considered phase 1.
- Within any landholding all phase 1 lands shall be developed or committed to development prior to any development being proposed/permitted on phase 2 lands within that landholding.
- All planning applications for development on phase 2 lands shall be supported by documentation to clearly identify that phase 1 lands within the landholding have been developed out, are committed to development and that the implementation of any such permitted development is imminent, or that phase 1 lands are not available within the landholding.

5.6.5. Table 2.3 relates to Residential Phasing and outlines that 21.39 ha within the Dungarvan and Ballinroad area are designated as Phase 1 lands and 16.09 ha are designated as Phase 2 lands. The appeal site is designated as Phase 1 lands within Figure 2.7 of the Development Plan.

5.6.6. Table 2.4 sets out the Core Strategy Table. This identifies a land use requirement of 11ha to deliver the minimum housing target. A target residential density of 30 units per hectare is assumed for Key Towns including Dungarvan (including Ballinroad). The core strategy identifies that the provision of lands for new residential development seeks to consolidate existing residential areas close to the historic core of Dungarvan.

Core Strategy Policy Objectives

5.6.7. The following policies and objectives of the Plan are of relevance:

- CS 03 Compact Growth - In a manner consistent with NPO 34 and 35, we will promote and support an efficient, equitable and sustainable pattern of residential and other development that delivers compact growth and critical mass for sustainable communities in Waterford, by managing the level of growth in each settlement.
- CS 13 Settlement Strategy - In a manner consistent with the settlement typologies and respective policy objectives of the SRSES, we will: “Support the development of Dungarvan/Ballinroad as a Key Town of significant influence in a sub-regional context and a Gaeltacht Service Town”.

General Housing Policy Objectives

5.6.8. Other policies of the development Plan of relevance to the subject proposal are summarised as follows:

- H02 – Ensure new developments are appropriate in terms of scale, form, character and location in relation to services and amenities and that proposals are designed in accordance with applicable guidance and standards.
- Trans 09 – Connectivity and permeability: Ensure all developments provide connectivity/permeability to the adjacent road network and adjoining zoned lands.
- DM04 – Applications are required to adhere to best practice urban design guidelines ‘Urban Design Manual – A Best Practice Guide’.
- Section 3.2 of the Development Pam sets out that *“In the application of densities, it is also important to recognise and reflect the function and character of the urban area (i.e. city, towns, villages and settlement nodes), as set out in the settlement hierarchy in Volume 1: Section 2.9 - Table 2.2”*
- DM05 – A range of criteria will be considered in relation to residential proposals including proximity to public transport and services, design and layout, size and scale of the proposed development and ability to propose its own density among other physical features of the site such as topography.

- Table 3.1 of the Development Plan sets out a range of standards for new residential developments including 15% public open space, private open space quantum, separation distances of 22m, car parking standards (2 spaces per 3-bed or more units), sightlines of 70m in 50kph areas, compliance with DMURS.

5.7. Natural Heritage Designations

The following designated sites are located within 15km of the appeal site.

- Dungarvan Harbour SPA - 260m
- Glendine Wood SAC - 1.4km
- Mid-Waterford Coast SPA - 4.8km
- Helvick Head to Ballyquin SPA – 5.5km
- Helvick Head SAC – 5.5km
- Comeragh Mountains SAC - 8.2km
- Blackwater River (Cork / Waterford) SAC – 8.9km

5.8. EIA Screening

- 5.8.1. I have had regard to the determination of the Planning Authority in relation to EIAR requirements. Having regard to the nature of the proposed development comprising the development of 40no. residential units, within an established urban area and where infrastructural services are available, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. See completed Form 1 and 2 at Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

A Third-Party Appeal has been submitted against the decision made by Waterford City and County Council to grant permission for the proposed development.

The grounds of appeal can be summarised as follows:

- Site address given on notices is incorrect, as site is not located within 'Kilminion South'.
- The planning authority have not undertaken a suitable assessment of the traffic impact of the proposed development. The existing road (L3012) unsuitable for additional traffic, with footpath widths also being inadequate. The submitted traffic information is from November which is not representative of traffic variations.
- Surcharging of existing storm water network is a concern in relation to flooding and this has not been adequately assessed by the Planning Authority.
- The proposed level differences of 1.0 to 1.2 metres will result in unacceptable impacts of overlooking and loss of privacy to rear private amenity spaces. This is contrary to Objective H20 to ensure privacy of adjacent developments.
- The subject proposal must be serviced by existing amenities as set out in national planning guidance. The services referenced in the social infrastructure audit are no longer in existence and schools/childcare are not available in the locality, which will lead to additional trips. Public transport is also irregular and would not support a new development.

6.2. Applicant Response

The applicant provided a response to the grounds of appeal, which can be summarised as follows:

- The site is identifiable from the address given, which states Ballinroad, Dungarvan, Co. Waterford. This did not have any material impact on notifying the public about the proposed development.
- A specific response from the applicant in relation to traffic and transport states that a Quality Audit, Road Safety Audit and Traffic and Transport Assessment were all submitted with the application and assessed by the Planning Authority. All recommendations of the Quality Audit have been incorporated into the final permitted site layout and design.
- The subject proposal is a clear extension/undeveloped part of the larger existing Kilminion estate, which was designed and granted permission with the development of the subject lands in mind. This is evidenced by the roads and footpath that terminate at the site entrance.
- The submitted traffic assessment indicates existing junctions will operate well below capacity with the proposed development in place.
- The traffic counts from November period are subject to expansion factors, which is standard practice to compensate for time of day and month. The permitted development would operate in a safe and efficient manner, with minimal impact on other road users and the capacity of the local road network.
- WCCC Planner's Report considered that there is no concern with the stormwater network connection and water services and had no objection to the proposal subject to conditions. A confirmation of feasibility from UE was submitted at FI stage. Specific response was provided in relation to the storm water network within the development, which has been designed to surcharge under a few different scenarios, which is standard design practice. The surcharge will allow for capturing and temporarily storing surface water within the confines of the site so that discharge from the development can be limited to greenfield run off rates. Downstream pipes and manholes outside the development site will not surcharge as a result of the proposed development with the discharge pipe from the proposed development running at 20% capacity.

- In relation to overlooking and level differences, three units to the south will back on to public open space. Other dwellings to the south are separated from the proposed development by between 47.5m and 70.6m, which is considered a substantial distance, with the more westerly dwellings being also separated by a vacant, triangular piece of land. Separation distances are appropriate as set out in the Compact Settlement Guidelines, some overlooking is to be expected in a suburban setting, but no material overlooking will occur in this instance.
- The applicant acknowledges the Lord Maguire pub is currently closed but note the permission in place for holiday apartments at first floor and bar/restaurant refurbishment at ground floor. Applicant submits that WCCC were aware of the social infrastructure in Ballinroad when the subject development was zoned for residential use and that the site is located close to Dungarvan which has a host of social infrastructure, services and amenities. The local bus timetable and range of other social infrastructure/amenities in Ballinroad are noted.
- The proposed development represents an extension of the existing housing development in this area and all matters raised in the appeal have been addressed.

6.3. Planning Authority Response

6.3.1. Planning Authority confirmed that all relevant issues were addressed in the technical reports submitted to the Bord with the appeal documentation. The following is stated:

- The decision was appropriate and in accordance with the provisions of the Waterford City and County Development Plan 2022-2028 and in accordance with the proposer planning and sustainable development of the area.
- All information was fully reviewed, with amendments sought at further information stage. Public notices were satisfactory and are not misleading.
- Traffic safety issues were fully considered by WCCC Senior Engineer, Roads Section and were considered satisfactory.

- The District Engineer fully considered the storm water disposal details and did not raise any concerns with the receiving network.
- Separation distances and site levels was fully reviewed, and the subject proposal will not adversely impact on privacy or overlooking.
- The subject site is zoned for residential development and Ballinroad is part of the larger Dungarvan/Ballinroad settlement which is identified as a key town.
- No new issues have been raised in the third-party appeal that would alter the Planning Authority decision.
- The Planning Authority request that An Bord Pleanala uphold the decision to grant permission.

6.4. Observations

None received.

7.0 Assessment

7.1. Having reviewed the details and appeal documentation on the file, the submissions made, having inspected the site, and having regard to relevant local and national policy and guidance, I conclude that the main issues are the following:

- Principle of Development
- Social Infrastructure Capacity
- Residential Amenity Impacts
- Water Services
- Traffic and Transport Issues
- Other Issues

7.2. Principle of Development

7.2.1. The third-party appeal makes reference to the principle of residential development at this location, with the implications for the capacity of the local road network also noted, which I will address in the following sections.

- 7.2.2. The subject site is zoned 'R1 – New Residential' (RV), which has an objective to *'provide new residential development in tandem with the provision of necessary social and physical infrastructure'*.
- 7.2.3. Table 2.2 of the City and County Development Plan identifies Ballinroad as part of Dungarvan, which is a 'Key Town'. These are identified as: *'Strategically located urban centre with accessibility and significant influence in a sub-regional context.'*
- 7.2.4. Objective DGD020 applies to the subject site and states: *'Ballinroad – Lands zoned for new residential development in Ballinroad may facilitate Low Density Residential Development/ Serviced Sites.'*
- 7.2.5. I further note Objective H01 and H04 of the Development Plan that seeks to promote compact growth through new residential units on infill sites.
- 7.2.6. It is clear from my attendance on site that the development of this land has been identified as part of the exiting estate. This is evidenced from the very clear access point where roads and footpaths are currently terminated, indicating a further onward connection at some point in the future.
- 7.2.7. The Core Strategy of the County Development Plan has a minimum target of 330 units for Dungarvan/Ballinroad up to 2028. Having regard to the zoning of the site for low-density residential purposes, the serviced nature of Ballinroad as part of Dungarvan Key Town and the proposed density of 25 units per hectare that is suitable in the context of surrounding built form and character, I am satisfied the principle of development is acceptable in this instance. NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location and I am satisfied that the subject proposal does so.

7.3. Social Infrastructure Capacity

- 7.3.1. The third-party appeal asserts that there is limited provision of social infrastructure facilities within the wider area and the referenced pub and shop are no longer open. The applicant does not consider this to be the case, asserting that Ballinroad is well served with education, community services and a range of local amenities and is located within easy reach of Dungarvan where there is a wide range of services and amenities. The existing permission for a pub and holiday homes in Ballinroad is also referenced.

- 7.3.2. The applicant provided a Social Infrastructure Audit as part of the application, identifying a range of facilities within approximately 5km of the site, including schools, sports clubs, beaches, a greenway, and cafes. The audit broadly identifies the main services and resources in the immediate area, considerate of guidance contained within the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, while also referencing the accessibility of Dungarvan Town where there is a range of health facilities, education facilities, shopping and cultural attractions.
- 7.3.3. I note the pub and shop referenced in the Social Infrastructure Audit are no longer open, but I do not consider this to be a significant consequence to the acceptability of the subject proposal in the context of available amenities and services. I note the permission for a refurbished pub and holiday homes at the site of the vacant bar/restaurant, which would be a welcome addition to the area.
- 7.3.4. As set out in the response to the appeal, there is a reliable, albeit infrequent, bus service that connects Ballinroad to Dungarvan within 10-15 minutes. Ballinroad is also within 3km or a 15minute cycle to Dungarvan, with an attractive connection via the Waterford Greenway. This accessibility, coupled with the range of facilities in the locality, primarily schools infrastructure, which would allow for alternative modes of travel, provide sufficient levels of supporting infrastructure for this small scale residential proposal.
- 7.3.5. The proposed residential density at this location is in keeping with the existing character of the area and will ensure the efficient and increased use of existing and planned services, including public transport, shops and social infrastructure in support of Policy H02 of the County Development Plan in relation to appropriate and serviceable residential development. Such services, whether commercial or social, are dependent on a critical mass of population to remain viable and to justify the creation of additional services. In the wider environs of the site there are schools, shops, medical facilities, blue flag beaches and cafes, all of which would benefit from a development that is a comfortable walking or cycling distance from the site. I am therefore satisfied that the area and development would be reasonably well serviced in respect of social/recreational/commercial infrastructure and that this context should not inhibit the granting of permission for the subject proposal.

7.4. Residential Amenity Impacts

- 7.4.1. The issue of impact on the residential amenities of neighbouring properties has been raised in the appeal. Concern was expressed in relation to potential overlooking, overshadowing and impacts on privacy of properties to the south of the subject site at Kilminion Park. Reference was made to the loss of privacy and devaluation of property values due to the distance between the proposed houses in the scheme and neighbouring properties.
- 7.4.2. The Waterford County Development Plan 2022-2028 refers to separation distances between the rear of residential properties in Table 3.1 of Volume 2, specifying that a minimum distance of 22 metres, in general, is required, between opposing windows in the case of reciprocal housing types. However, it is advised that in certain instances, depending on design and circumstances, reduced separation distances may be acceptable.
- 7.4.3. The 2009 Guidelines on Sustainable Residential Development in Urban Areas have now been replaced by the recently adopted new guidelines, Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024). Section 5 of the Compact Settlement Guidelines refers to Development Standards for Housing and section 5.3.1. refers to Separation Distances. It is set out in the guidelines that a requirement for a minimum separation of 22 metres between opposing upper floor rear window has formed part of suburban housing design since the early 20th century. The guidelines further advise that through careful massing and positioning of blocks, positioning of windows and the integration of open space at multiple levels it is possible to achieve a high standard of residential amenity and good placemaking with separation distances of less than 22 metres, with a separation distance of at least 16m being noted as acceptable.
- 7.4.4. In relation to potential overlooking and overbearing impacts in the subject proposal, the submitted Site Layout Plan shows the proposed dwellings along the southern boundary set back distances of between 17-18m from this boundary. A 1.8m height, block wall is existing along this boundary. The existing properties to the south of the boundary of the site are setback a further distance of at least 25m. There is also intermittent mature planting along the existing boundaries to the south, that provide additional screening at this location.

- 7.4.5. I note the level at the proposed open space at the south of the subject site is annotated as 15.4m. Dwellings to the south have a FFL of 15-15.2m, with the existing 1.8m boundary wall in between. Similarly, to the east, the rear garden levels and finished floor levels are sufficiently similar between 15-16m, with a 1.8m boundary wall in between to negate any instances of overlooking along this boundary. Coupled with separation distances in excess of 22m in most instances, with unit 40 having a separation distance of 21.6m, I am satisfied that overlooking and privacy will not be significantly impacted as a result of the proposed development. I also noted on my visit to the site that the properties to the rear of proposed units 37-40 contain garden sheds along the boundary wall that further add to the visual screening between these properties.
- 7.4.6. Accordingly, I am satisfied that the separation distances provided, which are well in excess of 22m in the Development Plan and the 16m separation distance set out in the Compact Settlement Guidelines, will address both the potential for loss of privacy and overlooking in the context of the separation between the sites. Having regard to the separation distance provided I consider there to be no indication that the subject proposal would result in a devaluation of property values or loss of privacy.
- 7.4.7. In conclusion, having reviewed the proposed site layout of the scheme relative to the existing surrounding properties, I consider the proposed siting and design of the proposed dwellings within the scheme and the relative separation distances to the existing dwellings to the south and east of the site as raised in the appeal, that the proposed scheme would not result in any undue overshadowing, overbearing, or overlooking impact of neighbouring residential properties that would result in a loss of residential amenity and is consistent with Table 3.1 of the County Development Plan as well as SPPR2 of the Compact Settlement Guidelines.

7.5. Water Services

- 7.5.1. Water supply is raised in the grounds of appeal and specifically the issue of surcharge.
- 7.5.2. In relation to this matter, I note the content of the letter from Uisce Eireann (UE) dated 7th of May 2024 which confirms that the developer liaised with UE and a confirmation of feasibility was issued. UE stated that they have no objection to the

proposed development and connections to the water and wastewater network is feasible without infrastructure upgrade.

- 7.5.3. I am therefore satisfied that connection to existing water supplies is possible, with no specific reference being made to surcharge issues.
- 7.5.4. The response to the appeal includes an engineering response that confirms the subject proposal is designed to surcharge under a few different scenarios. The purpose of this is to allow for capturing and temporarily storing surface water within the confines of the development site, so that discharge from the development can be limited to greenfield (Q_{bar}) run off rates. I note surcharge does not impact the external network but is rather designed into the system so surcharge events can be accommodated, in this case by way of an attenuation pond within the site that will drain within a maximum period of 5 hours.
- 7.5.5. The applicant confirms that downstream pipes and manholes are not designed to be surcharged under this proposed development and surface water is designed to be discharged in a controlled fashion.
- 7.5.6. Based on the foregoing, I am satisfied the subject proposal can accommodate appropriate levels of water supply that will not impact existing residents or existing infrastructure outside the confines of the site and is in accordance with the proper planning and sustainable development of the area.

7.6. Traffic and Transport

- 7.6.1. The grounds of appeal refer to the additional vehicular traffic the scheme would generate and the impact it would have on the existing roads including parking and child safety. The appeal states that the traffic and transport impacts have not been fully assessed by the Planning Authority. They raise the condition and dimensions of the existing road network in the area and the junction with the L3012 local road, which is left turn only as vehicles exit the estate. The grounds of appeal also referred to issues concerning pedestrian footpath width and impacts on same.
- 7.6.2. In response to the matter of traffic generation and impact on the road network, the First Party response to the appeal highlight that the decision to grant permission was based on a comprehensive assessment of supporting planning documents at

application stage and at further information stage when a Quality Audit was requested by the Planning Authority and submitted by the applicant.

- 7.6.3. The first party also cited the Traffic and Transport Assessment (TTA) and the Stage 1/2 Road Safety Audit submitted with the application. A range of upgrades and improvements were recommended in the submitted Quality Audit including seating, dropped kerbs, tactile paving on footpaths, that have all been incorporated in the final submitted site layout plan that was granted permission.
- 7.6.4. A Traffic and Transport Assessment (TTA) was submitted with the planning application at further information stage. The proposal comprises 40 no. dwellings within an existing estate. Vehicular access is proposed onto the L3012 via the Kilminion estate road network. A total of 72 no. car parking spaces are proposed between on-curtilage for each unit and 6no. visitor spaces at various locations throughout the development. Cycle parking can also be accommodated within the curtilage of individual units proposed.
- 7.6.5. In terms of the trips generated by the proposed development it is projected that during the AM peak there would be 24 no. two-way vehicular trips, and during the PM peak there would be 25 no. two-way vehicular trips. As detailed in the TTA the Kilminion Estate junction with the L3012 was analysed. For this junction the analysis demonstrated that for 2040 Future Design Year, the junction is predicted to operate with negligible impact on capacity, queuing or delays. WCCC Roads Section raised no objection to the contents of the TTA.
- 7.6.6. I note from submitted CSO data that 24% of trips to schools in Ballinroad, as of the 2022 census, are by foot or bicycle. Given the number of units proposed, I consider the availability of schools in the area may give rise to alternative trip modes to the private car. Based on the overall low number of forecast vehicle trips from a 40-unit residential development and the low levels of existing traffic, I consider the potential for significant traffic impacts from the proposed development as negligible. Accordingly, I am satisfied the proposed development will not adversely impact the operational performance of the local junctions as they relate to the subject proposal based on the information submitted with the application.
- 7.6.7. In relation to pedestrian, cycle and road layout connections, I am satisfied that the subject proposal forms a natural extension of an existing residential estate, on lands

that are zoned for such use. The proposed site layout plan has indicated that adequate road and footpath connections can be provided, without significantly impacting on the surrounding road network.

- 7.6.8. The report of the Planning Officer which assessed the further information noted the reports from the Roads Section and that the submitted information was acceptable. I consider the proposed Traffic and Transport Assessment (TTA), Road Safety Audit (RSA) and Quality Audit provide clear evidence that an appropriate assessment of the existing traffic environment has been undertaken to illustrate the appropriateness of the subject proposal at this location. This includes vehicular trips which have had growth rates appropriately applied, and which I consider to be standard industry practice for the calculation of future trip rates to and from a proposed development.
- 7.6.9. Furthermore, I note that adequate sightlines of at least 45m can be achieved at the junction of Kilminion Estate and the L3012. In relation to sightlines, I note that the WCCC Roads Section were satisfied with the information provided including the findings and recommendations of the Road Safety Audit. The applicant has accepted the proposed road safety design changes and quality audit recommendations, and I am satisfied, in compliance with guidelines, that the necessary road upgrades, including footpath widths, can be implemented as part of a grant of permission.
- 7.6.10. In conclusion, in relation to the matter of transport and traffic issues, the proposed development will not result in a significant level of additional traffic that will impact existing traffic flows or the surrounding road network. Appropriate footpath and road connections are proposed to assimilate the subject proposal into the existing setting and will allow appropriate connections for pedestrians. The proposal will not result in a significant number of additional vehicular movements during peak times, nor will it impact significantly on the capacity of the junction with the L3012. Adequate car parking is provided within the site to reduce the possibility of parking on footpaths in the area. I am therefore satisfied with the proposed scheme in respect of traffic and transport considerations, and do not consider this to be a reason for refusal in this instance.

7.7. Other Issues

- 7.7.1. Issues associated with validation of applications and provision of appropriate information in relation to land ownership, red line boundary and appropriate address,

as raised in the third-party appeal are noted. However, any issues with the validation of applications are a matter for the Planning Authority. Validation are not matters for the Board and I do not propose to address these issues in this report. The application was the subject of a period of public consultation and open to public comment over a 5-week period, as is statutorily required for all planning applications and I note the appellants used this period to make written submissions.

8.0 AA Screening

- 8.1.1. The site is not located within any designated site. The closest Natura 2000 site is the Dungarvan Harbour SPA (Site Code: 004032) which is located approximately 0.26km to the west of the site. The Glendine Wood SAC (Site Code: 002324) is located approximately 1.4km, also to the north of the site.
- 8.1.2. Other European Sites within 15km of the subject site are:
- Helvick Head to Ballyquin SPA – 5.5km south
 - Mid-Waterford Coast SPA - 4.8km east
 - Helvick Head SAC – 5.5km south
 - Blackwater River (Cork / Waterford) SAC – 8.9km west
 - Comeragh Mountains SAC - 8.2km north
- 8.1.3. I have had regard to the AA screening assessment undertaken by the planning authority. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites, and the absence of an identifiable hydrological connection. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site, in view of the Conservation Objectives of those sites an Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 Recommendation

- 9.1.1. Having regard to the above assessment, I recommend that planning permission be granted subject to the conditions below.

10.0 Reasons and Considerations

- 10.1.1. Having regard to the provisions of the Waterford City and County Development Plan 2022-2028, to the 'R1-New Residential' land use zoning of the site that allows residential land use, to the 'Key Town' designation of Dungarvan/Ballinroad, to the nature of the proposed development and to the pattern of development in the surrounds, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or the amenities of property in the vicinity and would constitute an acceptable form of development at this location. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 22nd December 2023 and by the further information submitted on the 17th July 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 planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interests of clarity.</p>
2.	<p>(a) Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must</p>

	<p>specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(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 or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(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 residential units, in which case the planning authority shall confirm in writing to the developer 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.</p> <p>Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good in accordance with the 'Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities', May 2021.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>The site including the areas of open space and the attenuation pond area shown on the approved plans shall be landscaped in accordance with a</p>

	<p>landscape scheme which shall be agreed in writing with the planning authority prior to the commencement of development. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation.</p> <p>Reason: In order to ensure the satisfactory development of the open space areas, and their continued use for this purpose.</p>
5.	<p>The access from the public road and internal road and vehicular circulation network serving the proposed development, including turning bays, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
6.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
7.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>

8.	<p>The developer shall enter into water supply and wastewater connection agreements with Uisce Eireann, prior to commencement of development. A Confirmation of Feasibility for connection to the Irish Water network shall be submitted to the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>
9.	<p>Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting.</p> <p>Such lighting shall be provided prior to the making available for occupation of any residential unit.</p> <p>Reason: In the interests of amenity and public safety.</p>
10.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
11.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>

12.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: To ensure the satisfactory completion and maintenance of this development.</p>
13.	<p>The construction of the development shall be managed in accordance with a Construction Environment 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 the intended construction practice for the proposed development, including measures for the protection of existing residential development, hours of working, traffic management during the construction phase, noise and dust management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
14.	<p>Construction and demolition waste shall be managed in accordance with a final construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>

15.	<p>Site development and building works shall be carried only out between the hours of 0700 to 1900 Mondays to Friday and between the hours of 0700 and 1300 hours on Saturday inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
16.	<p>Prior to commencement of development, the developer 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.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
17.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion 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</p>

	<p>and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
18.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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.

Matthew McRedmond
Senior Planning Inspector

4th February 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320825-24		
Proposed Development Summary	Development of 40no. residential units and all associated works.		
Development Address	Kilminion South, Ballinroad, Dungarvan, Co. Waterford		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	√
		No	Tick if relevant. No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	√	Class 10 (b) (i)	Proceed to Q3.
No	Tick or leave blank		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	√	Proposed 40 unit development does not meet or exceed 500 dwelling threshold	Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	√	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	√	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320825-24
Proposed Development Summary	40no. residential dwellings and all associated site works
Development Address	Kiliminion South, Ballinroad, Dungarvan, Co. Waterford
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	Proposed 40-unit residential development is not out of context at this urban location and will not result in any significant waste or pollutants.
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	Site is adequately removed from the Dungarvan Harbour SPA and Glendine Wood SAC and is adequately setback from protected structures in the vicinity to minimise any potential impacts.

Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).		Proposed 40-unit residential development is not likely to give rise to any significant impacts locally or transboundary. Construction impacts will be short term and temporary and can be adequately mitigated and managed.
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	No
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	
There is a real likelihood of significant effects on the environment.	EIAR required.	

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

