



<b>Development</b>	PROTECTED STRUCTURE: Construction of three two storey houses and alterations to existing stone boundary wall.
<b>Location</b>	The Vinery, Summerville Avenue, Waterford City
<b>Planning Authority</b>	Waterford City and County Council
<b>Planning Authority Reg. Ref.</b>	25/60627
<b>Applicant(s)</b>	Graham Farrell
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission + Conditions
<b>Type of Appeal</b>	Third Party Normal Planning Appeal
<b>Appellant(s)</b>	Kieran O'Connor & Others Barry McDonald & Claire Murphy Joanna Cunningham & Others
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	28 <sup>th</sup> May 2026
<b>Inspector</b>	Phillippa Joyce

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## 1.0 Site Location and Description

- 1.1. The appeal site is located at The Vinery, Summerville Avenue, in the southeast of Waterford City. The site is located within an established suburban area of the city, characterised by low-rise, low-density residential properties with mature landscaping.
- 1.2. The site is an irregular rectangle configuration, indicated as measuring c.0.12ha. The site comprises the walled garden of Summerville House (No. 48 Summerville Avenue, a protected structure), a paved area to the south of Summerville Avenue, and lands between the walled garden and The Vinery. The site is infill and predominantly greenfield in nature.
- 1.3. The site is bound to the east by Summerville Avenue, to the north and west by The Vinery, and to the south by Summerville House. At the southeastern corner of the site, there is a right-angled bend in the route of Summerville Avenue. South of this bend is a paved area (partly included in the site) which provides direct access to No.s 46 and 47 Summerville Avenue and to the side garage/ rear door of Summerville House. The front of Summerville House addresses The Vinery.
- 1.4. The Vinery is a local tertiary, cul-de-sac road which is accessed from Summerville Avenue. The Vinery is the original access road to Summerville House, and the wingwalls, piers and gate of the entrance on Summerville Avenue are intact. In addition to Summerville House, The Vinery provides vehicular access to several detached residences.
- 1.5. The eastern and northern site boundaries include the original stonewalls of the walled garden (with some modern interventions), and the western boundary along the road edge with The Vinery comprises metal railings and hedging. The topography of the site is notable with ground levels increasing by c.2m in a southerly direction towards Summerville House.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the following elements:
  - construction of three detached dwellings (2 storey, 3 bedrooms, indicated total gross floor space of 357sqm).

- alterations to the existing stone boundary walls.
- provision of new vehicular entrance, junction, internal access road and footpath, and car parking spaces.
- undertaking all associated drainage, site, and landscaping works.

2.2. During the assessment of the application, Further Information (FI) was requested by the planning authority (see Section 3.0 below for details). In response to the FI request, the applicant revised the proposed development. Key revisions include those to the access arrangements (design and layout of the proposed entrance, junction with Summerville Avenue, internal access road and footpath, and pedestrian crossing on Summerville Avenue).

2.3. In the interests of clarity for the Commission, the development as proposed at the FI response stage and granted permission for is subject of the assessment of this appeal.

## 3.0 Planning Authority Decision

### 3.1. Summary of Decision

3.1.1. The application was lodged with the planning authority on 8<sup>th</sup> September 2025. On 28<sup>th</sup> October 2025, the planning authority requested further information (FI), which the applicant responded to on 22<sup>nd</sup> December 2025. On 4<sup>th</sup> February 2026, the planning authority issued a Notification of Decision to Grant Permission for the proposed development subject to 14 conditions.

### 3.2. Planning Authority Reports

3.2.1. Planner's Reports

#### Initial Assessment

The planner's report includes an assessment of the proposed development under the following headed items:

- Protected Structure
- Density
- Infrastructure

- Surface Water
- Access/ Entrance
- Private Amenity Space
- Open Space
- Boundary Treatment
- Car Parking
- Part V
- Utilities

The majority of the headed items were assessed as being acceptable. The initial assessment concludes with a recommendation that FI be requested from the applicant on technical engineering items relating to access/ entrance and surface water.

#### Further Information Assessment

A FI request issued to the applicant on eight items including:

- Vehicular and pedestrian access arrangements – entrance/ junction design and internal layout (Items 1, 3-7).
- Public lighting (Item 2).
- Surface water drainage details (Item 8).

On assessment of the FI response, the planning authority found the responses to be satisfactory. The planning authority undertook screenings in respect of EIA, and the Habitats and Water Framework Directives, screening out the need for each assessment.

#### Recommendation

The planning authority states regard was had to the nature of the development, to development in the surrounding area, and to the policy context set by the development plan and by several national documents. It is concluded that the proposal would be in accordance with the proper planning and sustainable development of the area.

### 3.2.2. Other Technical Reports

District Engineer, Metropolitan Area: Initial report recommends FI. No subsequent FI response report (written). Planning officer refers to a conversation with the section in which it is indicated that there is no objection subject to condition.

Conservation Officer: No report on case file.

### 3.2.3. Conditions

The 14 conditions attached to the grant of permission include both bespoke and standard conditions. Those which are bespoke in nature are as follows:

- Prior to commencement of development preparation of a Stage 2 Road Safety Audit (Condition 2(a)).
- Prior to occupation preparation of a Stage 3 Road Safety Audit (Condition 2(b)).
- Prior to commencement of development agreement on final road layout/ markings and provision of a traffic yield sign at site entrance from Summerville Avenue (Condition 2(c)).

While standard conditions include the following:

- Management of the construction phase (i.e., requirement for/ provision of a Construction Traffic Management Plan, wheel wash, licences for works on public paths/ roads, repair any damage to public paths/ roads, no stormwater run-off on public road, scheme to comply with DMURS, Resource Waste Management Plan, Construction Management Plan, construction hours, due care during foundation construction, undergrounding of services, provision of electric connections for vehicle charging points) (Conditions 2(d), 2(e), 2(f), 2(g), 2(h), 2(i), 7, 8, 9, 10).
- Payment of a section 48 development contribution (Condition 3).
- Requirement for a security bond or cash deposit for infrastructure completion and maintenance (Condition 4).
- Surface water drainage network system: construction, operation, maintenance (Condition 5).

- Connection agreements with Uisce Eireann (Condition 6).
- Naming and numbering (Condition 11).
- Public lighting (Condition 12).
- Obscure glazing in bathrooms (Condition 13).
- Final agreement on external finishes (Condition 14).

### 3.3. Prescribed Bodies

Heritage Council: No report on case file.

Development Applications Unit: No report on case file.

Uisce Eireann: No report on case file. Confirmation of feasibility correspondence included with application, no upgrade of infrastructure required.

### 3.4. Third Party Observations

- 3.4.1. The planning authority indicates 11 third-party observations were received during the assessment of the application, and the key issues raised are summarised in the initial planner's report. Four additional third-party observations were received on the FI response, which are summarised in the subsequent planner's report.
- 3.4.2. I have reviewed the submissions on the case file and confirm several of the issues raised therein continue to form the basis of the appeal case, which are outlined in detail in Section 6.0 below.

## 4.0 Planning History

### Appeal Site

*PA Ref. 25/113*

Extension of Duration of Permission granted on 20<sup>th</sup> November 2025 for PA. Ref 19/895. Expiry date of permission indicated as 18<sup>th</sup> August 2028.

*PA Ref. 19/895*

Permission granted to I. and G. Farrell on 19<sup>th</sup> August 2020 for the sub-division of the site and construction of a two-storey dwelling house in the garden area of

Summerville House (Protected Structure RPS No. WA731042) and the construction of a new vehicular access off The Vinery Road to access Summerville House with all associated site works on lands.

## 5.0 Policy Context

### 5.1. Local Policy Context

- 5.1.1. Waterford City and County Development Plan 2022-2028 (CCDP) is the applicable development plan for the assessment of the appeal case. The CCDP comprises several volumes including Volume 1: Written Statement, Volume 2: Development Management Standards, Volume 3: Appendices, and Volume 4: Maps.
- 5.1.2. Relevant policy and objectives from Volume 1 include those in Chapters 7: Housing and Sustainable Communities and 11: Heritage. From Volume 2 are those in Sections 8.0 Roads Access Policy and 11.0 Zoning and Land Use, and from Volume 3 those in Appendices 8 and 9.
- 5.1.3. The relevant CCDP policy and objectives include:
- Chapter 7: Housing and Sustainable Communities (Volume 1)
    - General Housing Policy Objectives
      - Objective H 01: *To promote compact urban growth through the consolidation and development of new residential units on infill/ brownfield sites and mews and townhouse developments...*
      - Objective H 02: *In granting planning permission, we will ensure new residential development:
        - *Is appropriate in terms of type, character, scale, form and density to that location....**
      - Objective H 04: *We will promote and facilitate sustainable and liveable compact urban growth through the thoughtful consolidation and of infill/ brownfield sites in a way which promotes appropriate levels of compactness while delivering healthier and greener urban spaces and residential amenities. This will be achieved by:*

- *Facilitating and supporting a range of residential densities and building heights appropriate to the context and residential amenity of a proposed development location....*
- *Supporting the permeable integration and densification of existing built-up areas.....*

### Protection of Existing Residential Amenity

- *Objective H 20: Where new development is proposed, particularly on smaller suburban infill sites (<1 ha in area), we will ensure that the residential amenity of adjacent residential properties in terms of privacy and the availability of daylight and sunlight is not adversely affected.*  
  
*We will support lower density type development at these locations. We will require that new development in more established residential areas respect and retain, where possible, existing unique features which add to the residential amenity and character of the area, such features include front walls, gates, piers, railings, and stone/ brick/ render work.*
- Chapter 11: Heritage
  - *Objective BH 01: Record of Protected Structures*  
  
*We will promote the protection of the architectural heritage of the City and County through the identification of structures of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, by the inclusion of such structures on the Record of Protected Structures (RPS) and by taking such steps as are necessary to ensure the protection of those structures, their maintenance, conservation, enhancement, and appropriate active use.*  
  
*To this end we will contribute towards the protection of architectural heritage by complying, as appropriate, with the legislative provisions of the Planning and Development Act 2000 (as amended) in relation to architectural heritage and the policy guidance contained in the Architectural Heritage Protection Guidelines 2011 (and any updated/ superseding document).*
  - *Objective BH 11: Maintaining and Enhancing Special Character*

*It is the policy of the Council to protect structures and curtilages included in the RPS or historic structures within ACA, from any works which would visually or physically detract from the special character of the main structure, any structures within the curtilage, or the streetscape or landscape setting of the ACA.*

- Objective BH 12: Settings and Vistas

*It is the policy of the Council to ensure the protection of the settings and vistas of Protected Structures, and historic buildings within and adjacent to ACAs from any works which would result in the loss or damage to their special character.*

- Section 8.0 Roads Access Policy (Volume 2)

- Policy in Section 8.5 Road Safety Audit

*... A road safety audit may also be required for development with access onto non- national routes where the council deems it necessary....*

- Development Management DM 47

*The design of urban streets in Ireland is governed by DMURS which is mandatory for all urban roads and streets within the 60 km/h urban speed limit zone...The Council will require that all new development or the intensification of existing entrances onto the public road network is provided for in a safe manner in accordance with the current Transport Infrastructure Ireland publications.*

- Section 11.0 Zoning and Land Use

*Table 11.1 Land Use Zoning Objectives*

The site is zoned as 'Existing Residential RS' which seeks to 'Provide for residential development and protect and improve residential amenity'.

*Table 11.2 Zoning Matrix*

The 'residential scheme' land use class is permitted in principle under the Existing Residential RS zoning.

- Appendix 8: Landscape and Seascape Character Assessment (Volume 3, also Volume 4)

#### Section 4.4(a) Least Sensitive Areas

The site is located within a 'Least Sensitive' Scenic Classification (as per Map A8.3).

- *...These are areas of concentrated existing development and infrastructure. Appropriate new development in these areas can reinforce the existing desirable landuse patterns. Regard shall be had to site development standards namely density, building lines, height of structures and design standards....*
- Appendix 9: Record of Protected Structures (RPS) (Volume 3)  
Protected structure adjacent to the south of the site is listed as:
  - *RPS No. WA731042; Name: Summerville House; Type of Structure: 'house'.*
- RPS description and appraisal (Volume 4, Interactive Built Heritage Map)
  - *Description: '...early 19th Century five bay two storey detached dwelling, formerly with formal gardens to the west. Extended over time and the gardens formed part of 20th century housing developments. Hipped pitch roof with replacement tiles, rendered chimneys a....' (unfinished)*

## 5.2. National Policy Context

5.2.1. Certain national planning guidelines are applicable to the proposed development; a new residential development in an infill site within an area of architectural heritage.

5.2.2. Relevant guidelines for the appeal case include the following (my abbreviation in brackets):

- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024, (Compact Settlements Guidelines).
  - Section 3.3 requires that densities in the range of 35dph to 50dph should be applied for new residential developments in 'City – Suburban' sites in Waterford City and suburbs.
  - Section 3.4 outlines a density refining process which allows potential impacts on character and historic environment to be taken into consideration.

- Section 4.4 contains Policy and Objective 4.1 which requires the implementation of principles, approaches and standards in the Design Manual for Urban Roads and Streets, 2013, including updates (DMURS).
- Section 5.3: includes achievement of housing standards as follows:
  - SPPR 1 – Separation Distances which requires a minimum of 16m between opposing windows serving habitable rooms at the rear or sides of houses above ground floor level.
- Architectural Heritage Protection Guidelines for Planning Authorities, 2011 (Architectural Heritage Guidelines)

#### Section 13.1: Determining the Curtilage of a Protected Structure

- Section 13.1.1 states for the purposes of the guidelines, curtilage is taken to be the parcel of land immediately associated with the protected structure, and which is (or was) in use for the purposes of the structure.
- Section 13.1.2 states it is not necessarily the case that the curtilage of a protected structure will coincide with the land owned together with it. Cites the example of a large country house where walled gardens, lawns, and the like may all be considered to form part of the curtilage of the building.

#### Section 13.5: Development within the Curtilage of a Protected Structure

- 13.5.1 requires that new development within the curtilage of a protected structure should be carefully scrutinised as inappropriate development will be detrimental to the character of the structure.
- 13.5.2 guides that new development should not interrupt an existing formal relationship between a protected structure and its ancillary features, the relationship between the protected structure and the street should not be damaged, and new works should not adversely impact on views of the principal elevations of the protected structure.
- Section 13.5.3 states that where a large house has a garden which contributes to the character of the protected structure, subdivision of

the garden, particularly by permanent subdividers, may be inappropriate.

### 5.3. Natural Heritage Designations

- 5.3.1. The appeal site is not located in or immediately adjacent to a European Site, a Natural Heritage Area (NHA) or a proposed NHA (pNHA).
- 5.3.2. The pNHA designations in proximity to the appeal site include:
- Kilbarry Bog pNHA (001700) is c.1.56km to the southwest.
  - King's Channel pNHA (001702) is c.1.78km to the northeast.
- 5.3.3. The European site designations in proximity to the appeal site include (measured at closest proximity):
- Lower River Suir SAC (002137) is c.501m to the north.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. This is a third-party appeal against the decision of the planning authority to grant permission for the proposed development. There are three appellants including one representing several named persons with different addresses, and the owners of the adjacent Summerville House. Appellants indicate addresses on Summerville Avenue and The Vinery (adjacent to and/ or in the vicinity of the appeal site).
- 6.1.2. The appeal grounds can be summarised under the following headings:

#### Landownership and Consent

- Area included within the red line boundary to the front of the site (southeastern corner) is indicated on site layout plan as being under the ownership of the County Council.
- Applicant incorrectly states he is the owner of the lands subject of the application.
- No letter of consent from the County Council to include the lands.
- Application is therefore invalid, as per Article 22(2)(g)(i) of Planning and Development Regulations.

## Planning History

- Overview of five planning applications at the appeal site (two have been withdrawn).
- Highlights items not responded to in previous applications (e.g., DMURS compliance, impact on Summerville House protected structure).
- Applicant currently holds two permissions for the same plot of land (development subject of the appeal, and PA Ref. 19/895), both of which have unresolved unsatisfactory planning issues (e.g., access, surface water drainage).

## Curtilage of a Protected Structure and Impact on Architectural Heritage

- Submits the site is old walled garden of Summerville House, a protected structure, and forms part of its curtilage.
- Curtilage of a protected structure is considered to be part of the protected structure irrespective of whether the curtilage is specifically identified on the register of protected structures.
- Cites extracts from the Planning and Development Act, 2024, the Architectural Heritage Guidelines, and the development plan regarding the nature of the curtilage of a protected structure.
- Refutes categorisation of the site in the Architectural Heritage Impact Assessment (AHIA) in the context of the curtilage and historical boundary of Summerville House (i.e., not fully within the curtilage of the protected structure).
- By not categorising the site as such, the applicant has wrongly relegated the status of the site, thereby failing to apply the necessary protections to same.
- Outcome of which results in the removal of at least a quarter of the existing old walls and almost all vegetation.
- Placing three houses within what is left of the walled garden would entirely sever the relationship between the curtilage and the protected structure.

- Visual impact of the proposed development on the architectural heritage of the area, particularly the protected structure and the streetscape of distinctive character, does not appear to have been considered.
- Site is located at an elevated position on Summerville Avenue, is a green space (present since the construction of the house in 1829). Space will be almost entirely permanently lost causing a detrimental material change in the landscape as viewed from all sides.
- Historic walled garden has formed part of the setting, character and integrity of Summerville House since its construction in 1861 (appellant, owners of Summerville House).
- Insufficient weight has been given to the statutory protection afforded not only to the protected structure itself but to its curtilage.
- Insertion of three modern two-storey dwellings into this confined historic setting would irreversibly alter the character and setting of the protected structure.
- Disputes claims that the north and west stone boundary walls are of modern construction. Walls taken down for foundations to be built and re-constructed using original stone and in the original alignment.
- Current position of all boundary walls dates to the original construction of the walled garden. They form part of the curtilage of Summerville House.

#### Vehicular and Pedestrian Access

- Proposed design and location of access to the development raise serious concerns around safety for pedestrian and vehicle users on Summerville Avenue and in The Vinery.
- These include the proposed access being onto a portion of Summerville Avenue not wide enough to accommodate passing vehicles, being on a blind bend, due to narrowing of the road cars take the bend in the middle of the road, no footpaths at this point, access onto an already dangerous location in particular to pedestrians, onto area which is directly in front of the entrances to houses/ garage where vehicles are habitually parked, pedestrians faced

with traffic coming from four points in a location with a blind bend, no or no adequate footpaths and no adequate crossing point from the development.

- Despite the above and the fundamental lack of information available, the planning authority has (wrongly) granted permission on the basis of these matters being dealt with by way of condition.
- Most immediate and serious concern relates to the proposed new vehicular entrance onto Summerville Avenue at a location where, inter alia, the road has sharp 90-degree bend, road narrows, into area used to access properties, which lacks adequate pedestrian infrastructure, where visibility is compromised.
- Introducing a new residential entrance at this location creates a significant additional hazard. Fearful that the proposed access arrangement presents a serious and unnecessary danger to pedestrians, particularly children.
- Eight houses rely on The Vinery laneway for vehicular and pedestrian access. Proposal (relocated boundary wall) has a narrowing effect at the entrance reducing the width available to passing vehicles, increasing risk and hazard to road users.
- Proposal to move the north boundary wall to the edge of The Vinery abolishes the grass verge that permits a turning point, reversing point and parking for vehicular traffic transiting through The Vinery. This is to the detriment of residents on The Vinery.
- Vehicles encountering each other will be obliged to reverse onto Summerville Avenue and/ or around the blind right-angled bend within The Vinery. Such manoeuvres present unacceptable hazards (to vehicles and pedestrians) within The Vinery and on Summerville Avenue.
- Relocation of the north wall will restrict the road width available for fire tenders and other emergency vehicles to enter the narrow lane (road width will measure 3.5m, a minimum of 3.7m is required, 4m recommended for safety).
- A quality and road safety audit including impacts on The Vinery is required prior to any planning permission being finally granted.

- Appeal of J. Cunningham and Others includes a technical report undertaken by a traffic consultant (Appendix D of the appeal). The report considers the following items:
  - Original Proposed Access Arrangements.
  - Revised Proposed Access Arrangements.
  - RFI Item No.s 1, 3, 4, 6, and 7 (each includes an assessment of and conclusion on the RFI item).
  - Notification of Decision to Grant Planning Permission (with an assessment of the planning decision).
  - Conclusion:
    - Safety, design, and feasibility of the proposed access were neither properly assessed nor resolved prior to decision.
    - Reliance on post-permission conditions to address matters of such fundamental importance is inappropriate.
    - Insufficient information demonstrating compliance with DMURS, the development plan, and established road safety standards.
    - Permission should be refused in the interests of public safety.

### Surface Water Management

- Surface water management proposals are entirely inadequate and testing at the site has not established otherwise.
- Proposals will almost certainly result in flood risk and/ or damage to neighbouring properties, have the potential to cause pollution of the groundwater, and have not been addressed in the planning process.
- Site acts as a precipitation infiltration buffer for properties to the north due to the sloping topography, slowing down the rate at which groundwater finds its path downhill. Much of the infiltration buffer will be lost should the proposed development be permitted.
- Application details on surface water conditions at the site are taken from a previous planning application (PA Ref. 25/60115 (withdrawn), 'Soakaway

Tests and Design' report by T. O'Donoghue Consultant Engineer, January 2025).

- Application details include inadequate site characterisation and inadequate testing/ appreciation of the conditions of the ground at the site.
- Applicant has not adequately considered how the proposed development will affect the surrounding properties in respect of surface water infiltration, ponding, flooding and pollution.
- Appeal of J. Cunningham and Others includes a technical report undertaken by an engineering consultant (Appendix E of the appeal). The report considers the following items:
  - BRE Digest 365 Soakaway Design (includes guidance on trial pit construction, site investigations, infiltration rate calculation).
  - Engineering Assessment Report Rev 3, 08/09/2025, (outlines the contents of the previous Soakaway Tests and Design report by T. O'Donoghue Consultant Engineer (referred to as Appendix A)).
  - Geotechnical Assessment (includes a critique of the Soakaway Tests and Design report (site characterisation, site investigations, soil infiltration rates, and soakaway design)).
  - SuDS Strategy Report Rev 1, 08/09/2025 (includes a critique of the report as it relies on absent test results referred to in the Soakaway Tests and Design report and/ or does not include relevant information from same on soil conditions).
  - Condition 5 attached to the grant of planning permission (considers appropriateness of the condition and whether the requirements can be achieved).
  - Conclusion:
    - Compliance with the requirements of BRE Digest 365 for soakaway design have not been demonstrated.

- Infiltration rates are unsubstantiated (lack of test data, discordant with the soil descriptions, no meaningful difference between ground conditions encountered).
- Suitability of the site's subsoil materials to manage surface water via soakaways has not been adequately demonstrated. The presence of bedrock at a high level under the site could result in a groundwater pollution risk.
- Highly likely that surface water will present difficulties in the locality due to the prevailing groundwater movement patterns (site slopes southwest to northeast).
- Inappropriate to grant planning permission when it has not been effectively demonstrated that an on-site system of surface water management is possible.

#### Building Height and Design

- Applicant significantly understates the expected negative impact that would result from the proposed development at this elevated location.
- Proposal's inappropriate design would result in a disproportionately adverse impact on the overall feel of the area.
- Between applications, the overall height of the proposed structures, relative to existing ground levels and the levels of surrounding buildings and the road increased (single to two storey house type 1), density of development increased, as did the number of windows in dwellings' elevations.
- Despite the context and development pattern in the area being acknowledged, the planning authority has not taken account of the form of surrounding development and proposes to significantly diminish the amenities of surrounding properties.

#### Residential Amenity

- Proposal will cause overlooking and loss of privacy to surrounding properties (into habitable rooms, private amenity spaces).

- Separation distances between the proposed dwellings and Summerville House are limited due to the confined nature of the site. Overlooking will plainly occur.
- Proposal will cause a significant and disproportionate impact on family home (appellant, owners of Summerville House).
- Positioning of second storey windows directly facing Summerville House, No. 10 Summerville Avenue (Corner Cottage), No. 3 The Vinery, and No 49 Summerville Avenue cannot but cause overlooking and invasion of privacy.
- Overlooking has not been addressed in any practical way, proposal fails to comply with Development Plan Policy Objective H 20.
- No assessment of the issue of privacy by the planning authority as it pertains to adjacent and existing properties.

#### Inconsistencies and Omissions

- Incorrect representation of the proximity of neighbouring buildings, elevations of the proposed buildings relative to ordnance datum, and existing buildings and perceived visual impact.
- Drawing No WP/01 Watermain Plan indicates new fire hydrants and thrust block despite applicant stating fire tender vehicles will not access the site.

## **6.2. Applicant Response**

6.2.1. A response has been received from the applicant on the appeal. The response includes general observations and responses to the appeal grounds.

6.2.2. The general observations include:

- Principle of developing in the walled garden established under PA Ref. 19/895.
- Walled garden is arguably not within the curtilage of the protected structure.
- Site is zoned for Existing Residential, permitting new housing in gap sites.
- Residential density proposed is acceptable.
- Development standards are met.

6.2.3. Responses to the appeal grounds as identified by the applicant include:

- Road Safety and Quality Audit:
  - Applicant's agent met planning authority's roads engineer and agreed on responses to FI request items 1, 3, 4, 6, and 7.
  - Undertaking the Road Safety Audit by way of condition was agreed '...with the approved layout being adjusted, if necessary, to comply'.
  - Not uncommon practice to permit a development subject to a requirement for a Stage 1/ 2 RSA.
  - Correspondence from the engineering consultant regarding Condition 2(a) refers to consultations with planning authority staff, and agreement for a post-consent Stage 2 Road Safety Audit to be undertaken.
- Overlooking/ Loss of Privacy
  - No first-floor windows in House 1 with an aspect towards Summerville House, as such there will be no overlooking or loss of privacy.
- Surface Water Management
  - Correspondence from the engineering consultant regarding Condition 5 refers to consultations with planning authority and Uisce Eireann staff, and comprehensive documentation submitted with the application.
- Original Walled Garden Boundary Walls
  - North-facing section of the boundary wall dates from 1980s, proposed to re-demolish this wall, reuse the stone to rebuild the newly located northern wall.
  - New boundary wall to be constructed using traditional methods and materials to match the original boundary walls.
  - Alterations to eastern and western boundary walls are to facilitate development, any stone removed will be reused in new walls.
  - Majority of the existing stonewalls engaging in public realm are maintained unaltered.

6.3. **Planning Authority Response**

6.3.1. No response has been received from the planning authority on the appeal.

#### 6.4. **Observations**

6.4.1. No observations have been received on the appeal.

### 7.0 **Environmental Impact Assessment**

#### 7.1. **Screening for Environmental Impact Assessment**

7.1.1. The proposal is of a class of development identified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended (2001 Regulations) for the purposes of Environmental Impact Assessment (EIA). Accordingly, I have undertaken a pre-screening exercise and preliminary examination of the proposed development (see Appendix 1 and Appendix 2 respectively of this report below).

7.1.2. By taking into account the nature and scale of the proposed development, the location of the site on zoned and serviced lands within an existing built-up area and outside of any sensitive and/ or designated location, the existing pattern of development in the vicinity, the information and reports submitted as part of the application and appeal, and the criteria set out in Schedule 7 of the 2001 Regulations, I have concluded that there is no real likelihood of significant effects on the environment arising from the proposed development, and that the need for an EIA and the submission of an EIAR is not required.

### 8.0 **Planning Assessment**

#### 8.1. **Introduction**

8.1.1. Having reviewed the appeal, examined the documentation on the case file, inspected the site, and had regard to the relevant policy context, I consider that the main issues in the appeal to be as follows:

- Principle of Development
- Design and Siting
- Architectural Heritage
- Residential Amenity

- Access and Traffic
- Surface Water Management
- Other Matters

I propose to address each item in turn below.

## 8.2. Principle of Development

- 8.2.1. In the CCDP, the appeal site is zoned as 'Existing Residential RS' which seeks to *'Provide for residential development and protect and improve residential amenity'*. The proposed development, three dwelling units and associated site works, aligns with the 'residential scheme' use class, which is permitted in principle under the RS zoning objective. No issues arise in respect of use class.
- 8.2.2. The proposal is a smallscale residential development at a greenfield infill site. The site measures 0.12ha, and the density of the scheme is c.25dph. National policy from the Compact Settlements Guidelines indicates a density of between 35dph to 50dph should be achieved at the site. While I note that the proposed density is lower, I find this to be acceptable. I consider the density refining process allowed for in the guidelines would be applicable in this instance due to impacts on character and architectural heritage (as discussed in subsections 8.3 and 8.4 below).
- 8.2.3. The proposal constitutes a form of compact urban growth in the city, consolidating the existing pattern of development in the area, and utilising the zoned and serviceable greenfield site. In this regard, I consider the proposal complies with applicable overarching housing and sustainable community CDP Objectives H 01 and H 04.

### Conclusion

- 8.2.4. In conclusion, the proposal complies with the zoning objective, and no issues arise in respect of the principle of development. The proposal accords with local and national policy relating to site specific residential densities, compact urban growth, and sustainable infill development.
- 8.2.5. However, issues preventing the positive assessment of the proposal arise in respect of architectural heritage, access and traffic, and surface water management as discussed in the respective subsections below.

### 8.3. Design and Siting

- 8.3.1. Appeal grounds include the inappropriate design of the scheme, the increased building heights in the proposal, the degree of impact due to the elevated nature of the site, the adverse impact on the character of the area, and the context and development pattern in the area not being considered.
- 8.3.2. The proposed development comprises three detached dwellings (Houses 1-3, gross floorspaces of between 116sqm and 123sqm) with private open space and car parking. The dwellings are of a two-storey design, predominantly three bays with a mixed render and stone external finish. Principal dimensions include heights of c.7.24m, depths of c.5.7m, and widths of between c.12.4 and c.13.75m.
- 8.3.3. The proposed dwellings are positioned within the centre/ northeastern portion of the site. The proposal includes a new vehicular entrance in the southeastern corner of the site accessing onto Summerville Avenue. The internal access road extends along the southern and western site boundaries. The proposed dwellings are clustered within a landscaped (hard and soft) area, with parking spaces sited opposite along the western boundary.
- 8.3.4. On review of the plans and particulars, I find the proposed dwellings to be of a streamlined design, modestly scaled, with simple rectangular building footprints. The dwellings are a uniform modern design, with slight variations between each other adding visual interest and variation.
- 8.3.5. While I note the appeal grounds and acknowledge the differences in siting to the existing dwellings in the area (i.e., the proposed dwelling units have smaller footprints and are closer in proximity to each other), I do not consider this to be inappropriate or inconsistent. The dwellings form a distinct cluster, creating their own character, and their siting does not break any formal building line.
- 8.3.6. I consider the proposal maintains the building-typology characteristic of the area (i.e., detached dwellings) and that a potential terrace row of houses or duplex block of apartments may be, arguably, more inconsistent with the pattern of development.
- 8.3.7. On balance, I consider the architectural approach taken for the design and layout of the scheme to be appropriate (i.e., choice of detached dwelling type, proposed

buildings' height, scale and massing, elevational treatments, and external finishes of render and/ or stone).

#### Impact on Character and Visual Amenity

- 8.3.8. The character of the area is defined by detached dwellings on large individual plots with well-defined boundary walls, gated entrances and landscaped screening. The area is an established residential location and is not overtly vulnerable to changes in the urban landscape (save for the protected structure status associated with Summerville House, as considered in subsection 8.4 below).
- 8.3.9. Following my site inspection, I note the site is at an elevated position with ground levels increasing in a southerly direction towards Summerville House. However, I consider that the increase (c.2m over a distance of c.40m) is marginal in terms of impact on the character and visual amenity of the area.
- 8.3.10. This is evident from a review of submitted plans (i.e., Proposed Contextual Site Sections: Dwg No. 22116-Pp-300 and Existing & Proposed Street Elevations: Dwg No.s 22116-Pp-410 and 411) which indicate that the existing adjacent dwellings are commensurate and/ or higher and larger in terms of height, scale and massing of built forms (e.g., Summerville House to the south). That being, notwithstanding the increase in ground levels, the proposed dwellings are still modest within the context of the site and receiving area.
- 8.3.11. I note that the site is located within a 'Least Sensitive' scenic classification in the CCDP. The plan's Landscape Character Assessment states that new development in these areas can reinforce existing desirable landuse patterns and be dependent on the achievement of site development standards (e.g., density, building lines, height of structures and design standards). I consider that the appeal site and proposed development satisfy these criteria.

#### Conclusion

- 8.3.12. In conclusion, I consider the design and siting of the proposed development (i.e., the dwellings, central landscaped courtyard, peripheral grouped parking area) to be an appropriate design response for this infill site and for the receiving residential context. I find that the residential character and visual amenities of the area would

not be negatively affected, and that the proposal would comply with the applicable housing and sustainable community CDP Objective H 02.

- 8.3.13. However, as discussed in the following subsection, the proposal seeks to develop on lands within the formal curtilage of Summerville House protected structure (partial demolition of the eastern boundary stonewall, new entrance, and access road/footpath) which is considered to adversely impact on the setting and character of Summerville House and the architectural heritage of the area (historic streetscape).

#### 8.4. **Architectural Heritage**

- 8.4.1. Appeal grounds include strong opposition to the proposal due to adverse impacts on Summerville House and the walled garden, that the walled garden is part of the house's curtilage, the protected structure status of the house should extend to protect all (not just part) of the walled garden, the relegation of the status of the garden in the AHIA results in the proposed removal of a quarter of the existing old walls and almost all vegetation, the development of the site would sever the relationship between the curtilage and the protected structure, and irreversibly alter the character and setting of the protected structure.
- 8.4.2. The planning authority decision does not include a technical report from the Conservation Officer. There is no response to the appeal from the planning authority.

#### Protected Structure – Summerville House

- 8.4.3. Summerville House is designated as a protected structure in the CCDP, with entry details as RPS No. WA731042; Name: Summerville House; Type of Structure: 'house'. From the planning authority's interactive Volume 4: Built Heritage Map, I note further details of the property as being 'formerly with formal gardens to the west' and the gardens 'formed part of 20th century housing developments' (cited in section 5.0 of this report above).
- 8.4.4. I have reviewed the applicant's Architectural Heritage Impact Assessment (AHIA), and note the following of relevance to the appeal case:
- The extent of the protected structure boundary for Summerville House (i.e., designated curtilage) as indicated on Fig. 1 and Fig. 4 (map stated as provided by WCCC).

- The historical development of the walled garden on the northern side of Summerville House, of The Vinery (entrance from Summerville Avenue, development of detached houses), and of Summerville Avenue (right-angle bend to the rear of Summerville House) evident on Fig.s 5-9.
- The stonewalls of the walled garden, the railings and lawn to the west, and gateways to/ from The Vinery indicated on Fig. 22, with corresponding photographs of the boundaries and gateways (Fig.s 12-21).
- The development proposed in the southern portion of the site (i.e., partial demolition of the eastern stonewall, new entrance and access roadway) which is within the protected structure boundary as indicated on Fig.s 23 and 24.

#### Curtilage of Summerville House

- 8.4.5. In respect of the curtilage of Summerville House, as indicated in Fig. 1 and Fig. 4 of the AHIA, I note that the protected structure boundary extends to include the house, its front vista to the west, large side garden to the south, buildings including the garage at the rear, and the southern portion of the walled garden (for a depth of c.7m).
- 8.4.6. While disputed in the appeal grounds, I consider that the lands within the protected structure boundary (stated by the applicant in the AHIA for Fig. 4 as being provided by the Council) to represent the formal curtilage of Summerville House. Notwithstanding the absence of a Conservation Officer report for the application, there is no evidence on the case file indicating otherwise.
- 8.4.7. The AHIA acknowledges that the walled garden was originally part of the curtilage of the protected structure but states it is now 'detached from Summerville House with the main house under separate ownership'. The remainder of the AHIA focuses on the part of the site that is within the formal curtilage/ protected structure boundary.
- 8.4.8. I note the arguments in the appeal grounds as to why all of the walled garden should be included within Summerville House's curtilage and thereby afforded full protected structure status protection. From my review of the case file and site inspection, it is evident that the walled garden developed in tandem with the house (Fig.s 5-9 of the AHIA), is a parcel of land immediately associated with and was in use for the purposes of the house (as per Section 13.1.1 of the Architectural Heritage

Guidelines). I also agree that being in different ownership does not separate a protected structure from its curtilage (as per Section 13.1.2 of the Architectural Heritage Guidelines).

- 8.4.9. However, the fact remains that the designation of Summerville House as a protected structure and the extent of its formal curtilage has involved a plan-led process of consultation, notification, and adoption undertaken by the planning authority with legal standing. Within the formal curtilage/ protected structure boundary, the planning authority has included the lands which it would have considered to comprise the setting and character of the protected structure. In respect of the walled garden, as only the southern portion of the garden has been included within the formal curtilage it is reasonable to conclude that this portion most proximate to the northern gable of Summerville House, has been determined to form part of the house's setting, to contribute to the character of the house, and to require commensurate protection.
- 8.4.10. Accordingly, the appropriateness of developing the remainder of the walled garden can be assessed on its own merits. In my opinion, as outlined in the previous subsections, the development of this infill, residentially zoned and serviced site with an appropriately designed and scaled scheme would be acceptable in principle.
- 8.4.11. While I identify adverse impacts on Summerville House arising from developing the portion of the walled garden located within the formal curtilage of the protected structure, I do not consider the proposal to cause undue injury to the remainder of the walled garden and site.

#### Planning History

- 8.4.12. I identify the extant planning history at the site as being of relevance to the appeal case. Under PA Ref. 19/895 permission was granted within the site for a detached dwelling with a new entrance (duration of permission extended under PA Ref. 25/113 to August 2028).
- 8.4.13. I have reviewed the site layout plan for same (Site Layout Plan – Proposed: Dwg No. PL-0102), noting that the southern site (redline) boundary running through the walled garden aligns with the extent of the formal curtilage/ protected structure boundary discussed above.

- 8.4.14. The plan indicates the extent of the walled garden walls to be partially demolished (western wall, allowing access to the dwelling, stone to be reused in new walls) and removed/ relocated (northern wall, rebuilt further north, closer to the wing wall/ entrance gate of The Vinery roadway).
- 8.4.15. With regard to access, I note that the permitted dwelling is served by a new entrance in the western wall of the walled garden, new car parking spaces in the lawn area adjacent to The Vinery road edge, but with access onto the existing driveway, and use of an existing gated entrance onto The Vinery (photo of which, Fig. 13 of the AHIA).
- 8.4.16. In the appeal response, the applicant relies on the planning authority's position that a precedent for the development of the site was established under the extant permission. I do not necessarily agree; the extant permission involved less interventions in the original fabric of the site, removed less vegetation, and utilised an existing driveway and entrance gateway. Elements in the extant permission which are included in the proposed development are car parking spaces in the lawn area adjacent to The Vinery road edge, and the removal of the northern wall of the walled garden and its relocation closer to the wing wall/ entrance gate of The Vinery roadway.
- 8.4.17. Notable differences between the extant permission and the proposed development include the development/ redline boundaries (the latter incorporates lands within the formal curtilage/ protected structure boundary), development being proposed within the formal curtilage of the protected structure (entrance, roadway, footpath, screening), and the partial demolition of the eastern wall of the walled garden/ site boundary to facilitate the new access arrangements boundary. There is no precedent in the planning history for these elements.

#### Impact of the Proposed Development

- 8.4.18. As discussed in subsection 8.3 above, I consider the design and siting of the proposal to be acceptable in and of itself (i.e., a smallscale residential infill scheme). With regard to the impact of the proposal on the architectural heritage of the site, I have reviewed the street elevations, site sections drawings, and 3D perspective images. I find that the proposed dwellings are modest in height, scale and massing, are subservient to, and do not impose on the Summerville House building per se.

- 8.4.19. I consider the main impacts of the proposal arise from lands in the formal curtilage of the protected structure being included within the site boundary, and the nature of the development being proposed therein (as indicated on Figs 23-24 of the AHIA, note: adjust for the site layout plan as per the FI response stage).
- 8.4.20. This includes the partial demolition of the eastern stonewall (c.9m in width), creation of a new entrance, roadway, footpath, and screening adjacent to the existing southern wall of the walled garden to the north of Summerville House. The eastern stone wall is both part of the walled garden and also a site boundary. The walls of the walled garden and proposals to same are indicated on Existing Site Layout Plan: Dwg No. 2216-Sy-101.
- 8.4.21. I consider that the eastern wall of the walled garden is an important component in the setting of the house, contributing to the character of the protected structure. This is particularly the case when viewed from the public realm of Summerville Avenue. The eastern wall, the side/ rear elevations of Summerville House, and its garage structure create a distinctive enclosure at this location onto Summerville Avenue (the historic development of which can be traced in the figures included in the AHIA).
- 8.4.22. I consider the partial demolition of the wall and the creation of a new entrance (with several road/ junction markings and signage) to constitute material interventions in the original built fabric and to the setting of the protected structure. Similarly, I consider the development of the internal access road, footpath, and screening along the southern boundary of the walled garden to constitute material interventions in the curtilage of the protected structure. The partial demolition and insertion of a new entrance in the wall would open up the site, allowing views through the site along the internal roadway.
- 8.4.23. I consider that the interventions and resultant exposure of the site would extinguish the connection between Summerville House and the walled garden, both visually and physically (an indication of which I believe to be evident in View 2 of the 3D perspective images). I agree with the appellants and find that the development of this portion of the site in the manner proposed would sever the relationship between the protected structure and this part of its curtilage, materially alter the setting of, and adversely affect the character of Summerville House.

- 8.4.24. For the reasons outlined above, I consider that the proposed development fails to comply with applicable policy in the CCDP and the Architectural Heritage Guidelines on development within the curtilage of a protected structure (cited in section 5.0 of this report above). These include Objectives BH 11 and BH 12 by failing to protect the special character and setting of the protected structure and its curtilage, and Section 13.5.2 of the Guidelines, and by association Objective BH 01, by interrupting an existing formal relationship between a protected structure and its ancillary features, and damaging the relationship between the protected structure and the street.
- 8.4.25. Finally, from my review of the case file I have not identified a sufficiently robust justification for proposing the partial demolition of the eastern wall to create the new entrance. At this location, the wall is part of/ within the protected structure boundary and thus most vulnerable to interventions. There appear to be viable alternatives to access the site via the existing entrances in the northern and/ or western site boundaries onto The Vinery.
- 8.4.26. In my opinion, the appropriate design approach for developing at/ in the vicinity of the formal curtilage, would be to avoid interventions to the walls of the walled garden to the greatest extent possible, use the existing entrances in the remainder of the walled garden/ site boundaries (northern and western), and/ or the access arrangements as permitted under the extant permission.
- 8.4.27. This is especially relevant when, as discussed in subsection 8.6 below, the applicant has failed to adequately demonstrate that the proposed entrance can be accommodated at this location (i.e., achieve all necessary design standards, measurements, and dimensions) and safely accessed by all road users.

#### Conclusion

- 8.4.28. In conclusion, I consider that the formal curtilage of the protected structure has been designated by the planning authority, it incorporates the southern portion of the site/ walled garden, and the remainder of the site is suitable for development. The partial demolition of the eastern wall boundary and the development proposed therein are considered to sever the relationship between the protected structure and that part of its curtilage, to materially alter the setting of, and to adversely affect the character of the protected structure Summerville House. Accordingly, the proposal fails to

comply with applicable objectives in the CCDP and policy in the Architectural Heritage Guidelines.

## 8.5. Residential Amenity

- 8.5.1. Appeal grounds include strong opposition to the proposal due to its causing overlooking and loss of privacy to surrounding properties, a significant and disproportionate impact on adjacent Summerville House, and failing to comply with CCDP Objective H 20.

### Overlooking

- 8.5.2. In respect of overlooking and loss of privacy, I have reviewed the submitted plans and particulars of the proposed dwellings and details provided in the appeal grounds. I have noted the siting/ orientation of the proposed dwellings, separation distances to and relationship with the existing properties, and the occurrence of first floor windows and their outlook for each dwelling (no issue arises in respect of ground floor windows due to proposed boundary treatments (walls, hedging).
- 8.5.3. The Commission will be familiar with mandatory SPPR 1 of the Compact Settlement Guidelines which establishes 16m as a minimum separation distance between properties as an acceptable standard when assessing potential overlooking between properties. This distance is between opposing windows serving habitable rooms (living rooms, dining rooms, studies and bedrooms) at the rear or sides of houses above ground floor level. I apply this standard in the following assessment.

### House 1

- 8.5.4. House 1 is located towards the southwest of the site, aligned parallel to the internal access road. The dwelling is accessed from the shared courtyard area, (i.e., the front of the dwelling is the NE elevation) and the dwelling addresses the fronts of Houses 2 and 3 (their SW elevations).
- 8.5.5. The rear (SW) elevation of House 1 opposes the NE side gable of Summerville House, and the separation distance between buildings is indicated as c.12.3m. The SW elevation of House 1 does not feature any first-floor window with a southerly outlook toward Summerville House. The window serving bedroom 3 projects from the wall and includes directional glazing with outlooks only SE/ NW (no SW outlook).

There are two rooflights in the roof plane of the SW elevation serving bedroom 3 and a bathroom (i.e., above head height).

- 8.5.6. Having regard to the siting/ orientation, separation distance, window design, positioning and outlook, as described above, I do not identify any potential for overlooking from House 1 to/ of Summerville House (i.e., the windows in the side gable and/ or private amenity space). No serious injury to the residential amenity of Summerville House is reasonably anticipated.
- 8.5.7. In addition to the first-floor projecting window with directional glazing positioned on the SW elevation of House 1, there are first floor windows on the SE and NW side elevations, serving bedrooms with corresponding outlooks. Having regard to the siting/ orientation (sides addressing the fronts/ sides of existing dwellings) and the notable separation distances to surrounding dwellings (3 The Vinery (c.40m), 46 Summerville Avenue (c.31m) and 10 Summerville Avenue (c.28m)), the potential for overlooking that would seriously injure the residential amenity of these properties is not reasonably anticipated.

#### House 2 and House 3

- 8.5.8. Houses 2 and 3 are located within the northeastern portion of the site. As described above, the fronts of these dwellings are the SW elevations with outlooks towards Summerville House. Having regard to the siting/ orientation (front elevations address the side gable), separation distances (well in excess of 16m), window design, positioning and outlook (House 3 first floor window serves a landing space; outlook from House 2 first floor window blocked by House 1), I do not identify any potential overlooking of Summerville House arising from Houses 2 and 3. No serious injury to the residential amenity of this property is reasonably anticipated.
- 8.5.9. The rear (NE) elevations of the dwellings feature first-floor windows, some serving bedrooms which have outlooks across The Vinery, being orientated towards the side/ front of 49 Summerville Avenue. Having regard to the siting/ orientation, number and size of first floor windows, separation distances (at least c.19m), and contexts involved (i.e., across public roadway, extent of vegetation and screening), no serious injury to the residential amenity of this property is reasonably anticipated.
- 8.5.10. In addition to the first-floor window on the rear elevation, House 2 has first floor windows serving bedrooms on the SE elevation with an outlook towards the closest

opposing property, 10 Summerville Avenue. Having regard to the siting/ orientation (to the side/ front of the property), separation distance (at least c.20m), and contexts involved (i.e., across public roadway, extent of vegetation and screening), no undue injury to the residential amenity of this property is reasonably anticipated.

8.5.11. Finally, House 3 has a first-floor window serving a bedroom on the NW side elevation with an outlook towards the closest opposing property, 3 The Vinery. Having regard to the siting/ orientation (to the front of the property), separation distance (c.38m), and contexts involved (i.e., across public roadway, grass verges, extent of vegetation and screening), no undue injury to the residential amenity of this property is reasonably anticipated.

8.5.12. Overall, in response to the claims of overlooking raised extensively in the appeal grounds, I consider that the siting/ orientation, number, positioning and outlooks of first floor windows, separation distances and contexts involved (i.e., all in excess of 16m, across public realms (footpaths, roadways, grass verges), many addressing the fronts of properties), would be typical of conditions, and well within acceptable parameters, for city suburban contexts such as the receiving area. Overlooking which would seriously injure the residential amenity of any of the surrounding properties, such that would justify a refusal of permission, is not reasonably anticipated.

#### Summerville House

8.5.13. Summerville House is the most proximate dwelling to the appeal site and proposed development. The owners (appellants) raise a number of issues stated as pertaining specifically to the property, the cumulative effect of which significantly and disproportionately impact their family home.

8.5.14. These include the insertion of three dominant two-storey dwellings (with which I do not concur for reasons outlined in subsection 8.3 above); development within the protected curtilage and removal of historic walls (with which I concur, as discussed in subsection 8.4 above); dangerous vehicular access, increased traffic at a blind bend, and narrowing of the laneway (which I acknowledge and find the applicant has failed to demonstrate can operate safely/ justify sufficiently in subsection 8.6 below); and direct overlooking into their private living spaces (with which I do not concur, as outlined above in this subsection).

### Other

- 8.5.15. Appeal grounds include the proposal failing to comply with CCDP Objective H 20 in respect of protecting residential amenity of adjacent properties in the development of small suburban infill sites and respecting the features of more established residential areas.
- 8.5.16. While concerns I outlined relating to the partial demolition of the eastern stonewall of the walled garden (in subsection 8.4 above) arise primarily from adverse impacts on architectural heritage, the recommendation to refuse permission for the proposal on this basis also aligns with the requirements of CDP Objective H 20. These relate to respecting the character of the residential area by retaining unique features such as the walled garden stonewalls, which is particularly pertinent along the eastern site boundary which creates a distinctive streetscape on Summerville Avenue.
- 8.5.17. Finally, in the interests of clarity, appeal grounds include criticisms that there was an incorrect representation of the proximity of neighbouring buildings, elevations of the proposed buildings relative to ordnance datum, and existing buildings and perceived visual impact. While I note the criticisms, I highlight to the Commission that the claims are not evidenced by plans or particulars indicating otherwise (i.e., for distances and/ or ground levels).
- 8.5.18. I confirm to the Commission that in undertaking my assessment of this appeal case, including of visual impact (in subsection 8.3 above) and overlooking (with considerations of windows and private amenity spaces), the proximity to and relationship between the proposed dwellings and surrounding existing dwellings has been apparent and evident (on review of the site location map, site layout plan, ground and first floor plans, site inspection, aerial photography, and third party appeals).

### Conclusion

- 8.5.19. In conclusion, I consider that the proposed development would not adversely impact on or cause undue injury to the residential amenities of existing properties in the vicinity of the appeal site, in particular by reason of overlooking and a loss of privacy.
- 8.5.20. However, as discussed elsewhere in this assessment, the proposed development is considered to adversely impact on the setting and character of Summerville House

and the architectural heritage of area, and the applicant has failed to demonstrate the proposed development can be safely accessed, does not create a traffic hazard, and that surface water can be managed appropriately.

## 8.6. Access and Traffic

8.6.1. Appeal grounds include strong opposition to the proposed access arrangements, serious concerns around safety for pedestrian and vehicle users on Summerville Avenue and in The Vinery, the proposed new vehicular entrance onto Summerville Avenue is at an unsafe, unsuitable location with restricted visibility and inadequate pedestrian footpaths, the relocated boundary wall proposed on The Vinery has a narrowing effect at the entrance increasing risk and hazard to road users, A Quality and Road Safety Audit of the proposal is required, there is a fundamental lack of traffic related information available in the application, the proposal does not comply with DMURS, and safety matters cannot be dealt with by way of post-consent conditions.

8.6.2. To allow the Commission to consider the appeal grounds relating to access and traffic, an overview of the planning application details and assessment by the planning authority is necessary. I have reviewed the case file and outline the following key items/ stages.

### Planning Application Details and Initial Assessment by the Planning Authority

8.6.3. The proposed development includes for a new entrance into the scheme, and a new junction (layout, road markings) with Summerville Avenue. The new entrance is positioned in the southeastern corner of the site and is created through the removal of a section of the existing stonewall boundary (c.9m width). The entrance intersects with a shared access area (serving No.s 46 and 47 Summerville Avenue and the garage of Summerville House (48 Summerville Avenue)). The proposal also includes an internal access road to the dwelling units and parking spaces, and a footpath on the southern side of the access road, intersecting directly with the shared access area.

8.6.4. Plans and particulars initially submitted with the application which relate to the proposed access arrangements include Proposed Site Layout Plan: Dwg No. 22116-Pp-102, an Engineering Report, and Road Plan: Dwg No. RP/01.

- 8.6.5. I note the latter drawing lacks any explanatory details of the ‘specifications’, any dimensions of roads, paths, parking spaces, and while sightlines are indicated from the proposed junction (‘stop’ road marking) by dotted lines, no measurements are provided. Also, I note the application did not include a DMURS compliance report/ statement of consistency, Stage 1 and/ or Stage 2 Road Safety Audit reports of the proposal.
- 8.6.6. The applicant’s Engineering Report includes one paragraph under the heading of ‘Road’, in which the consultant engineer refers to discussions and agreement with planning authority personnel. These include that a Quality Audit will be undertaken by condition and that any recommendations from same will be included in the final design of the entrance to be constructed.
- 8.6.7. Arising from issues identified in the report of the planning authority’s Metropolitan District Engineer, the proposed development was subject of a FI request. Of the eight items requested (all arising from the same report), six items relate to access and traffic (Items 1, 3, 4, 5, 6, and 7).
- 8.6.8. Of the FI requested items, I identify the following as being of relevance to the appeal grounds:
- Item 4 – provide a detailed design of the proposed junction with Summerville Avenue with all relevant dimensions included.
  - Item 6 – submit an updated internal site layout plan with all relevant dimensions included.
  - Item 1 – relocate pedestrian access to The Vinery due to concerns regarding uncontrolled pedestrian crossing on/ across Summerville Avenue.
  - Item 7 – provide a Road Safety and Quality Audit for the updated proposed layout, including the proposed boundary wall revisions on The Vinery.
  - Item 3 – submit autotrack analysis for a fire tender and a refuse truck indicating space within the site for turning as reversing onto Summerville Avenue will not be acceptable.

FI Response and Subsequent Assessment by the Planning Authority

- 8.6.9. Plans and particulars submitted in the FI response relating to the access arrangements include Proposed Site Layout Plan: Dwg No. 22116-Pp-103, Road Plan: Dwg No. RP/01, Site Plan: Dwg No. SP/01, a cover letter from the consultant engineer, and an updated Engineering Report.
- 8.6.10. The plans indicate the revisions made to the access arrangements, including the relocation of the junction with Summerville Avenue (road markings closer to the proposed entrance), the footpath relocated to the northern side of the internal access road, a proposed pedestrian crossing (lines, markings) on Summerville Avenue connecting to the existing footpath infrastructure of the northern side of Summerville Avenue. Explanatory details for specifications and some dimensions are provided for the internal layout and new junction (on combined review of the plans). On Site Plan: Dwg No. SP/01, sightlines are indicated by dotted lines, but no measurements are provided.
- 8.6.11. The cover letter from the consultant engineer provides responses to the six FI request items. I consider the notable responses for the appeal grounds as those referring to the FI response plans (stated as indicating all site dimensions); the revised footpath location for pedestrian access (on the northern side of the access road); that fire tender and refuse collection vehicles will not enter the site due to the use of external hydrants and the collection of bins from the front of the development along the public road (i.e., no autotrack analysis undertaken and provided); and a Quality Audit will be undertaken by condition (i.e., no Road Safety and Quality Audit undertaken and provided).
- 8.6.12. Of the latter, I note that the updated Engineering Report includes the same paragraph under the heading of 'Road' as was cited in the initial report. That being, following discussions and agreement with planning authority personnel, a Quality Audit will be undertaken by condition. A DMURS compliance report was not included as part of the FI response.
- 8.6.13. In the planning authority's FI response report, the planning officer refers to a conversation with the Roads Section. The latter indicated no objection to the proposed development and recommended conditions to apply. These include agreement on final road markings and junction layout. There is no written report from the section on the case file.

8.6.14. Of the six FI requested items relating to access and traffic, the planning authority found the responses by the applicant to be acceptable (notwithstanding that it is noted that the internal layout does not comply with requirements of DMURS) and recommends the attachment of conditions.

#### Responses to the Appeal

8.6.15. In the applicant's response to the appeal grounds, reference is again made to the discussions had and agreements made with planning authority personnel. The applicant defers to the planning authority's conditions (i.e., specifically Condition 2(a)) for addressing any potential issue arising for the design of the new entrance.

8.6.16. The planning authority has not responded to the appeal.

#### Appraisal

8.6.17. From my review of the case file and site inspection, I share the traffic safety concerns raised by appellants and indeed by the planning authority in its initial FI request. These concerns relate to the design and layout (road markings, footpath provision) of the proposed junction, the manner in which the junction intersects with the shared access area (serving No.s 46, 47, 48 Summerville Avenue), and the design and nature (positioning, markings, construction) of the pedestrian crossing on Summerville Avenue.

8.6.18. I consider that the information and details sought in the planning authority's FI request remain outstanding and are necessary to facilitate an informed assessment. Key among which are the requirement for a Road Safety and Quality Audit (Item 7, would also address issues raised in Items 1 and 3), and a DMURS compliance report (which would address issues raised in Items 4 and 6 relating to junction design and scheme dimensions).

#### Road Safety and Quality Audit

8.6.19. In respect of the Road Safety and Quality Audit, I have reviewed NGS Circular 3 of 2022 (referred to in the FI request) and TII Publications: Road Safety Audit, May 2025 (referred to in Condition 2). Both documents provide guidance on the type of scheme (including new entrances onto public roads) and when a road safety audit (RSA) for same may be required (Stages 1-4).

- 8.6.20. Of relevance to the appeal case are Stages 2 and 3 (as per Condition 2(a) and (b) of the grant of permission). The TII states Stage 2 coincides with the completion of detailed design, and the audit is completed prior to construction taking place. Stage 3 coincides with the completion of construction, and the audit is completed prior to opening of the scheme to traffic. I consider the requirement for a Stage 3 RSA to be completed by way of condition (i.e., as per Condition 2(b)) to be acceptable.
- 8.6.21. At different stages in the planning process for the proposed development (initial documentation, FI response, first party appeal response), the applicant's position has been that a Stage 2 RSA would be completed after permission is granted, with changes made to the proposal as necessary, based on recommendations made in the RSA.
- 8.6.22. As outlined above, the access arrangements proposed at the FI response stage were not formally accepted by the planning authority. It was noted that the internal layout (footpath width) did not comply with DMURS, and that final agreement would be necessary on road markings and the junction layout. Accordingly, due to the absence of clarity at the FI response stage, I consider the completion of a Stage 2 RSA post-consent (with potential for the access arrangements to be further amended and revised) to be inappropriate.
- 8.6.23. In having regard to the existing site conditions (geometry of Summerville Avenue, restricted visibility, staggered footpath provision, several entrances intersecting) and to the nature of the proposed access arrangements (new entrance, junction, footpath, and pedestrian crossing), I consider the preparation and submission of a Stage 2 RSA (with all recommendations incorporated into the proposed design) as part of the pre-consent planning process to be necessary and reasonable.
- 8.6.24. I anticipate that a Stage 2 RSA would provide commentary and/ or clarity on whether the entrance and junction can safely operate, on the optimum pedestrian access arrangements (location point (e.g., as proposed onto Summerville Avenue, or as suggested at FI stage, on The Vinery), internal footpath, public road crossing), and on the nature of interactions between road users in the shared access area. A Stage 2 RSA would give consideration as to whether an autotrack analysis for larger vehicles is required and/ or if the applicant's proposal to leave refuse bins out for collection at the entrance/ along the road would be acceptable from a safety

perspective. A Stage 2 RSA would also give consideration to the implications, if any, of the development proposed on The Vinery (e.g., relocation of northern boundary wall, reduction of space available at the entrance, loss of grass verge and turning/ passing space).

- 8.6.25. Based on the information in the case file, I consider that the applicant has failed to demonstrate, by way of verifiable plans and documentary written evidence, that the proposed development can be safely accessed by pedestrians, cyclists, and/ or vehicles (including, potentially, emergency and servicing vehicles via both Summerville Avenue and The Vinery) and that it does not constitute a traffic hazard for road users. Further, in my opinion, the fact that the access arrangements (design, layout and nature) are inconclusive is not reasonable for third parties, particularly those that will be directly affected by the arrangement (i.e., No.s 46, 47, and 48 Sumerville Avenue).

#### DMURS Compliance

- 8.6.26. In respect of DMURS, I note that the manual applies to urban roads with a speed limit of 60km/h or less (i.e., applicable to the proposed development). I further note that compliance with DMURS is a policy requirement of both the CCDP (Development Management 47) and the Compact Settlement Guidelines (Policy and Objective 4.1).
- 8.6.27. As outlined above, FI request Items 4 and 6 sought a detailed design of the proposed junction with Summerville Avenue and an updated internal site layout plan with all relevant dimensions provided for both. While I note that the applicant's FI response included additional mapped details (e.g., dimensions of elements), the application did not include a DMURS compliance report/ statement of consistency, and the distance of the sightlines available from the entrance and/ or junction is not indicated.
- 8.6.28. In similarity with my position on the need for a pre-consent Stage 2 RSA, I consider the provision of a DMURS compliance report in the planning documentation to be necessary and reasonable. This would allow for the informed assessment of the scheme, including both the proposed junction with the public road (intersection with the shared access area/ Summerville Avenue, sightlines available) and the design

and layout (entrance point, internal access road, footpath, parking spaces) of the scheme.

- 8.6.29. As outlined above, the planning authority notes at FI response stage that the internal layout of the proposal does not comply with DMURS standards (width of the internal footpath is substandard). While a shared surface roadway omitting the footpath is suggested by the planning officer, I consider the implications for the overall scheme (e.g., the operation of the proposed pedestrian crossing on Summerville Road) are unknown and have not been assessed.
- 8.6.30. While Condition 2(i) of the planning authority's grant of permission requires the scheme to comply with DMURS, I do not consider it appropriate to address same by way of condition for the reasons outlined above and also due to the potential for the Stage 2 RSA to further amend the proposed development.
- 8.6.31. Based on the information in the case file, I consider that the proposed development fails to comply with the requirements of DMURS. Accordingly, the proposed development is contrary to the relevant provisions of the CCDP and the Compact Settlement Guidelines.

### Conclusion

- 8.6.32. In conclusion, the applicant has not provided a Stage 2 Road Safety Audit for the proposed development. In the absence of same, the applicant has failed to demonstrate that the proposal would be capable of being safely accessed by all road users (potentially including emergency and service vehicles), would not create an unacceptable risk to pedestrian and traffic safety, or would not endanger public safety by reason of traffic hazard. Further, the applicant has not provided a DMURS Compliance Statement. The internal pedestrian footpath does not meet the requirements of DMURS. It is unclear whether the remainder of the proposed access arrangements (entrance, junction, sightlines, internal roadway, parking spaces) achieve all necessary design standards and measurements. Accordingly, the proposal fails to comply with applicable policy and development management standards in the CCDP and policy in the Compact Settlements Guidelines.

## 8.7. **Surface Water Management**

8.7.1. Appeal grounds include that the surface water management proposals are entirely inadequate, site characterisation and testing/ appreciation of the ground conditions at the site are inadequate, application details on surface water conditions are taken from a previous planning application, appeal site serves as an infiltration buffer for properties to the north, buffer will be lost if the proposed development is permitted, the proposal has potential to cause flood risk, damage to neighbouring properties, and groundwater pollution, and has not been effectively demonstrated that an on-site system of surface water management is possible.

8.7.2. In similarity with subsection 8.6 Access and Traffic, to allow the Commission to consider the appeal grounds relating to surface water management, an overview of the planning application details and assessment by the planning authority is necessary. I have reviewed the case file and outline the following key items/ stages.

Planning Application Details and Initial Assessment by the Planning Authority

8.7.3. The proposed development includes connections to the public networks for water supply and wastewater treatment. For surface water management, an on-site system is proposed comprising stormwater drainage via soakaways (a separate soakaway in the garden area of each of the three dwelling sites) and permeable paving (roadway, parking, other hard surface areas).

8.7.4. Plans and particulars initially submitted with the application relating to surface water include the Drain Plan: Dwg No. DP/01, an Engineering Report and SuDS Strategy Report.

8.7.5. I note that the Engineering Report has a paragraph on the proposed system, referring to details in Appendix A: Soakaway Tests and Design as per BRE 365. The SuDS Strategy Report includes Section 6.0 on the Simple Index Approach.

8.7.6. Arising from issues identified in the report of the planning authority's Metropolitan District Engineer, the proposed development was subject of a FI request. Item 8 relates to surface water management seeking confirmation of soakaway capacity, provision of an exceedance map, and cross-section of permeable roadway.

FI Response and Subsequent Assessment by the Planning Authority

- 8.7.7. The applicant's response refers to infiltration tests and plans Drain Plan: Dwg No. DP/01 and Road Plan: Dwg No. RP/01. In its assessment of the FI response, the planning authority repeats responses from the applicant.
- 8.7.8. There is no subsequent report/ technical assessment of the FI response from the District Engineer on the case file, or reference in the planning authority report to a verbal report from same.
- 8.7.9. Condition 5 is attached to the grant of permission requiring post-consent certification that the SuDS features have been constructed in accordance with the Ciria SuDS Manual C753.

#### Responses to the Appeal

- 8.7.10. In the applicant's response to the appeal grounds, reference is made to consultations with planning authority and Uisce Eireann staff, and it is stated that comprehensive documentation has been submitted with the application.
- 8.7.11. The planning authority has not responded to the appeal.

#### Appraisal

- 8.7.12. In addition to the relevant information in the case file outlined above, I have reviewed the SuDS Manual (C753), Ciria, 2015, as referenced by the planning authority in FI request Item 8 and Condition 5. I note that the manual in turn references compliance with the requirements of the BRE Digest 365 in relation to soakaways design.
- 8.7.13. I note the appeal of J. Cunningham and Others which includes a technical report undertaken by an engineering consultant (Appendix E, I have provided an overview of same in section 6.0 of this report above). The appellant's report traces, analyses, and comments on the information provided in and details omitted from the application (e.g., the SuDS Strategy Report relies on test results in Appendix A: Soakaway Tests and Design of the Engineering Report which are absent/ not provided).
- 8.7.14. Key findings of the appellant's report include that the soakaways (trial holes and infiltration rates) have not been constructed, tested and/ or calculated in accordance with the requirements of the BRE Digest 365, the infiltration rates are unsubstantiated and at odds with the soil descriptions/ ground conditions encountered, groundwater levels are unknown/ not established, high-level bedrock

encountered at the site poses a groundwater pollution risk, and that it has not been adequately demonstrated that the subsoil materials are suitable for management of surface water via soakaways.

- 8.7.15. I concur with the findings as presented in the appellant's report. The applicant has had the opportunity to respond to/ provide evidence to counter same. Conversely, I find the appeal response fails to robustly address the appeal grounds raised, relying on general statements of compliance, deferring to the planning authority decision, and to compliance with Condition 5.

### Conclusion

- 8.7.16. In conclusion, I accept the appeal grounds that the site characterisation, trial hole testing, soakaways design and recording of the ground conditions (including identifying groundwater levels) are inadequate. The applicant has failed to demonstrate whether an on-site surface water drainage system is feasible, and that surface water run-off from the development could be satisfactorily collected, infiltrated and disposed of on-site. As such, the potential risk of groundwater pollution due to surface water run-off cannot be excluded, and groundwater quality may be adversely affected.

## **8.8. Other Matters**

- 8.8.1. In respect of other matters, appeal grounds include landownership issues, specifically the inclusion of an area of public roadway within the redline boundary. I acknowledge that the application does not appear to include a letter of consent from the planning authority. However, it is evident from the case file that the County Council control the lands (stated in plans and particulars) and that the planning authority's involvement in the assessment of the proposal has included consideration of the access arrangements on/ over the lands to which the appeal refers. This matter is not a private landownership consent issue.
- 8.8.2. The Commission will be familiar with guidance in Section 5.13 of the Development Management Guidelines for Planning Authorities, 2007, to which I defer on this matter. Following my review of the case file, I am satisfied that for planning purposes, and subject to the restrictions explicit in section 34(13) of the 2000 Act (i.e., a person is not entitled solely by reason of a permission to carry out any

development), the applicant has demonstrated sufficient legal interest to make the application.

## **9.0 Appropriate Assessment**

### **9.1. Screening Determination for Appropriate Assessment**

9.1.1. In accordance with section 177U(4) of the Planning and Development Act 2000, as amended (2000 Act), and on the basis of objective information, I conclude that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (Stage 2) under section 177V of the 2000 Act is not required (see Appendix 3 of this report below).

9.1.2. This conclusion is based on:

- Nature, scale and location of the proposed development.
- Qualifying interests and conservation objectives of the European sites.
- Absence of any meaningful pathways to any European site.
- Distances from European sites.
- Standard pollution controls and project design features that would be employed regardless of proximity to a European site and the effectiveness of same.

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

## **10.0 Water Status Impact Assessment**

### **10.1. Screening Determination for Water Impact Status Assessment**

10.2. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive (WFD) which seek to protect and, where necessary, restore surface water bodies and ground waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.

10.3. Having regard to the information on the case file, I conclude that the project would not result in a risk of deterioration on any surface waterbody. However, I am unable to conclude that the project would not result in a risk of deterioration on the groundwater body either qualitatively or quantitatively, or on a temporary or permanent basis, or otherwise jeopardise the groundwater body in reaching its WFD objectives. Consequently, the project cannot be screened out and excluded from further assessment (see Appendix 4 of this report below).

## 11.0 Recommendation

Following from the above assessment, I recommend that permission is REFUSED for the development as proposed due to the following reason and considerations, and subject to the conditions set out below.

## 12.0 Reasons and Considerations

1. Having regard to the inclusion of part of the subject site within the curtilage of Summerville House, a protected structure listed in the Waterford City and County Development Plan 2022-2028, it is considered that the proposed development, by reason of the demolition of part of the eastern walled garden/site boundary wall, creation of a new entrance, and provision of an internal roadway, footpath, and landscaping, would extinguish the connection between Summerville House and its walled garden, and damage the relationship between Summerville House, the walled garden, and the streetscape along Summerville Avenue. The proposed development would materially and adversely affect the special character and setting of the protected structure and this part of its curtilage. The proposed development fails to comply with Objectives BH 01, BH 11, and BH 12 of the development plan and to policy in Section 13.5.2 of the Architectural Heritage Protection Guidelines for Planning Authorities, 2011. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. On the basis of the information submitted with the application and the appeal response, the Commission is not satisfied that the proposed development

would be capable of being safely accessed by all road users, would not create an unacceptable risk to pedestrian and traffic safety, and would not endanger public safety by reason of traffic hazard. Further, the pedestrian footpath in the internal layout fails to meet the requirements of DMURS, and it is unclear whether the remainder of the proposed internal layout, the entrance, and the junction with Summerville Avenue achieve the necessary design standards. The proposed development fails to comply with Development Management 47 of the development plan and Policy and Objective 4.1 of the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. On the basis of the information submitted with the application and the appeal response, the Commission is not satisfied that surface water run-off from the development could be satisfactorily collected, infiltrated and disposed of on-site and that groundwater quality would not be adversely affected. The proposed development would therefore pose an unacceptable risk of environmental pollution and be contrary to the proper planning and sustainable development of the area.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report, in an improper or inappropriate way.

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Phillippa Joyce

Senior Planning Inspector

12<sup>th</sup> June 2026

## Appendix 1: Environmental Impact Assessment – Pre-Screening

<b>1. Does the proposed development come within the definition of a ‘project’ for the purposes of EIA?</b>	
(“Project” means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	
<input checked="" type="checkbox"/> Yes, it is a ‘Project’. Proceed to Q2.	
<input type="checkbox"/> No, no further action required.	
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3.	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/ exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/ exceeds the threshold.	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  Proceed to Q4.	Class 10(b)(i) and/ or Class 10(b)(iv)  Relevant thresholds arising from Class 10(b): - Class 10(b)(i): more than 500 dwelling units. - Class 10(b)(iv): urban development in an area greater than 10ha
<b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b>	
<input checked="" type="checkbox"/> No	Pre-screening determination conclusion remains as above (Q1 to Q3)

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

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

## Appendix 2: Environmental Impact Assessment – Preliminary Examination

<p><b>The Commission 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. This preliminary examination should be read with, and in the light of, the rest of the Inspector’s Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b></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>	<p>Project comprises the construction of three dwelling units, alterations to existing site boundaries, new access arrangements (entrance, junction, internal road footpath, parking spaces), and range of associated site works.</p> <p>Project would not differ significantly in terms of character or of scale from the surrounding area (i.e., residential use, modestly scaled buildings). Project would cause physical changes to the appearance of the site during the construction and operation (occupation) phases. The changes would not be of a nature or scale that that would result in the requirement for an EIA.</p> <p>No significant use of natural resources is anticipated. The project would connect to the public water supply and wastewater treatment networks, which have sufficient capacity to accommodate demand. The project proposes an on-site surface water drainage system with SuDS features.</p> <p>Construction phase activities would result in the use of potentially harmful materials, and cause noise and dust emissions. These would likely be typical of similar construction sites. Conventional waste produced from construction and operational activities would be managed.</p> <p>Project would not cause significant risks to human health through water contamination, air and/ or noise pollution due to the conditions controlling construction phase activities, connection to public wastewater system, and scale of residential activity arising. While shortcomings are identified in the information on the case file for the public safety of the access arrangements and the potential for groundwater pollution due to surface water drainage, it is considered that the likelihood of significant effects of the project on the environment, such that would result in the requirement for an EIA, can be reasonably excluded.</p>

<p><b>Location of development</b></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>	<p>Project is not located in, on, or adjoining any European site, any designated or proposed Natural Heritage Area, or any other listed area of ecological interest or protection. The infill site is greenfield in nature, though with no evidence of the presence of any protected habitats, plants, or fauna species.</p> <p>The River Suir is the closest watercourse, located c.530m to the north of the site. There is no meaningful, direct hydrological connection between the site, any surface water body, or any protected nature designation. Notwithstanding the shortcomings identified in the applicant's Engineering Report and SuDS Strategy Report, the likelihood of significant effects due to pollution of the Waterford groundwater body from surface water drainage, such that would result in the requirement for an EIA, can be reasonably excluded.</p> <p>The site comprises the walled garden of Summerville House, a protected structure. The southern portion of the site is located within the formal CCDP RPS boundary for the structure. While considered to negatively impact on the character and setting of the house and the architectural heritage value of the site, the project would not be of a nature or scale that that would result in the requirement for an EIA.</p> <p>The site is located within a 'Least Sensitive' scenic classification for landscape assessment purposes. The project is modest in design and nature, no negative visual impacts per se are anticipated.</p>	
<p><b>Types and characteristics of potential impacts</b></p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Amelioration of environmental impacts have been incorporated into the project's design.</p> <p>Mitigation measures would include those required by conditions attached in the event of a grant of permission in relation to construction and operation phases.</p> <p>There are no likely significant effects identified or anticipated in terms of cumulative and/ or transboundary effects.</p>	
<p><b>Conclusion</b></p>		
<p><b>Likelihood of Significant Effects</b></p>	<p><b>Conclusion in respect of EIA</b></p>	<p><b>Yes or No</b></p>

There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
<del>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</del>	<del>Schedule 7A Information required to enable a Screening Determination to be carried out.</del>	No
<del>There is a real likelihood of significant effects on the environment.</del>	<del>EIAR required.</del>	No

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

### Appendix 3: Appropriate Assessment – Screening

I have considered the project in light of the requirements section 177U of the Planning and Development Act 2000, as amended. The project is for three dwellings with associated site works on a greenfield infill site within a city suburban area. The project includes connections to public water networks, and an on-site surface water drainage system.

The closest European site is the Lower River Suir SAC, c.0.5km to the north of the site. The QIs of the SAC include salt meadows, vegetation, woods, forests, mussel, several fish species, and otter (conservation objectives to restore and maintain the favourable condition of same).

The site displays no evidence of environmental sensitivities, or of habitats or species with links to any European sites. As such, there are no ecological connections to any European sites. There are no watercourses at or adjacent to the site. The River Suir is the closest watercourse, located c.530m to the north of the site (crow-flies measurement), flowing in an easterly direction to Waterford Harbour. The ground level of the site is notably elevated from that of the watercourse (c.32m higher), and the intervening lands comprise built-up urban areas. As such, there are no meaningful direct hydrological connections to any European sites.

The planning authority screened out the need for appropriate assessment, and no nature conservation concerns are raised in the planning appeal. Notwithstanding the shortcomings identified in the applicant's Engineering Report and SuDS Strategy Report in respect of potential groundwater pollution due to surface water drainage, it is considered that the likelihood of significant effects, such that would result in the requirement for an appropriate assessment, on any European site can be reasonably excluded.

I am satisfied that the project can be eliminated from further assessment because there is no conceivable risk to any European site. This conclusion is based on the:

- Nature, scale and location of the project.
- Qualifying interests and conservation objectives of the European sites.
- Absence of any meaningful pathways to any European site.
- Distances from European sites.
- Standard pollution controls and project design features that would be employed regardless of proximity to a European site and the effectiveness of same.

I conclude that the project would not have a likely significant effect on any European site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (Stage 2) under section 177V of the Planning and Development Act 2000 is not required.

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

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

## Appendix 4: Water Status Impact Assessment – Screening

The project is for three dwellings with associated site works on a greenfield infill site within a city suburban area. The project includes connections to public water networks, and an on-site surface water drainage system.

There are no watercourses at or adjacent to the site. The River Suir is the closest watercourse, located c.530m to the north of the site (crow-flies measurement), flowing in an easterly direction to Waterford Harbour. The ground level of the site is notably elevated from that of the watercourse (c.32m higher), and the intervening lands comprise built-up urban areas.

The river is part of the Middle Suir Estuary transitional waterbody (EPA: IE\_SE\_100\_0550), which has a most recent Water Framework Directive (WFD) status of 'moderate' and an 'at risk' of not achieving its WFD objective. Last known environmental objective of 'good', and a single identified pressure on the waterbody was agriculture.

The underlying groundwater body is Waterford (EPA: IE\_SH\_G\_149), which has a most recent WFD status of 'good' and a 'not at risk' of not achieving its WFD objective. Last known environmental objective of 'good', and no identified pressures on the waterbody.

Due to the absence of and/ or proximity to watercourses, there are no direct hydrological connections from the site to any surface water bodies. However, there is a hydrological connection to groundwater via the proposed surface water system (drainage via soakaways and permeable paving). The soakaways (trial holes and infiltration rates) have not been constructed, tested and/ or calculated in accordance with the requirements of the BRE Digest 365. Accordingly, it is unclear whether surface water run-off from the project could be satisfactorily collected, infiltrated, and disposed of on-site and/ or that groundwater quality would not be adversely affected.

I have assessed the project and have considered the objectives as set out in Article 4 of the WFD which seek to protect and, where necessary, restore surface water bodies and ground waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.

Having regard to the information on the case file, I conclude that the project would not result in a risk of deterioration on any surface waterbody. However, I am unable to conclude that the project would not result in a risk of deterioration on the groundwater body either qualitatively or quantitatively, or on a temporary or permanent basis, or otherwise jeopardise the groundwater body in reaching its WFD objectives. Consequently, based on the information on the case file, the project cannot be screened out and excluded from further assessment.

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

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