



An
Bord
Pleanála

Inspector's Report ABP-303203-18

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| Development | The erection of a 1,358 sq.m. industrial unit to include a manufacturing area and office accommodation together with all associated and ancillary site works. |
| Location | Ardcavan Business Park, (E.D. Ardcavan), Ardcavan, Co. Wexford. |
| Planning Authority | Wexford County Council |
| Planning Authority Reg. Ref. | 20181317 |
| Applicant(s) | Ardcavan Developments Ltd. |
| Type of Application | Permission |
| Planning Authority Decision | Grant subject to conditions. |
| Type of Appeal | Third Party v. Decision |
| Appellant(s) | John Molloy Michael Murphy & Lorraine O'Donoghue |
| Observer(s) | None. |

Date of Site Inspection

18th April, 2019

Inspector

Robert Speer

1.0 Site Location and Description

1.1. The proposed development site is located in Ardavan, Co. Wexford, approximately 1.6km north of Wexford Bridge and 2.8km south of Castlebridge, where it occupies a position along the eastern side of the R741 Regional Road to the immediate south of Ardavan Business Park. Whilst the surrounding area is peripheral to Wexford town and retains a rural quality, it is characterised by a prevalence of piecemeal development along the approach road to the town which includes a multitude of residential and commercial properties, including several examples of car sales showrooms. The site itself has a stated site area of 0.986 hectares, is irregularly shaped, and forms part of a larger parcel of land which has recently been readied for development through the installation of various on-site infrastructure / services, including the opening of a new vehicular access onto the regional road. It is bounded by a raised embankment to the north (alongside the adjacent business park) with mature hedgerow defining the southern and eastern site boundaries whilst the roadside frontage to the west is composed of post and rail fencing. To the immediate south and southeast, the site adjoins the small housing schemes of Orchard Lane and Orchard Close respectively.

2.0 Proposed Development

2.1. The proposed development consists of the construction of an industrial unit measuring 54.81m x 24.615m with a stated floor area of 1,358m² and an overall height of 8.0m which will provide for a ground floor manufacturing area with ancillary offices and staff accommodation over two floors. Associated site development works include the provision of a yard area, car parking & circulation aisles, and connection to existing site services (including the surface water attenuation pond within the adjacent lands to the northeast). Access to the proposed development will be obtained from the R741 Regional Road via the service road previously permitted under PA Ref. No. 20150940.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 16th November, 2018 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 8 No. conditions which can be summarised as follows:

Condition No. 1 - Refers to the submitted plans and particulars.

Condition No. 2 – Refers to surface water drainage and attenuation.

Condition No. 3 – Requires the access road and services permitted under PA Ref. No. 20150940 to be completed prior to the first occupation of the proposed building.

Condition No. 4 – Refers to the payment of a development contribution in the amount of €8,148 towards the provision or improvement of public roads.

Condition No. 5 - Refers to the payment of a development contribution in the amount of €5,432 towards the provision or improvement of community facilities.

Condition No. 6 – Refers to noise emissions.

Condition No. 7 – Refers to dust emissions and total particulate release.

Condition No. 8 - Refers to the implementation of a landscaping scheme.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

Details the site context, the relevant planning history, and the applicable planning policy considerations, before noting that the proposed development accords with the applicable land use zoning and is therefore acceptable in principle. Reference is also made to the access arrangements previously approved under PA Ref. No. 20150940 and it is recommended that a condition be attached to any grant of permission prohibiting the occupation of the proposed structure pending completion of the permitted service roadway. With regard to surface water drainage and flooding

concerns, whilst it is acknowledged that 'spot flooding' occurs on site, it is considered that these matters can be addressed by way of suitable on-site surface water attenuation arrangements. It is also stated that the proposed development will not result in any significant impacts on nearby Natura 2000 sites. The report subsequently concludes by recommending a grant of permission, subject to conditions.

3.2.2. Other Technical Reports:

Chief Fire Officer: Refers to the requirement to obtain a Fire Safety Certificate.

District Engineer: No objection, subject to conditions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

3.4.1. A total of 2 No. submissions were received from interested parties and the principle grounds of objection contained therein can be summarised as follows:

- The proposed development will exacerbate downstream flooding.
- Detrimental impact on the residential amenity of nearby dwelling houses.
- Concerns over the adequacy of the public notices.
- Increased traffic turning movements off the heavily trafficked R741 Regional Road / the creation of a traffic hazard.
- The inadequacy of the surrounding road network to accommodate the increased traffic volumes.
- The proposal constitutes piecemeal development and involves project-splitting.
- There has been no acknowledgement that the Local Authority was previously refused permission on these lands to develop the Wexford to Curracloe greenway for reasons pertaining to nature conservation and residential amenity.
- Given the vacancy rates within industrial / business parks in the area, there is no need for the proposed development.

- Concerns as regards the impact of the proposed development on nearby Natura 2000 sites.

4.0 Planning History

4.1. On Site:

PA Ref. No. 20150940. Was granted on 11th November, 2015 permitting Ardcavan Developments Ltd. permission to construct a foul pumping station including a rising main which will discharge to the public sewer and an access road complete with footpaths and cyclepaths.

ABP. Ref. No. ABP-301076-18. Was refused on 16th October 2018 refusing Wexford County Council approval for the development of a greenway consisting of a shared cycle/pedestrian path with three sections. The proposed works also include the construction of a boardwalk across the Burgess Wetland, screened viewing platforms on the greenway route at the Wildfowl Visitor Centre and Curracloe Channel, a 25-space carpark at Ardcavan Lane, culverts, fencing, signage and associated works, all in the townlands of Ferrybank South, Ferrybank North, Tincone, Burgess, Ardcavan, Crosstown, Craanagam, North West Slob, Big Island, North East Slob and The Raven, Co. Wexford.

- The Board is not satisfied that the local authority has demonstrated that the proposed development would not adversely affect the integrity of the Raven Point Nature Reserve Special Area of Conservation (site code: 000710), the Wexford Harbour and Slobs Special Protection Area (site code: 004076) and the Raven Special Protection Area (site code: 004019) in view of the conservation objectives for these sites. The increased level of usage by pedestrians/cyclists associated with the greenway will increase accessibility and human activity and potentially result in a significant negative impact on the existing Annex 1 habitats at the Raven Point Nature Reserve Special Area of Conservation (site code: 000710) and additional disturbance and displacement to birds using intertidal habitats at the Raven Special Protection Area (site code: 004019). Furthermore, the Board is not satisfied that the long-term efficacy of the mitigation measures to protect the greenland white fronted geese and hen harrier populations and other bird species has been

sufficiently demonstrated. In overall conclusion, the Board is not satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the sites' conservation objectives.

- It is considered that the proposed development, the design of which is predicated on significant mitigation measures, including extensive screening, fencing and security measures of varying scale and design, would have significant and unacceptable negative effects on the environment and residential properties in the vicinity and would be detrimental to the attractive and sensitive visual and landscape amenities of the area. Furthermore, these negative impacts would arise even though the full extent of the greenway would be open only from 15th April to 15th September each year. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- Having regard to the information on file, it has not been demonstrated that the proposed development would not have an adverse ecological and biodiversity impact arising from the loss of habitat and bird breeding sites in this ecologically sensitive area as a result of vegetation clearance and works during the construction phase, including the potential loss of trees. Furthermore, the Board is not satisfied that sufficient controls and mitigation measures have been put in place to manage the increased volume of pedestrians and cyclists who may have the propensity to diverge from the greenway route. As such, the potential arises for significant adverse ecological impacts on the fragile dune system and habitat and associated species at Raven Point. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4.2. On Adjacent Sites:

PA Ref. No. 980619. Granted permission to Kent Manufacturing Wexford Ltd. for the construction of a mixed commercial / industrial development comprising the erection of 12 No. detached units together with associated site development works comprising roads, paths, landscaping and an effluent treatment plant, all at Ardavan, Co. Wexford.

PA Ref. No. 20003890. Was granted on 20th December, 2000 permitting Kent Manufacturing Wexford Ltd. permission for alterations to approved site layout (Planning Reg. No. 980619 refers) and erection and subdivision of Units 2 & 3 to provide 8 No. units for commercial / industrial use, including car showrooms, all at Ardavan, Co. Wexford.

PA Ref. No. 20052811. Was granted on 11th August, 2006 permitting Ardavan Developments Ltd. permission for (A) Erection of a 2-storey building for use as a central facility comprising storage facilities, ancillary office areas and study areas on Site 6A; (B) Erection of extension to existing approved building to give an overall area of 2,008m² together with alterations to elevations and subdivision to existing approved building for use as 6 No. industrial / warehouse units on Site No. 7; (C) Erection of a detached single storey building comprising 4 No. units for industrial / warehouse use on Site No. 7A; (D) Installation of additional effluent treatment plant to operate in parallel with existing effluent treatment plant to provide additional treatment facility at Ardavan, Co. Wexford.

PA Ref. No. 20181716 / ABP Ref. No. ABP-304201-19. On 15th September, 2018 a notification of a decision to grant permission was issued to Glenda Fortune for the construction of a single storey detached dwelling house with improved entrance works, landscaping and ancillary site works at Ardavan, Co. Wexford. This decision has been appealed and a decision is pending with the Board.

PA Ref. No. 2018022. Was refused by the Planning Authority on 18th April, 2018 refusing Glenda Fortune permission for a single storey detached dwelling with landscaping and ancillary site works at Ardavan, Co. Wexford.

4.3. On Sites in the Immediate Vicinity:

PA Ref. No. 20140571. Was granted on 20th October, 2014 permitting Boland & Walsh Limited permission for the demolition of 2 No. existing dwellings and the construction of a single storey motor vehicle service and sales facility building, a single storey ancillary valeting and wash building, associated site works, including on-grade car parking / display spaces, signage and flagpoles, proposed new vehicular site entrance with re-alignment / widening of R741 Road, associated boundary treatments and drainage, all at Crosstown, Ardavan, Co. Wexford.

PA Ref. No. 20161426 / ABP Ref. No. PL26.249001. Was refused on appeal on 31st October, 2017 refusing Michael Hayes permission for (A) Erection of 59 No. dwelling houses consisting of detached and semi-detached units; (i) 6 No. two bedroom, (ii) 36 No. three bedroom, (iii) 15 No. four bedroom and (iv) 2 No. five bedroom; along with all associated site works to facilitate the development. The residential development shall be completed in six phases. (B) 2 No. car dealership showrooms along with service and repair facilities (circa 718m² for each unit), on-grade display parking and 2 No. monolith signs (6m high by 2m wide); and all associated site works to facilitate the development. (C) 5 No. commercial/light industrial units consisting of 4 No. units measuring circa 552m² and one number unit of circa 1,460m²; hard standing and parking; along with all associated site works to facilitate the development. (D) All internal roadways, footpaths, public open spaces, formal and informal play areas, proposed new vehicular entrance with associated re-lining of R741, footpath and cycle-way at site boundary with the public roadway, associated boundary treatments, landscaping, drainage and all other works required to facilitate the development, all at Crosstown, Ardcavan, Co. Wexford.

- Having regard to the zoning of the site and the specific objectives, as set out in the Wexford Town and Environs Plan 2009 for Master Zone 1: Ardcavan or Knottstown/Graanagam that residential development is generally not permitted unless to meet local housing need, it is considered that the proposed residential element of the development, would materially conflict with the policies and objectives of the Plan and would be contrary to the proper planning and sustainable development of the area.
- The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009 recommend a sequential and coordinated approach to residential development, whereby zoned lands should be developed so as to avoid a haphazard and costly approach to the provision of social and physical infrastructure and where undeveloped lands closest to the core and public transport routes be given preference. It is considered that the site is located in an area which is remote and isolated from other areas of consolidated residential development and not in line with the orderly expansion of the settlement. Having regard to the significant scale of residential development proposed, the absence of good pedestrian linkages

and the lack of social and community facilities in the vicinity, it is considered that the proposed development would be excessively car dependent and would, therefore, be contrary to the Guidelines and to the proper planning and sustainable development of the area.

- Having regard to the location of the site within an 80 km/h zone and the multiplicity of access points in the vicinity, the Board is not satisfied on the basis of the submissions made in connection with the planning application and appeal, that the proposed development, which is to be served by two additional access points would not give rise to a traffic hazard by reason of the additional traffic turning movements generated by the development and which may interfere with the safety and free-flow of traffic on the public road.
- Having regard to the surface water drainage proposals for the site that require downstream works of uncertain scope on third party land, the Board is not satisfied that the proposed development would not give rise to an increased risk of residual flooding on such lands. The proposed development would, therefore, be prejudicial to public safety and contrary to the proper planning and sustainable development of the area.

PA Ref. No. 20180866 / ABP Ref. No. ABP-302509-18. Was refused on appeal on 21st January, 2019 refusing Boland and Walsh Car Sales Limited permission for the 1,440m² extension of the existing hard-standing/secure car storage compound to the south and all associated site works and drainage, at the existing Audi motor sales and service facility at Crosstown, Ardcavan, Co. Wexford.

- Having regard to the location of the site, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that the proposed development, which is to be served by an existing access point from the R741, would not give rise to a traffic hazard by reason of the additional traffic turning movements generated by heavy goods vehicles including car transporters which may interfere with the safety and free-flow of traffic on the public road.
- Having regard to the surface water drainage proposals for the site, the Board is not satisfied that the proposed development would not give rise to an increased risk of residual downstream flooding. The proposed development

would, therefore, be prejudicial to public safety and be contrary to the proper planning and sustainable development of the area.

4.4. Other Relevant Files:

PA Ref. No. 20171277 / ABP Ref. No. ABP-300908-18. Was granted on appeal on 29th November, 2018 permitting Trinity JLR Limited permission for the construction of a new car showroom including mezzanine level, workshop, stores, staff facilities and separate detached single storey valeting building, external car customer/display parking spaces, site lighting, building signage and one number Totem sign. Boundary fencing to secure car compound area, connections to existing public mains sewer and water services and all associated site works at Crosstown, Co. Wexford.

5.0 Policy Context

5.1. Development Plan

5.1.1. Wexford Town & Environs Development Plan 2009-15:

(N.B. Pursuant to the provisions of Part 8 of the Electoral, Local Government and Planning and Development Act, 2013, the lifetime of the Wexford Town and Environs Development Plan, 2009-2015 has been extended and, therefore, the Plan will continue to have effect until 2019, or such time as a new County Development Plan is made. It should be read together with the Wexford County Development Plan 2013-2019).

Land Use Zoning:

The proposed development site is located in an area zoned as '*Commercial / Mixed-Use (C1)*' with the stated land use zoning objective '*To make provision for commercial & mixed uses*'.

In accordance with the Zoning Matrix Table included with Map No. 21: '*Master Plan Zones*' it can be confirmed that the development of '*general industrial uses*' would '*not normally be acceptable*' within this land use zoning although '*light industry*' is '*open for consideration*'.

Explanatory Note:

The purpose of this zoning is to provide for commercial and office developments. The Council will consider residential type developments where it can be demonstrated that they do not conflict with commercial / industrial development.

Other Relevant Sections / Policies:

Chapter 3: Development Strategy:

Section 3.2: Development Strategy

Section 3.3: Masterplan Development Strategy

Section 3.4: Masterplan Zones

The proposed development site is located within 'Zone 1: Ardcavan or Knottstown / Graanagam'.

Chapter 4: Economic Development

Section 4.2: Economic Strategy

Chapter 9: Infrastructure:

Section 9.8: Surface Water Quality, Drainage Systems, Flood Control and the Water Framework Directive

Chapter 10: Design Guidance

Chapter 11: Development Management Standards:

Section 11.09: Building Sustainability:

Section 11.09.05: Commercial Development

5.2. Natural Heritage Designations

5.2.1. The following Natura 2000 sites are located in the immediate vicinity of the proposed development site:

- The Slaney River Valley Special Area of Conservation (Site Code: 000781), approximately 200m south of the site.
- The Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076), approximately 200m south of the site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. John Molloy:

- The subject lands have flooded severely on several occasions with surface water draining to the lowest corner of the site.
- During the autumn of 2015 the Local Authority installed a 1m diameter culvert under the R741 Regional Road in order to drain the lands on the western side of the roadway with the applicant also undertaking works at the same time to improve the drainage of the ditch along the boundary of this land. These actions resulted in the creation of a new watercourse which is acknowledged in the 'Verde Report' as being of a poor quality.

The greatly increased water flow now passes through a culvert (only 150mm in diameter) at the end of Orchard Lane, Ardavan, with the result that during periods of moderately heavy rain, the public road at the end of the lane now floods to a depth of several inches.

On 5th December, 2018 the end of Orchard Lane was badly flooded to an approximate depth of 200mm which resulted in the roadway and footpath being effectively cut off for a period of time. Notably, whilst there was a yellow rainfall warning in place for a few hours, this was not a period of exceptional or prolonged rainfall. In those circumstances, the flooding would have been more severe.

- The developer has not taken any corrective action to address the flooding of the subject site and has instead attempted to secure an alternative outfall for the surface water from the proposed development. This would necessitate the reversal of the natural fall on site in order to achieve a pumped flow to the outfall using the foreshore licence. It is not considered that this represents a practical or achievable engineering solution.
- During flood events there is effectively a stream flowing across the end of Orchard Lane. Such is the extent of this flooding that any exacerbation of same arising from climate change or the silting up of drainage ditches will

result in additional properties in Orchard Lane becoming inaccessible during periods of bad weather. Indeed, a bridge will have to be constructed in order to maintain access in such conditions.

- The extent of impermeable surface treatment consequent on the proposed development will give rise to an increased volume (and duration) of surface water runoff. A surface water attenuation system will be of very limited benefit and will offer no protection in the event of serious flooding.
- Whilst the developer will be required to install a surface water attenuation system to the satisfaction of the Local Authority, it is submitted that any such system cannot eliminate flooding.
- Given the extent of proposed and permitted development in the wider area, there is a need to prepare an area-based drainage plan.
- The existing surface water drainage system is poorly maintained (e.g. blocked gullies) which serves to exacerbate flood events.
- No indemnity was sought by (or offered to) the Local Authority in the event of flooding which could serve to protect the taxpayer against any claims arising.
- It is the appellant's understanding that the developer is proposing to divert the surface water flow away from an existing outfall by way of the improper use of a foreshore licence (Ref. No. MS51/6/136).
- Guidelines issued by the Department of Agriculture, Food and the Marine state that a discharge licence is also required in circumstances where a foreshore licence has been sought. It is the appellant's understanding that no discharge licence has been issued by the Local Authority for the foreshore licence in this instance. Furthermore, in the event that there is a discharge licence in place, its terms and conditions would be breached, and a new licence would be required in light of the revised hydraulic flows. There is no evidence of compliance with any discharge licence.
- A foreshore licence cannot be reassigned to a new owner and, therefore, in the event of a change of ownership, a new licence must be sought. According to the Company Registration Office, Ardcavan Developments Ltd. was established in 2000, however, it is unclear who is presently the owner of the

foreshore licence in this instance. There is no evidence that Ardcavan Developments Ltd. is the foreshore licensee or that it is entitled to the use of same, subject to the applicable terms and conditions.

- A different outfall route for the surface water was previously proposed under PA Ref. No. 20150940.
- The surrounding road network has insufficient capacity to safely accommodate the proposed development, with particular reference to instances of traffic congestion along the R741 Regional Road at peak times and the limited sightlines available at the junction of the proposed service road with same.
- There are multiple car sales showrooms (including an 'Audi' dealership located opposite the entrance to the proposed development) within a comparatively short distance of the application site and in most cases the absence of any on-site facilities for the loading / unloading of car transporters results in those activities being conducted from the heavily trafficked public road to the detriment of public safety and the free movement of traffic. It is not acceptable to allow further development in the area when the aforementioned practices continue unabated.
- Condition No. 6 of the notification of the decision to grant permission refers to the control of noise emissions and is not sufficiently robust, transparent or verifiable so as to ensure a satisfactory level of compliance with same. It does not specify any actions to be taken in the event of a breach of the limits specified nor is there any requirement to disclose any instances of non-compliance with the Local Authority. The condition should provide for the appointment of a suitably competent specialist to implement an appropriate monitoring / measuring regime with the results of same required to be submitted to the Local Authority on a regular basis.
- There are concerns that no noise emission levels have been specified for the construction phase of the proposed development.
- Condition No. 7 of the notification of the decision to grant permission refers to the control of dust emissions and is not sufficiently robust, transparent or verifiable so as to ensure a satisfactory level of compliance with same. For

example, it does not specify any actions to be taken in the event of a breach of the limits specified nor is there any requirement to disclose instances of non-compliance to the Local Authority. The condition should provide for the appointment of a suitably competent specialist to implement an appropriate monitoring / measuring regime with the results of same required to be submitted to the Local Authority on a regular basis. It should also apply to the ongoing operation of the proposed development.

- There are concerns that public funds will be used to address the increased flood risk attributable to the proposed development.
- No consideration has been given to the potential impact of the proposed development on the nearby Wildfowl Reserve, with specific reference to the possible effects of light pollution on bird species, particularly during winter nights.
- The proposed development could undermine the competitiveness of local businesses thereby contributing to unemployment. Indeed, Wexford town is already oversupplied with vacant commercial developments.

6.1.2. Michael Murphy & Lorraine O'Donoghue:

- The application site forms part of a significant parcel of land which acts as a buffer zone between Ardavan Business Park and nearby residences within Orchard Lane and Orchard Close. The subject proposal seeks to develop a large (unspecified) manufacturing / commercial facility within the aforementioned buffer zone adjacent to neighbouring housing. This will represent an abrupt transition in use and scale which is not compatible with the environmental and amenity expectations of local residents.
- The assessment of the subject application by the case planner has not referred to a recent planning application for a car dealership towards the front of the landholding which was declared withdrawn by the Council. Similarly, no reference has been made to Council's own application under Section 177AE of the Planning and Development Act, 2000, as amended, for the development of the Wexford to Curracloe Greenway on these lands which was refused permission by the Board on 16th October, 2018.

- The multiplicity of planning applications (and site notices) in the area may explain why some local residents were not aware of the subject proposal.
- There has been no consultation with local residents as regards the proposals for the commercial development of the subject lands.
- Notwithstanding the mitigation measures imposed by the Planning Authority, it is considered that the proposed manufacturing facility will have a detrimental impact on the residential amenity (and valuation) of neighbouring housing by reason of light pollution / spillage, noise, odours, air pollution, and the intrusion arising from construction activities.
- Given the failure to identify the exact nature of the manufacturing activities, it is unclear how the Planning Authority was in a position to assess the environmental impact of same.
- In light of the vacancy rates within nearby industrial estates and business parks, it is queried whether there is a need for the proposed development.
- Both the application site and surrounding lands drain toward the Special Protection Area / Special Area of Conservation, however, the flood risk mapping for the area prepared by the Office of Public Works fails to detail that a large culvert was installed in 2016 when granting permission for the car dealership constructed opposite the entrance to the proposed development site. This stormwater culvert drains from the lands above into a ditch that passes along the boundary of the application site and into Orchard Lane. Since the installation of this culvert, there has been a constant and significant drainage of water from the agricultural fields into the bottom of Orchard Lane where it subsequently accumulates largely within residents' gardens thereby damaging property, vegetation etc. Indeed, a report prepared by the Area Engineer in respect of PA Ref. No. 20161426 / ABP Ref. No. PL26.249001 has acknowledged that the surface water displacement within Orchard Lane arises as a result of the following contributory factors:
 - *'The site where the Audi garage now stands was a natural attenuation area for storm events due to the topography and also the smaller pipe under the road previously circa 600mm dia. During the Audi garage / R741 upgrade this pipe was upgraded to 900mm dia. and also [the]*

drainage ditch running east from this pipe cleaned thus allowing surface water from [the] catchment area to be displaced further east to Orchard Lane.

- *The drainage dyke which traverses from Orchard Lane to [the] outfall into Wexford Harbour is overgrown with reeds and trees over time and requires cleaning. NPWS are aware and await our [Wexford County Council] application for consent to clean. Prior consent from [the] landowner is required which is being pursued through Environment Section SE. Once received, [an] application will be lodged to clean [the] drainage dyke. August is the timeframe we envisage [for] receiving NPWS comments’.*

There has been no change in circumstances since the aforementioned report was compiled. Therefore, as the Council is aware of the foregoing concerns, it is considered that any grant of permission for large scale development is unsound.

- In 2016, the residents of Orchard Lane were permitted to connect their homes to the mains sewerage system at considerable individual expense, however, the underground pump for this system (which is positioned at the bottom of the lane) has been replaced twice due to the levels of flooding arising from the volumes of water diverted through the new storm water culvert from the R741 Regional Road and onwards to Orchard Lane.
- Given the nature of the area, much of which is no more than 15m above sea level, any further loss of agricultural land adjacent to the existing drainage ditch and neighbouring housing will serve to exacerbate flooding of those properties within Orchard Lane and Orchard Close.
- Until the Local Authority fulfils its obligations to maintain and service the reed beds from Orchard Lane to Ardcavan Beach, no further development should be permitted in the interest of public safety.
- The future plans for the development of this landholding only become clear in the Appropriate Assessment Screening Report provided with the application which refers to the construction of a car showroom and 7 No. other units / sites. Moreover, there are concerns that these plans amount to an

overdevelopment of lands that are regarded locally as acting as a buffer zone between the existing business park and neighbouring housing.

- The submitted Appropriate Assessment Screening Report is simply a repetition of the same document (with a different cover sheet) which has been submitted in support of multiple planning applications in the area. There is considerable wildlife present in the area, including wintering birds and other species, whilst bats are known to be present at the entrance to Orchard Close and adjacent to the proposed development site.
- It is queried how the Planning Authority could be '*satisfied that there will be no significant effects on the Wexford Harbour & Slobbs SPA and the Slaney River Valley SAC*' consequent on the proposed development. It is also noted that no prescribed bodies were consulted by the Planning Authority in this regard. Furthermore, permission was recently refused for a dwelling house on lands adjoining the application site under PA Ref. No. 2018022 on the basis that significant effects on the Slaney River Valley could not be ruled out given the pathway for surface water drainage. Similarly, PA Ref. Nos. 20064038 & 20044080 were refused on these grounds. Therefore, there are concerns that considerably less weight would seem to have been given to the potential impact of a large scale industrial development on the SAC.
- Given the applicant's future plans for the remainder of the landholding, it is considered that the subject proposal amounts to project splitting. There is a need to assess the combined effects of all existing, proposed and future developments in order to determine any possible environmental impacts.
- Due to the existing, permitted and planned pattern of development in the Ardavan area, increased traffic volumes have given rise to difficulties in crossing Wexford Bridge. Any additional commercial / non-residential development will serve to exacerbate this congestion making the bridge impassable.
- Contrary to the assessment of the Planning Authority, Ardavan is a rural location with no street lighting and poor roads which lacks the necessary infrastructure to support the levels of development proposed.

- There are wider concerns as regards the capacity etc. of the R741 Regional Road to accommodate the levels of development envisaged in the area and the failure to ensure a cohesive approach to the planning of the area.
- Given the location of the site entrance along a busy regional road subject to an 80kph speed limit, there are concerns as regards the potential traffic hazard posed by Heavy Goods Vehicles entering / exiting the site.

6.2. Applicant's Response

- The proposed development represents the first of five potential units to be facilitated by the access road previously permitted under PA Ref. No. 20150940. It is envisaged these units will accommodate commercial and light industrial uses similar to those within the adjacent Ardcavan Business Park.
- The end-user for the proposed development will be LAPP Ltd. which produces key components for Sulzer Pumps by providing electrical cables for the pump manufacturing process.
- The proposed development complies with the land use zoning and accords with the policies of the Development Plan.
- No works carried out to date by the applicant have resulted in or contributed towards flooding within Orchard Lane.
- The proposed development will significantly reduce the occurrence of flooding by providing for attenuation on site.
- The lack of natural soakage due to the presence of marl clay contributes to occasional flooding within the confines of the site, however, the provision of surface water attenuation systems for each of the individual development plots approved under PA Ref. No. 20150940 will eventually ensure negligible runoff from the applicant's lands.
- With regard to the Area Engineer's Report prepared in respect of PA Ref. No. 20161426 / ABP Ref. No. PL26.249001, which suggest that the flooding of Orchard Lane is attributable to the construction of a nearby car dealership and the widening of a culvert beneath the regional road, it should be noted that it is intended to remedy the situation by clearing the drainage dyke which

extends between Orchard Lane and the outfall into Wexford Harbour and that the Council is working with the NPWS to this end.

- The applicant has cooperated in full with the Council in facilitating access to the drainage ditch bounding his lands as part of the general drainage improvement works required in the area.
- In response to the inclusion of Condition No. 2 in the notification of the decision to grant permission for the proposed development, the Board is requested to consider the following options for surface water attenuation (please refer to the accompanying drawings provided with this submission):

- *Option No. 1:*

This is the applicant's preferred option and involves directing surface water runoff away from Orchard Lane by utilising existing infrastructure associated with Ardavan Business Park. Runoff will be collected and attenuated on site via a storage tank which will feed an existing attenuation pond (shared with the business park) from which it will be directed to the sea under Foreshore Licence Ref. No. MS51/6/136.

All discharge will be restricted to greenfield flow rates and the network will be fitted with silt traps and Class 1 petrol interceptors.

A wayleave / right of way agreement is in place to the attenuation pond and a discharge licence from the Council is in place.

- *Option No. 2:*

This involves on site attenuation with the runoff directed towards Orchard Lane. Discharge will occur at greenfield rates through the existing hydrological pathway from the site to Wexford Harbour. This option will also benefit from the continuation of the Council's drainage improvement works from the corner of the site to the harbour, however, it is not reliant on said works and will significantly reduce current levels of flooding through on site attenuation.

Both of the foregoing options are viable and neither will give rise to any significant effects on downstream Natura 2000 sites.

- The Board is requested to dismiss as unsubstantiated and vexatious the comments made by Mr. Molloy as regards possible non-compliance with the existing foreshore / discharge licences.
- The existing foreshore licence serving Kent Stainless and the Ardcavan Business Park was granted in 1988 and has been subject to ongoing review. Furthermore, Kent Engineering, Ardcavan Business Park and the subject lands are all within the ownership of the applicant. It is further confirmed that the foreshore licence has not changed ownership.
- The foreshore licence is governed by the Foreshore Act, 1933, as opposed to the Planning Acts, whilst a discharge licence from Wexford County Council is in place from the business park to the foreshore.

The discharge of surface water to the foreshore pursuant to Option No.1 (as detailed above) is facilitated via access to the attenuation pond associated with the business park and its outfall to sea i.e. by the existing foreshore licence.

Option 2 does not require a foreshore licence. In the event of a grant of permission, a discharge licence will be sought from the Local Authority.

- The proposed development will not contribute to the flooding of Orchard Lane and all works required to facilitate the proposal, including the management of surface water, will be paid for by the applicant.
- Condition Nos. 6, 7 & 8 as imposed by the Planning Authority will serve to protect the residential amenity of neighbouring properties as regards light pollution / spillage, dust emissions and noise levels.
- Some landscaping works have already been undertaken on site in anticipation of the proposed development in order to reduce the potential for light pollution and to provide screening. When implemented in full, the landscaping proposals will ensure that there are no negative impacts on nearby residential properties by reason of visual intrusion or light pollution.
- The proposed development will be accessed via an existing entrance arrangement already permitted under PA Ref. No. 20150940 and sufficient sightlines are available from same.

- The extensive road improvement works recently carried out along the R741 Regional Road serve to facilitate the development of the application site through the provision of a dedicated right-hand turning lane.
- The proposed development will not give rise to a traffic hazard.
- The issues raised by the appellants as regards the loading / unloading activities of a nearby car dealership and waiting times at the traffic lights at Wexford Bridge are beyond the scope of this application.
- Having regard to the nature of the proposed development, including the likely employment levels, it is anticipated that the proposal will have a minimal impact on the surrounding road network.
- Contrary to the grounds of appeal, consideration has been given to the Wexford Wildlife Reserve given that it is located within the Wexford Harbour and Slobbs SPA and the Slaney River Valley SAC. The Appropriate Assessment Screening Report provided with the application has concluded that the proposal will not have a negative impact on these Natura 2000 sites.
- The proposed development will generate local employment and will contribute to the competitiveness of Wexford town.
- There is presently a demand for commercial floorspace within Co. Wexford (please refer to the supporting documentation compiled by Sherry Fitzgerald Haythornthwaite).
- The application site is not a 'buffer zone' and is zoned and serviced for development.
- In response to the suggestion that the failure of other local residents to appeal the subject proposal is due to possible confusion arising from multiple site notices, it is submitted that any potential objector could have applied for leave to appeal.
- For clarity purposes, it should be noted that both site notices were assessed and photographed *in situ* by a representative of the Planning Authority.
- It is reiterated that the on-site attenuation of surface water with a controlled greenfield rate of discharge will prevent potential flood events on site.

Furthermore, it is considered that the subject proposal cannot be ransomed by the appellants in such a manner as to force the Council to carry out drainage works.

6.3. Planning Authority's Response

- All surface water from the proposed hard surfaced areas on site should be discharged into the pond permitted and constructed on the adjoining lands (and in the ownership of the applicant under PA Ref. No. 20003890. The surface water will then be discharged to the sea under Foreshore Licence (MS 51/6/136 refers). Therefore, the proposed development will not exacerbate any downstream / downhill flood events.
- The proposal for a manufacturing unit on suitably zoned and serviced lands is acceptable to the Planning Authority and will provide much needed employment opportunities in Wexford Town and the surrounding area. Consequently, the Board is requested to determine the subject appeal as expeditiously as possible.
- The Board is respectfully requested to uphold the decision to grant permission for the proposed development.

6.4. Observations

None.

6.5. Further Responses

6.5.1. Response of the Planning Authority to Circulation of the Applicant's Submission:

- No further comments:

6.5.2. Response of John Molloy (Third Party Appellant) to Circulation of the Applicant's Submission:

- The Board has previously determined that there are traffic hazards in the vicinity of the application site with other development proposals having been refused permission.

- It is reiterated that the practice of car transporters loading / unloading from the public road obstructs the carriageway and constitutes a traffic hazard.
- The Planning Authority has failed to properly consider the issue of traffic safety in the area.
- A significant portion of the subject site forms a flood plain with numerous instances of serious flooding both on site and further downstream.
- It is accepted that the installation of a 1m culvert under the R741 Regional Road has resulted in flooding of the area, however, it is considered that this was exacerbated by drainage ditch improvement works carried out by a named party.
- Within Orchard Lane there is insufficient drainage capacity due to the limitations of the 150mm culvert under the laneway itself which results in routine flooding of the area.
- It is not tenable to permit further development in the area until all necessary mitigatory works have been completed by the Local Authority and the NPWS.
- The applicant's preferred drainage option conflicts with the natural drainage / topography of the area and will require significant engineering works. It is also queried whether it is practical or achievable to retain, divert and pump all runoff from the development to the discharge point proposed.
- The location of the proposed stormwater attenuation system shown on Drg. No. 17084-01 routinely floods and, therefore, it is unlikely that such an arrangement will be able to function correctly.
- It is not possible to verifiably obtain a hydrobrake limiting flows to 5.2l/s given the tolerances involved.
- Contoured drawings would show that both options for attenuation do not allow for a gravity flow at the outlet with the result that surface water must be pumped. The natural fall of the site is to the southeast where flooding occurs.
- The proposed foul water pumping system is located in an area which floods.
- Ardavan Developments Ltd. has no legal entitlement to avail of the existing Foreshore Licence.

- There are continuing concerns as regards compliance with the foreshore and discharge licences.
- Given the nature of the end-user and the likely demands of same, it is submitted that there are already other units available for rent in the area.
- There is no evidence that a competent person within the Local Authority assessed the Screening Statement submitted with the application.

6.5.3. Response of Michael Murphy & Lorraine O'Donoghue (Third Party Appellants) to Circulation of the Applicant's Submission:

- With regard to the identified end-user, it is considered that there are already suitable vacant premises in closer proximity to its client base within the Whitemill Industrial Estate.
- Any type of plastic / micro-plastic manufacturing activities would not be appropriate on site given the close proximity of nearby housing and a Special Protection Area.
- The Planning Authority has granted permission subject to a series of generic conditions despite not knowing the precise nature of the manufacturing activities to be undertaken on site.
- The subject proposal amounts to piecemeal development and is a clear example of project-splitting.
- The letter of support from a local estate agent should be disregarded as it would not appear to be up to date on the availability of commercial / industrial premises in the Wexford area.
- The applicant's response to the grounds of appeal has incorrectly identified Orchard Lane and does not accurately depict the proximity of the proposed development to neighbouring housing within Orchard Lane and Orchard Close.
- It is reiterated that the commercial development of adjoining agricultural lands has contributed to the accumulation of water / flooding at the end of Orchard Lane which has resulted in damage to property.

- Despite the identified flooding problems and the contributory factors to same acknowledged by the Local Authority, permission continues to be granted for development in this area without maintaining the infrastructure required to support the associated drainage.
- Mapping compiled by the Office of Public Works indicates that large parts of the application site and the wider landholding are subject to flooding. However, this mapping does not take into account the fact that development has already occurred to the north of these lands and on the opposite side of the regional road which results in surface water runoff accumulating within the proposed development area.
- There are continuing concerns as regards the displacement of surface water runoff in the area notwithstanding assurances as regards attenuation etc. Therefore, it is only reasonable to oppose development that may exacerbate existing problems.
- No further development of these lands should be considered until the suitability of same has been fully addressed and the necessary infrastructure provided.
- No action has been taken to date to address the concerns previously raised by the Area Engineer in their report on PA Ref. No. 20161426 / ABP Ref. No. PL26.249001.
- Given the applicant's drainage / attenuation proposals, it is considered that the Board is entitled to query the validity of any existing foreshore / discharge licences.
- It is reiterated that the residents of Orchard Lane & Orchard Close have invested in a pump system in order to connect into the mains sewerage network, however, this pump has had to be replaced due to the levels of flooding / surface water runoff attributable to upstream developments.
- The issue of light pollution and its impact on the residential amenity of nearby dwelling houses (and local wildlife) has not been addressed by the applicant.
- Having regard to the planning history of adjacent lands, there are concerns that any requirements as regards landscaping will not be adhered to in full.

- It is wholly appropriate for the Planning Authority to consider traffic impact in its assessment of the application.
- Given the location of the site entrance along a section of heavily trafficked regional road, which is subject to a speed limit of 80kph, and noting the nature of the development proposed, there are concerns that the proposal will give rise to a traffic hazard.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Surface water drainage / flooding implications
- Traffic implications
- Impact on residential amenity
- Appropriate assessment
- Environmental impact assessment (screening)
- Other issues

These are assessed as follows:

7.2. **The Principle of the Proposed Development:**

- 7.2.1. From a review of 'Map No. 1: (Zone 1: Ardavan or Knottstown / Graanagam)' of the Wexford Town & Environs Development Plan, 2009-2015, it can be confirmed that the proposed development site forms part of a larger landbank which has been zoned as 'Commercial / Mixed-Use (C1)' with the stated land use zoning objective 'To make provision for commercial & mixed uses'. By way of further explanation, the Plan also clarifies that the purpose of this land use zoning is to provide for commercial and office developments.
- 7.2.2. The proposed development consists of the construction of an 'industrial unit' with a manufacturing area and ancillary office / staff accommodation and in this regard I

would refer the Board to the Zoning Matrix Table included with Map No. 21: *'Master Plan Zones'* of the Development Plan which states that the development of *'general industrial uses'* would *'not normally be acceptable'* within this land use zoning, although *'light industry'* would be *'open for consideration'*.

7.2.3. In response to the grounds of appeal, the applicant has identified the end-user of the proposed unit as the 'LAPP Group' which is seemingly involved in the supply / manufacture of electrical cabling. Notably, supporting correspondence from the LAPP Group also indicates that whilst the unit in question will initially be utilised for warehousing purposes it is envisaged that some production activities will be moved to the site, although this is seemingly contingent on demand for its products arising from within local business interests.

7.2.4. Accordingly, having regard to the foregoing, and noting the prevalence of comparable commercial / warehousing premises along the R741 Regional Road in the vicinity of the site, with particular reference to the Ardavan Business Park on the adjacent lands to the immediate north, I am amenable to the principle of the proposed development at this location. However, given the proximity of nearby housing to the south and southeast, I would emphasise that any industrial / manufacturing activities undertaken on site as part of the proposed development must accord with the definition of *'light industry'* in order to comply with the land use zoning. Therefore, I would suggest that regard must be had to Article 5(1) of the Planning and Development Regulations, 2001, as amended, which defines a *"light industrial building"* as *'an industrial building in which the processes carried on or the plant or machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit'*. Accordingly, in the event of a grant of permission, I would recommend the inclusion of a condition limiting the use of the proposed unit to the aforementioned definition.

7.3. **Surface Water Drainage / Flooding Implications:**

7.3.1. The principle concerns raised in the grounds of appeal relate to the potential for the proposed development and its surface water drainage arrangements to exacerbate downstream flooding in the vicinity of Orchard Lane and Orchard Close to the east of the R741 Regional Road. In this respect I would advise the Board that the subject

proposal, as initially submitted to the Planning Authority, provides for the culverting of the existing drainage ditches alongside the eastern and southern site boundaries with surface water runoff from the proposed development to be piped to a new manhole within the aforementioned culverting before draining to an existing attenuation pond located within the adjacent lands to the immediate northeast. Stormwater from the attenuation pond will then be collected into a pump chamber before being pumped to sea under Foreshore Licence No. MS 51/6/136. Notably, the Area Engineer would appear to have been amenable to this proposal, subject to the agreement of suitable surface water attenuation arrangements, and it being established, prior to the commencement of works, that the existing attenuation pond is of an adequate size to accommodate the additional storage requirements consequent on the proposed development.

7.3.2. In response to the grounds of appeal, the applicant has sought to elaborate on the proposed surface water drainage arrangements by providing details of 2 No. options as follows:

Option No. 1:

- This is the applicant's preferred option and involves directing surface water runoff away from Orchard Lane by utilising existing infrastructure associated with Ardavan Business Park. Runoff will be collected and attenuated on site via a storage tank which will then feed into the existing attenuation pond (shared with the business park) from which it will be directed to the sea under Foreshore Licence Ref. No. MS51/6/136. All discharge will be restricted to greenfield flow rates and the network will be fitted with silt traps and Class 1 petrol interceptors.

Option No. 2:

- This involves on site attenuation with the runoff directed towards Orchard Lane. Discharge will occur at greenfield rates through the existing hydrological pathway from the site to Wexford Harbour. This option will benefit from the continuation of the Council's drainage improvement works from the corner of the site to the harbour, however, it is not reliant on same.

- 7.3.3. At this point I would refer the Board to the National Flood Hazard Mapping available from the Office of Public Works which does not record any flood events in the immediate surrounds of the subject site, although it must be conceded that whilst this mapping serves as a useful tool in highlighting the potential for flood events in a particular area, it is not definitive.
- 7.3.4. Therefore, it is perhaps of greater relevance to consider the indicative mapping prepared by the Office of Public Works and published in 2011 as part of its Draft Preliminary Flood Risk Assessment (please also refer to the Strategic Flood Risk Assessment appended to the Wexford County Development Plan, 2013) which clearly identifies a significant proportion of the application site as being subject to pluvial flooding with further instances of same prevalent in the wider area and coastal flooding apparent downstream. However, whilst the PFRA is a further useful resource in the assessment of flood risk, I would draw the Board's attention to the contents of Circular PL2/2014 as issued by the Department of the Environment, Community and Local Government on 13th August, 2014 which states that the Draft Indicative Preliminary Flood Risk Assessment Maps were prepared for the purpose of an initial assessment, at a national level, of areas of potentially significant flood risk and that '*the maps provide only an indication of areas that may be prone to flooding. They are not necessarily locally accurate and should not be used as the sole basis for defining Flood Zones, or for making decisions on planning applications*'. This Circular further recommends that for the purposes of decision-making in respect of planning applications, a Stage II Flood Risk Assessment as set out in '*The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009*' should be undertaken where there are proposals for development in areas that may be prone to flooding.
- 7.3.5. Accordingly, I would refer the Board to the most up-to-date flood mapping prepared by the Office of Public Works as part of its CFRAM programme which has recently been made available on www.floodinfo.ie and serves to inform the development of Flood Risk Management Plans for specific areas in addition to the proposed measures to be implemented. Notably, this mapping does not identify any pluvial flooding either on site or in the vicinity of same (contrary to the PFRA).
- 7.3.6. Whilst the available flood mapping is not definitive as regards the extent or prevalence of flood events either on site or in the immediate surrounds, it is apparent

from a review of the submitted information, including third party submissions, and the planning history of the wider area, that there are ongoing difficulties with regard to downstream flooding within Orchard Lane / Orchard Close which would appear to be attributable to a combination of upstream development works, the upsizing of a culvert beneath the R741 Regional Road, and capacity issues within the network of drainage ditches between the site and the eventual outfall to sea due to a lack of maintenance (i.e. blockages by debris and overgrown vegetation).

- 7.3.7. In support of the foregoing, I would refer the Board to its previous determination of ABP Ref. Nos. PL26.249001 & ABP-302509-18 wherein it was held that there were continuing issues as regards the clearance / maintenance of drainage channels downstream of the site which may involve works to third party lands. It remains unclear whether the necessary works downstream have been carried out whereby further consideration could be given to the proposed development.
- 7.3.8. Therefore, I am inclined to conclude that concerns remain as regards the adequacy of the wider surface water drainage network and whether it has the capacity to accommodate the development. In this context, it is not considered appropriate to facilitate further incremental development on the subject lands pending the resolution of this issue. In effect, the development is considered to be premature and may result in residual flooding impacts downstream which would have significant adverse impacts on existing residential properties notwithstanding the attenuation proposals.
- 7.3.9. In addition to the foregoing, and for the purposes of completeness, whilst I would acknowledge that both of the surface water drainage options appended to the grounds of appeal would theoretically limit surface water runoff from the application site to greenfield discharge rates, I would nevertheless have serious reservations as regards the effectiveness of these proposals.
- 7.3.10. With regard to Option No. 1, which seeks to divert surface water runoff to an existing attenuation pond serving the Ardavan Business Park from where it will be discharged to sea under a foreshore licence, no details have been provided of the design, condition or functioning of the existing attenuation system and whether it has the capacity to accommodate the additional loadings consequent on the proposed development. Similarly, I would have concerns as regards Option No. 2 given the inadequacies of the downstream drainage network. Moreover, both options would

appear to involve the loss of an area which is subject to pluvial flooding and thus could give rise to the displacement of floodwaters.

- 7.3.11. Accordingly, on balance, and noting the absence of an on-site flood risk assessment, I am not satisfied that the proposed development will not exacerbate downstream flood events.

7.4. **Traffic Implications:**

- 7.4.1. The proposed development site forms part of larger parcel of land which has been zoned for development in the Wexford Town & Environs Development Plan, 2009-2015 and in this respect it is of relevance to note that various infrastructural / servicing works have already been carried out on site pursuant to PA Ref. No. 20150940, including the partial construction of a new entrance arrangement onto the R741 Regional Road and an access road extending from same. From a review of the plans and particulars submitted with PA Ref. No. 20150940, it is apparent that the lands in question (of which the site forms part) are to be subdivided into a series of self-contained and serviced plots and that permission was granted by the Planning Authority in full knowledge of the applicant's intentions in this regard. Accordingly, whilst it is perhaps regrettable that the access arrangements to the lands in question were approved in the absence of specific details of the intended use of each of the individual plots, I would acknowledge that the decision to grant permission for the site entrance was made in the context of the current Development Plan for the area and is likely to have taken cognisance of the applicable land use zoning and the various categories of use permissible within same. Therefore, I am satisfied that the approval of the access arrangements permitted under PA Ref. No. 20150940 will have already taken into consideration the likely traffic volumes etc. attributable to the proposed development and that the decision to grant permission for same was made on the basis that the proposed entrance / access would not give rise to a traffic hazard.
- 7.4.2. Notwithstanding the foregoing, whilst I note the location of the permitted entrance onto a heavily trafficked section of regional road (the R741) which is subject to a speed limit of 80kph, having regard to the site context, the adequacy of the available sightlines in both directions onto the public road, the presence of the existing right-hand turning lane serving the lands in question, the pedestrian footpath fronting the

site, and the on-going road improvement works presently underway along the R741 Regional Road between the site and Wexford Bridge, in my opinion, the proposed development will not have an undue impact on traffic safety considerations.

7.5. **Impact on Residential Amenity:**

- 7.5.1. Concerns have been raised as regards the potential impact of the proposed development (and any associated industrial / manufacturing activities) on the residential amenity of nearby dwelling houses within Orchard Lane and Orchard Close to the south and southeast of the site respectively. In this regard, particular reference has been made to the lack of clarity as regards the activities of the end-user and the possibility that the proposal will result in unacceptable noise, dust and air emissions (including odours) in addition to intrusive light pollution / spillage.
- 7.5.2. Whilst noting the details provided by the applicant of the intended end-user in response to the grounds of appeal, I would reiterate that any industrial / manufacturing activities undertaken on site as part of the proposed development must accord with the applicable land use zoning and, therefore, the proposal will be required to adhere to the definition of a 'light industrial building' in that the processes carried out or the plant or machinery installed should be such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. In my opinion, in the event of a grant of permission, the inclusion of a condition limiting the use of the proposed unit in accordance with the foregoing definition should serve to alleviate the concerns raised. Moreover, the imposition of suitable conditions with regard to the limitation of noise levels, the provision and orientation etc. of any on-site lighting, and the implementation of an appropriate scheme of landscaping, will also mitigate the impact of the proposal on adjacent housing.

7.6. **Appropriate Assessment:**

- 7.6.1. From a review of the available mapping, including the data maps from the website of the National Parks and Wildlife Service, it is apparent that whilst the proposed development site is not located within any Natura 2000 designation, there are a number of protected sites within the wider area, including the Slaney River Valley Special Area of Conservation (Site Code: 000781) and the Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076), approximately 200m south of the

site. In this respect it is of relevance to note that it is an objective of the Planning Authority, as set out in Chapter 8: '*Conservation and Heritage*' of the Wexford Town & Environs Development Plan, 2009-15, to conserve, protect and enhance in general the character of Wexford as defined by its natural heritage and biodiversity, built environment, landscape and culture. Furthermore, Objective NH7 of the Plan aims to prohibit development which would damage or threaten the integrity of sites of international or national importance, designated for their habitat / wildlife or geological / geomorphological importance, including the proposed Natural Heritage Areas, candidate Special Areas of Conservation, Special Protection Areas, Ramsar sites and Statutory Nature Reserves. In addition, Objective NH8 requires any project that has the potential to significantly impact on the Slaney River Valley and Wexford Harbour to be subjected to an appropriate ecological assessment.

7.6.2. By way of further clarity, I would refer the Board to Chapter 14: '*Heritage*' of the Wexford County Development Plan, 2013-2019 wherein it is stated that it is an objective to conserve and protect the integrity of sites designated for their habitat / wildlife or geological / geomorphological importance and to prohibit development which would damage or threaten the integrity of these sites, including SACs, cSACs, SPAs, NHAs, pNHAs, Nature Reserves, and Refuges for Fauna. Moreover, Objective NH03 aims to ensure that any plan or project and any associated works, individually or in combination with other plans or projects, will be subjected to Appropriate Assessment Screening to ensure there are no likely significant effects on the integrity of any Natura 2000 site and that the requirements of Article 6(3) and 6(4) of the EU Habitats Directive are fully satisfied. In those instances where the plan / project is considered likely to have a significant effect on a Natura 2000 site, it will be subject to Appropriate Assessment and will only be permitted to proceed after it has been ascertained that it will not adversely affect the integrity of the site or where, in the absence of alternative solutions, the plan/project is deemed imperative for reasons of overriding public interest, all in accordance with the provisions of Articles 6(3) and 6(4) of the EU Habitats Directive.

7.6.3. In effect, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6

of the Habitats Directive. Accordingly, it is necessary to screen the subject proposal for the purposes of 'appropriate assessment'.

- 7.6.4. In terms of assessing the potential direct, indirect or secondary impacts of the proposed development on the conservation objectives of the aforementioned Natura 2000 sites, it should be noted at the outset that due to the location of the proposed works outside of any Natura 2000 designation, and the separation distances involved, it is clear that the subject proposal will not directly impact on the integrity of any European Site (such as by way of habitat loss or reduction). However, having reviewed the available information, in light of the nature and scale of the proposed development, the specifics of the site location relative to certain Natura 2000 sites, and having regard to the prevailing site topography, in my opinion, by employing the source / pathway / receptor model of risk assessment, it can be determined that particular consideration needs to be given to the likelihood of the proposed development to have a significant effect on the conservation objectives of the Slaney River Valley Special Area of Conservation and the Wexford Harbour and Slobbs Special Protection Area on the basis that the proposed development site is situated upstream of these Natura 2000 sites and thus surface waters drain towards same i.e. it will be necessary to consider the potential implications for downstream protected habitats etc. arising from any potential change in flows rates etc. or any deterioration in water quality attributable to the proposed works given the hydrological connectivity between the application site and those European sites.
- 7.6.5. Having reviewed the available information, and following consideration of the 'source-pathway-receptor' model, it is my opinion that given the nature and scale of the development proposed, the availability of public mains services, the site location outside of any Natura 2000 designation, the limited ecological value of the lands in question, the separation distances involved between the site and nearby designations, and the surface water drainage arrangements proposed whereby runoff from the development will be attenuated and limited to a maximum 'greenfield' discharge rate (in addition to the inclusion of silt traps and oil / fuel interceptors), the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of the aforementioned Natura 2000 sites.

7.6.6. In support of the foregoing, I would draw the Board's attention to the Screening Statement provided in support of the subject application, the findings of which correspond with those set out in the Screening Report submitted under ABP Ref. No. PL26.249001. This screening exercise states that surface water from the site flows through a series of open ditches until it reaches an area of open marshy grassland and tall reed swamp, both of which are located within the boundary of the SAC & SPA. It further asserts that the marsh area at the mouth of the drainage ditch forms an effective hydrological break between the drainage ditch and qualifying habitats of the SAC and prevents discharge from the development to these habitats. Therefore, while there is a hydrological pathway linking the site to the SAC boundary, there is no direct pathway between the development and the coastal qualifying habits of the SAC. It is acknowledged, however, that the marsh area is a potential roosting habitat for a range of species of special conservation interest within the SPA and, therefore, potential contamination of this area must be considered. In this respect I am satisfied that adherence to best construction practice and the implementation of appropriate construction management measures will ensure that surface water runoff from the proposed development will not result in potential pollution downstream thereby avoiding the likelihood of any significant adverse effects on water quality within the SPA.

7.6.7. Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site, in particular, specific Site Codes: 000781 & 004076, in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

7.7. **Environmental Impact Assessment (Screening):**

7.7.1. Having regard to the nature and scale of the proposed development, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental

impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.8. **Other Issues:**

7.8.1. **Procedural Issues:**

It has been suggested that confusion may have arose with regard to the lodgement of the subject application due to a multitude of site notices having been erected at the site entrance. In my opinion, consideration of the adequacy of public notices with regard to the validity of a planning application is the responsibility of the Planning Authority in the first instance and in this respect I would draw the Board's attention to the Planner's Report on file which confirms that the subject site notice was inspected by the case planner on 12th October, 2018 and was found to accord with the requirements of the Planning and Development Regulations, 2001, as amended. Accordingly, it is my opinion that the right of third parties to make a submission on the subject application and to subsequently appeal the decision of the Planning Authority has not been prejudiced in this instance (*N.B.* Cognisance should also be taken of the fact that the applicant published a newspaper notice in order to inform members of the public of the planning application).

7.8.2. **The Requirement for a Foreshore and / or Discharge Licence:**

With regard to any requirement for the applicant to obtain a foreshore and / or discharge licence, it is my opinion that such matters are subject to other regulatory control / legislative provisions and thus are not pertinent to consideration of the subject appeal.

8.0 **Recommendation**

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 **Reasons and Considerations**

1. Having regard to the surface water drainage proposals for the site, the Board is not satisfied that the proposed development would not give rise to an

increased risk of residual downstream flooding. The proposed development would, therefore, be prejudicial to public safety and be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

22nd April, 2019