



An  
Bord  
Pleanála

## Inspector's Report ABP-303509-19

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<b>Development</b>	To complete housing development for completion of 27 dwellings. Significant further information, revised plans, and Natura Impact Statement have been submitted
<b>Location</b>	The Drumlins , Bailieborough Road , Virginia, Co Cavan
<b>Planning Authority</b>	Cavan County Council
<b>Planning Authority Reg. Ref.</b>	18181
<b>Applicant(s)</b>	Murmod Estimators Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Inland Fisheries Ireland.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	02 <sup>nd</sup> of April 2019.
<b>Inspector</b>	Karen Hamilton

## 1.0 Site Location and Description

- 1.1. The site is located on lands on the northern outskirts of the Town of Virginia, in south County Cavan. The site is located to the rear of “The Drumlins” housing development and is accessed from the R178 through “The Drumlins” housing estate.
- 1.2. The Drumlins housing estate is an unfinished housing development. The appeal site relates to the incomplete sections of the development that are located to the north, east and west of the existing housing. Ground works have commenced on the appeal site on foot of previous permissions and the Board has issued a recent refusal for a similar proposal on the site. The roads (base course), foul and surface water sewers and water mains are in place, while open space areas are defined and there are 21 no. partially constructed dwellings on the site.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
  - To complete housing development (planning reg. no.'s 04/2182 & 05/907 relate to this site), to include the construction and completion of 27 dwellings.
  - A Natura Impact Statement was submitted with the application.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to grant permission subject to 24 no. conditions of which the following are of note:

C 5- The development shall be carried out in accordance with Inland Fisheries Ireland (IFI) guide to the requirements for the protection of the Fisheries Habitat during construction and development works at river sites.

C 6- All mitigation measures outlined in Section 5 of the submitted Natura Impact Statement shall be fully applied and implemented.

Prior to commencement of development on the site the applicant shall submit how mitigation measures are to be complied with as specified in section 5 of the NIS.

C 8- Prior to commencement of development the applicant shall submit details of the boundary treatment which shall be agreed in writing with the Planning Authority in particular the side boundary of houses 119 and 120 fronting onto the walkway, the pedestrian link between houses 125 and 126 (e.g.) boundary wall or railing) and the boundary treatment along the north of the site.

C 10- Submission of details of the retaining wall on the north of the site.

C 11- Compliance with Irish Water public water/ wastewater agreement

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The report of the area planner reflects the decision to grant permission following the submission of further information, detailed below. In addition, the report of the planner details the local planning policy with regard to the housing developments and a planning history on the site including the recent refusal by the Board.

#### Further Information Request

- The applicant was requested to demonstrate and submit confirmation that Virginia Waste Water Treatment System had sufficient capacity. In this regard correspondence from Irish Water was received to state that the WWTP has a p.e of 3,687 with an assessment indicating a possibility of 3,800 p.e. Upgrade of the plant is proposed to begin in 2019 with the submission of planning permission.
- The submission of a stage II Appropriate Assessment.
- Submission of a revised red line incorporating the proposed construction haul road.
- Full Construction Management Plan including measures to mitigate any significant disturbance to residents.
- Revised site layout which provides a pedestrian link between proposed plot nos. 125/126 and the future application site.

The report of the area planner noted the contents of the submitted Stage II Appropriate Assessment and concluded that having regard to the mitigation

measures included and the report from Irish Water to state that the proposed development can be facilitated, there would be no adverse impact on any European Sites.

### 3.2.2. Other Technical Reports

Roads Department- No objection subject to conditions, although there are reservations over the location of 4 housing plots in relation to the reservation area of the proposed N3 Virginian Bypass.

### 3.3. Prescribed Bodies

Irish Water- No objection to the proposal

Inland Fisheries Ireland (IFI) – Recommend refusal based on the lack of capacity in the Virginia Wastewater Treatment Plant.

### 3.4. Third Party Observations

Two submissions were received from the adjoining resident's association and a local fishing club and the issues raised are summarised as follows:

- The planning should be withheld until such times as the WWTP has been upgraded.
- The poor drainage will have a negative impact on the surface run-off.
- There is an objection to social housing.
- Attic rooms will seriously impose on the resident's privacy.
- Works should not be undertaken during weekends or evenings.
- Storm overflow is discharging into the lake.
- Lough Ramor is classified as being in bad ecological status.

## 4.0 Planning History

### **PL02.248992 (Reg Ref 16/600)**

Permission refused for the retention and completion of 21 no dwellings previously granted under 04/2182 & 05/907 and the erection of 58 no dwellings and crèche for three reasons relating to the following:

1. Insufficient capacity within the Virginia Wastewater Treatment Plant which links into and adjoining tributary of the River Boyne and River Blackwater SAC/SPA.
2. Impact on the SAC/SPA which currently has a poor ecological status.

### **Reg. Ref. 05/907**

Permission granted for a residential development of 53 dwellings.

### **Reg. Ref. 04/2182**

Permission granted for a residential development of 92 dwellings.

### **Reg. Ref. 03/605**

Permission granted for alterations to house types approved under Reg. Ref. 02/1492 (no change to dwelling numbers).

### **Reg. Ref. 02/1492**

Permission granted for residential development comprising 61 dwellings.

### **PL02.123967 (Reg. Ref. 00/2104)**

Permission refused for a residential development comprising 237 no. dwellings. Local Authority granted and An Bord Pleanála decided to refuse planning permission for reasons relating to the following:

1. Excessive scale of development would be out of character with the existing town of Virginia.
2. Development would promote long distance commuting on a national primary route (N3) which is contrary to the Development Plan and National Policy.

## **PL02.120849 (Reg. Ref. 00/623)**

Permission refused for residential development comprising 281 no. dwellings. Local Authority granted and An Bord Pleanála decided to refuse planning permission for reasons relating to the following:

1. Excessive scale of development would be out of character with the existing town of Virginia.
2. Development would promote long distance commuting on a national primary route (N3) which is contrary to the Development Plan and National Policy.

## **5.0 Policy and Context**

### **5.1. National Guidance**

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).

Urban Design Manual, A Best Practice (DOEHLG, 2009)

Urban Design Manual- A Best Practice Guide and the Design Manual for Urban Roads and Streets DMURS (2013)

### **5.2. Cavan County Development Plan 2014-2020**

Virginia is designated as a Tier 2 Settlement (Large Town).

The Virginia Town Development Plan is provided in Chapter 13 of the County Development Plan.

*The site is predominantly zoned "Proposed Residential" where it is an objective "To provide for residential development and to protect and improve residential amenity. New housing and infill developments should be of sensitive design which is complimentary to their surroundings. Residential development shall ensure the provision of high quality new residential environments with good layout design and adequate private and public open space and also provide an appropriate mix of house sizes, types and tenures. No piecemeal development can take place unless it does not conflict with the possible future development of towns."*

A small section of the site adjacent to existing housing and the R178 is zoned “Existing Residential” with an objective *“To promote the development of balanced communities and ensure that any new development in existing residential areas would have a minimal impact on existing residential amenity. New housing and infill developments should be in keeping with the character of the area and existing buildings and shall not impact on the amenities of current or future residents. The design of new dwellings shall be of high quality with good layout design and adequate private and, where appropriate, public open space and an appropriate mix of house sizes, types and tenures.”*

#### Road

There is a proposed town by-pass detailed on the zoning map to the north of the appeal site.

#### Waste water

Chapter 13, Section: Infrastructure (p323) states that “The Waste Water Treatment Plant is currently working over capacity. These are issues which must be addressed before further development can occur in the town.”

#### Design

Chapter 10 sets out Development Management Standards and Design Guidance for residential development including the following,

A design statement is required to illustrate compliance with the guidance in the sustainable residential guidelines.

### **5.3. Natural Heritage Designations**

The site is c. 5km to the north of the River Boyne and Blackwater SAC (site code 002299) and the River Boyne and Blackwater SPA (site code 004232) and c. 8km north west of the Killyconny Bog (Cloghbally) SAC.

### **5.4. EIA Screening**

Having regard to the nature and scale of the proposed development 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal are submitted from Inland Fisheries Ireland (IFI) in relation to proposal as summarised below:

- The EU Water Framework Directive (2000/60/EC) requires the protection of the ecological status of river catchments.
- Article 5 of the Surface Water Regulations requires that a public authority does not undertake its functions in a manner that allows the deterioration of the chemical or ecological status of a surface water.
- Wastewater would discharge to Virginia Waste Water Treatment Plant which discharges to Lough Ramor (EPA Waste Water Discharge Licence No. DO255-01).
- Lough Ramor is at 'bad status' under the Water Framework Directive and should be at least at 'good status' by the end of 2015.
- The EPA Annual Environmental Report (AER) 2017 on the Virginia Waste Water Treatment Plant states that capacity has been upgraded to 3,800pe. It is understood that Irish Water the figures do not take into account 105 houses (315 p.e), recently granted permission (EOT) Reg Ref 17/475 or Reg Ref 18/118 (42 houses and p.e 118). These developments are acknowledged as cumulative in the NIS. They have the potential to overload Virginia WwTP by 10%. This application of 80 p.e would mean additional overloading.
- Table 4 (page 153) of the River Basin Management Plan for Ireland (2018-2021) indicates that the completion date for the WWTP is not until 2024. It also states that the generated load is 3,988 p.e 5.5% greater than in 2017.
- Chapter 12 of the development plan acknowledges that the treatment system is over capacity.



- Court of Justice of the European Union judgement (Case C – 461/13 of 2015) held that member states are required, unless a derogation is granted, to refuse an individual project where it may cause a deterioration of the status of a body of surface water or where it jeopardises the attainment of good surface water status or of good ecological potential and good surface water chemical status by the date laid down by the Water Framework Directive.
- The previous decision by the Board (PL02.248992) was refused on the grounds that the proposed development was dependant on the delivery of an upgrade to the plant.
- It remains unclear if there are necessary consents in place for the upgrade and there is no defined timeline for the works.
- IFI will not oppose any proposed development once the upgrade has been undertaken.
- If permitted it should be subject to a similar condition used by the Board in 301299-18 which states that construction of the proposed developments shall not commence until the upgrade of the Kenstown Waste Water Treatment Plant is completed, commissioned and operational and the plant has the capacity to cater for the proposed development.
- An extract from the River Basin Management Plan for Ireland (Table 4 of Appendix 1) lists the completion date for the Virginia Waste-Water Treatment Plant as 2024 and a generated load in 2016 of 3,988.

## 6.2. Applicant Response

A submission from the applicant was received which may be summarised as follows:

- The planning history on the site is provided.

### Wastewater

- Irish Water pre-connection enquiries indicated that there was capacity for 27 no units.
- IW CIP 2017-2021 assessed the p.e of the plant at 3,687.

- A feasibility study report of the plant, undertaken by IW, indicated capacity of 3,800 p.e.
- A Stage II Appropriate Assessment was undertaken which states that there will be no impact on and European Sites.

#### Cumulative impact

- Reg Ref 17/475 – Capital Oils Ltd (105 houses) 85 have already been developed and completed. The EOT was for 20 dwellings (60 p.e).
- Reg Ref 18/118- Lyncon Properties (42 houses) 10 have already been built and sols EOT was to extend the rest p.e 118.
- Therefore the capacity for existing developments accounts for 147 p.e, not 433 as suggested by IFI.

### **6.3. Planning Authority Response**

A response from the Planning Authority was received and may be summarised as follows:

- The application is significantly reduced in scale from the previous application from 79 no to 27 no. dwellings.
- A NIS was submitted which concludes that the proposed works do not have the potential to significantly affect the conservation objectives or the qualifying interests of the River Boyne and River Blackwater SAC/SPA and a number of mitigation measures where included.
- As part of the application the applicant has submitted a letter from Irish Water to state that the WWTP has capacity to deal with 27 no dwellings. It is IW responsibility to advise if there is sufficient capacity to accommodate such developments.
- IFI reference to Capital Oils Supplies Ltd application (17/475) for 105 houses is incorrect as it was for 20 houses.

### **6.4. Observations**

None received.

## 7.0 Assessment

7.1. I consider that the main issues in this case are as follows:

- Planning History
- Waste Water
- Design and Layout
- Appropriate Assessment

### Planning History

7.2. There is a detailed planning history attached to The Drumlins housing development, detailed above. An Bord Pleanála refused permission for 281 no. dwellings (PL02.120849 / PA Ref. 00/623) on lands including the appeal site. In 2001, An Bord Pleanála refused permission for a development of 237 no. dwellings (ABP Ref. PL02. 123967 / PA Ref. 00/2104) on lands including the appeal site. In 2003, the Local Authority granted permission for 61 no. dwellings on lands adjoining the appeal site to the west (PA Ref. 02/1492). This development is complete. In 2004 and 2005, permission was granted for second and third phases of The Drumlins development comprising 92 no. dwellings and 53 no. dwellings respectively (PA Ref. 04/2181 and PA Ref. 05/907). The second and third phases of development are incomplete and permission is now sought to complete the development. Foundations of some of the dwellings have

7.3. Planning permission has been recently refused by the Board, PL02.248992 (Reg Ref16/600), for completion of 21 no. houses and permission for 58 no houses and 1 no crèche. The reasons for refusal related to the lack of capacity in the Virginia Waste Water Treatment Plant and in turn the absence of any Natura Impact Statement. Other issues raised by the Inspector and the Board related to the low density and substandard layout of the proposed scheme.

7.4. The proposed development has been amended to reduce the dwellings from 78 no. to 27 no and has been accompanied by a Natura Impact Statement.

### Waste Water

7.5. The proposed development includes a connection into the Virginia Waste Water Treatment Plant (WWTP). The main reason for refusal in PL02. 248992 related to

the lack of capacity in the treatment plant, stated as 2,000 p.e. The Board considered that having regard to the bad ecological status of Lough Ramor and the requirements Article 5 and Article 28 (2) of the European Communities Environmental Objectives (Surface Waters) Regulations , 2009, which require the protection of surface water bodies, that the proposed development was premature pending the upgrade of the treatment plant.

- 7.6. The WWTP discharges to Lough Ramor and is subject to an EPA Discharge Licence (Ref. No. DO255-01). The receiving waters in Lough Ramor and downstream to the River Blackwater are classified as “poor” under the Water Framework Directive. The EPA have classified Lough Ramor<sup>1</sup> as having bad ecological status, and classified the downstream receiving waters of the Blackwater as having poor ecological status.
- 7.7. The IFI, in the grounds of appeal, highlight the obligation on public authorities under Article 5 of the 2009 Surface Water Regulations, who shall not undertake those functions in a manner that knowingly causes or allows deterioration in the chemical or ecological status of a body of surface water and additional reference to Court of Justice of the European Union (2015) where authorisation should not be given to any project which may jeopardise the attainment of good surface water status under the Water Framework Directive.
- 7.8. The 2017 Annual Environmental Report (AER) prepared by Irish Water as a requirement for the Discharge Licence for the Virginia Waste Water Treatment Plant dated (March 2018) stated the following:
- The plant has a capacity of 3,800 (p.e).
  - The organic remaining capacity was p.e of 24.
  - BOD (mg/l) exceeded the emissions limit values (ELV) in 2017 and the final effluent from the Primary Discharge point was non-compliant with the ELVs.
  - Non-compliance was linked to the motor on aerator in oxidation.
  - Improvement works undertaken in 2017 include the storm flow from inlet trended to SCADA and a new 22.5kva Aerator Motor installed, increased from 15kva.

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<sup>1</sup> [https://www.epa.ie/pubs/reports/water/waterqua/wqr20102012/WQR\\_lakes.pdf](https://www.epa.ie/pubs/reports/water/waterqua/wqr20102012/WQR_lakes.pdf)

- The annual mean hydraulic loading is less than the peak Treatment Plant Capacity.
- The annual maximum hydraulic loading is greater than the peak Treatment Plant Capacity.

7.9. The AER makes reference to previous reports of capacity being 2,000 p.e. It confirmed that Virginia is included on the Irish Water Investment Plan 2017-2021 and a feasibility study is expected in late 2018 which will determine the unit's hydraulic and/or biological capacity to meet the current and future ELVs and Urban Waste Water Standards. Preliminary reports from this feasibility study indicate that a conservative capacity of c. 3,800 p.e would give some spare capacity to allow some connections.

7.10. IW have no objection to the proposed connection and the response from the Planning Authority, to the appeal, notes IW as the competent authority. IFI remain concerned the proposed connection into WWTP does not take account of existing permissions in Virginia, namely Extensions of Duration (EOT) for two developments Reg Ref 17/475 (105 houses/ 315 p.e) and Reg Ref 18/118 (42 houses and 118 p.e). The Planning Authority notes the EOT is only for 20 houses/ 60 p.e and 42 houses/ 118 p.e respectively.

7.11. I note the works which have been undertaken to the treatment system and the increase in stated capacity to 3, 800 p.e, although I also note the AER of the plant states that the annual hydraulic loading is greater than peak treatment Plant Capacity and the organic remaining capacity is 24 p.e. In light of those current EOT applications (147p.e) the information presented in the AER would indicate there is no capacity for the proposed development. It is also of note non-compliance of the WWTP in 2017 with emissions limit values (ELVs), further discussed below in relation to the impact on European Sites.

7.12. Having regard to the AER (2018) for the Virginia Wastewater Treatment System, the non-compliance with emission limit values ELVs of the treatment plant that are outlined in its current license and the proposed upgrade of the WWTP, I consider the proposed development is premature by reference to the provision of sewerage facilities serving the area and those constraints involved. The proposed development, therefore, has the potential to be prejudicial to public health, to impact

negatively on the ecological and chemical status of the received waters and would be contrary to the proper planning and sustainable development of the area.

### **Design and Layout.**

- 7.13. The proposed development is for 27 no. dwellings on a site adjacent to and accessed through The Drumlins estate. The road layout is provided in part within the site and a small number of foundations have been laid for a number of dwellings. A proposed distributor road runs along the north of the site, to by-pass Virginia, and a reservation area is included within the site.
- 7.14. The Inspector's Report for PL02.248992 referred to the density (14 units per hectare), overlooking and overbearing from dwellings along the west, and the layout (frontage free streets) and considered the proposal represented a sub-standard form of development and was not in accordance with the design and layout guidelines set out in the Residential Development Guidelines or DMURS. The Board agreed with the Inspector, however, having regard to the substantive reasons for relating to the waste water treatment system and the fact alterations to the design represented a new issue it did not include it as a reason for refusal.
- 7.15. The submitted design has not been amended and only includes a reduction in the units proposed. The site layout illustrates an indicative layout for the remainder of the site. Whilst I note those dwellings along the west are not included within the proposal, referred to Inspectors previous refusal, the density and layout remain the same.
- 7.16. The Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities 2009, set out the density standards for residential development where a 20-35 is required for a small town. In limited circumstances a reduction in 15-20 is permitted. 14 units per hectare is below the standards and whilst I consider the completion of an unfinished housing estate may be a justified reason for a lower density, I note the positioning of houses along the reservations of distributor roads and associated boundary treatment was previously raised as an issue under PL02.248992. Section 3.18 of the national guidance on Sustainable Development in Urban Areas recommends that frontage- free streets are not recommended as they result in a hostile environment.

7.17. I note the submitted layout and associated design issues remain the same, although having regard to the substantive issue on the lack of capacity in the WWTP, stated above, and the impact on the European Sites, and in light of those issues raised in the grounds of appeal, I do not consider it necessary to include this sub-standard design as a reason for refusal.

### **Appropriate Assessment**

7.18. The site is c. 5km to the north of the River Boyne and Blackwater SAC (site Code 002299) and the River Boyne and Blackwater SPA (site code 004232) and c. 8km north west of the Killyconny Bog (Cloghbally) SAC. As stated above, the WWTP discharges to Lough Ramor and is subject to an EPA Discharge Licence (Ref. No. DO255-01). The receiving waters in Lough Ramor and downstream to the River Blackwater are classified as “poor” under the Water Framework Directive.

7.19. The qualifying interests for the SAC are alkaline fens; alluvial forests; river lamprey; salmon and the otter. Qualifying interests for the SPA include the kingfisher. The relevant conservation objectives for both sites are to maintain or restore the favourable conservation status for the Qualifying Interests.

7.20. Section 4.4 of the NIS identified four potential impacts arising from the proposed development on the conservation objectives of the European Sites and include:

1. Deterioration of surface water arising from pollution due to construction and operation,
2. Deterioration in ground or surface water arising from pollution in connection to the Virginian Waste Water Treatment Plant,
3. Risk to Annex I or Annex II species associated with the site,
4. Cumulative impacts with other proposed/ existing developments.

7.21. The main issues raised in the grounds of appeal relate to the available capacity within the existing WWTP and impact on the waters and species in both Lough Ramor and the River Boyne and River Black water. The response from Irish Water in relation to the scheduled upgrade and Irish Waters CIP is included and mitigation measures listed in Section 5 of the NIS states that:

“Connection to the public wastewater infrastructure should be the subject to agreement with Irish Water and it must be within the operational capacity of the Virginia plant.”

In addition, it states that there must be no further exceedance of the ELVs of the treatment plant outlines in the current License and the development should not lead to any further deterioration in the ecological status of Lough Ramor.

- 7.22. The NIS does not definitively conclude that the proposed development would without reasonable scientific doubt, not have a significant negative impact on the conservation objectives of those European Sites in the vicinity, rather it states that the development “must not lead to any further exceedance of the ELVs” and that the development “should not lead to any further deterioration”.
- 7.23. The 2018 AER for the WWTP notes the final effluent from the primary discharge point was non-compliant as the BOD (mg/l) exceeded the ELVs. In addition, IW states that a feasibility study planned will include an extensive review of the individual unit process through the plant to determine the hydraulic and/ or biological capacity to meet the current and future ELVs.
- 7.24. Therefore by applying the precautionary principle I do not consider the submitted NIS has satisfactorily provided sufficient information or evidence to conclude that the proposal would not have a significant negative impact on the conservation objectives of the River Boyne and River Blackwater SAC and SPA.
- 7.25. Having regard to the limited capacity of the treatment plant, the poor ecological status of both Lough Ramor and the River Boyne and River Blackwater and the absence of the submitted NIS to definitively conclude there will not be any potential impact on the Conservation Objectives of the European sites, I consider the Board is precluded from granting permission for the proposed development.

## 8.0 Recommendation

- 8.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.



## 9.0 Reasons and Considerations

1. The site of the proposed development would ultimately be connected to the Virginia Wastewater Treatment Plant, which in turn discharges into Lough Ramor.

Having regard to:

- (a) The existing constraints at the Virginia Wastewater Treatment Plant, which is currently operating beyond its design capacity of 3,800 p.e,
- (b) the lack of certainty in respect of future capacity improvements to the Wastewater Treatment Plant,
- (f) the existing biological status of Louth Ramor, which has been classed by the Environmental Protection Agency as of bad ecological status,
- (g) article 5 of the European Communities Environmental Objectives (Surface Waters) Regulations, 2009, which requires that a public authority, in performance of its functions, shall not undertake those functions in a manner that knowingly causes or allows 'deterioration in the chemical or ecological status of a body of surface water, and
- (h) article 28(2) of the said Regulations, which states that a surface water body whose status is determined to be less than good shall be restored to at least good status not later than the end of 2015,

It is considered that the proposed development would be premature by reference to the existing deficiencies in the provision of sewerage facilities and the period within which this constraint may reasonably be expected to cease and would be prejudicial to public health.

2. The proposed development discharges to the Virginia Waste Water Treatment Plant, with a primary discharge to Lough Ramor, which links directly to the River Boyne and River Blackwater SAC (Site No. 002299) and River Boyne and River Blackwater SPA (site code 004232). A Natura Impact Statement (NIS) accompanied the proposed development which:

- a) identified a potential impact as additional loading on the treatment plan and concluded that the proposed development would not lead to any impact on Lough Ramor once the treatment plant is upgraded, and;
- b) included mitigation measures linking compliance with Emission Limitation Values (ELVs) in line with the Discharge Licence.

In the absence of any upgrade of the treatment plant the NIS could not definitively conclude that the proposed development would not have a significant negative impact on the Conservation Objectives of the European Site.

Notwithstanding (a) and (b) above the Board is not satisfied, on the basis of the information contained in the NIS made in connection with the planning application and the appeal, that adequate information has been provided on the impact of the proposed development on ecological status of the receiving waters in the River Boyne and River Blackwater Site No. 002299) and River Boyne and River Blackwater SPA (site code 004232)..

It is therefore considered that the Board is unable to ascertain, as required by Regulation 27(3) of the European Communities (Natural Habitats) Regulations, 1997, that the proposed development will not adversely affect the integrity of a European Site and it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area

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Karen Hamilton  
Planning Inspector

02<sup>nd</sup> of May 2019