S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

Inspector's Report ABP-304066-19

Strategic Housing Development	413 no. residential units (175 no. houses and 238 no. apartments), two creche facilities, retail unit and all associated site works.
Location	Carcur Park, Wexford Town, Co. Wexford.
Planning Authority	Wexford County Council
Applicant	William Neville and Sons
Prescribed Bodies	Irish Water Transport Infrastructure Ireland Department of Culture, Heritage and the Gaeltacht An Taisce

Observers	Jacinta Somers Faythe Harriers
Date of Site Inspection	26th May 2019
Inspector	Stephen J. O'Sullivan

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1.0 Introduction

1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

2.0 Site Location and Description

2.1. The site is in Wexford c2km west of the town centre and train station. It lies between the railway and the shore of the estuary of the Slaney which define most of its boundaries. It has a stated area of 13.84ha. It was formerly used for the extraction of sand and gravel. Most of its landcover consists of artificial surfaces, bare ground and scrub. The levels on the site reflect previous excavations upon it, with depressions surrounded by mounds in several locations. The remains of a concrete batching plant stand near the middle of the site. There is a stone arch bridge over the railway near to those remains. Access to that bridge from the town side of the railway is along a disused track that crosses land occupied by a sports club. The land on the opposite side of the railway from the site is largely occupied by playing pitches served by various clubhouses. A modern road has been built along the eastern side of those pitches from a roundabout on the R730 Regional Road. It has a carriageway between 7m and 8m wide and footpaths on both sides that are 1.2m wide. It has a dead end at the top of the railway cutting opposite the south-eastern end of the site boundary. The county council formerly operated a waste disposal facility near the site on the other side of the railway.

3.0 Proposed Strategic Housing Development

3.1. The proposed development would provide 413 residential units consisting of 328 apartments and 175 houses. The housing mix would be –

3.2.

	1 bed	2 bed	3 bed	4 bed	5 bed	Total
Houses	**-**	**30**	**111**	**34**	**-**	**175**
Apartments	**13**	**201**	**24**	**-**	**-**	**228**
Total	**13**	**231**	**135**	**34**	**-**	**413**

3.3. The proposed development would also provide 2 creches with a combined floor area of 742m^2 and retail floorspace of 86m^2. The total floorspace is stated to be 38,619m^2.

3.4. Access to the scheme would be from a new bridge over the railway previously authorised by the council under the Part 8 procedure. It would link the site to the previously built road that ends on the town side of the railway. A road would be continued from that bridge across the site that could provide a link to a planned bridge over the Slaney, the provision of which is an objective of the development plan.

3.5. The proposed apartments would be in 7 blocks between 4 and 7 storeys high. The 7 storey blocks would be at either side of the entrance to the scheme from the bridge over the railway. There would be another two apartment blocks on either side of the road where the planned bridge over the Slaney would land. They would be 4 storeys high. The other 3 apartment blocks would be beside one another towards the north-western side of the site and would be 5 storeys high. The proposed shop and one of the creches would be on the ground floor of one of the 7 storey apartment blocks. These blocks would also have undercroft parking at that level. The other creche would be at ground floor level in one of the 4 storey blocks. The rest of the development would consist of 2 storey houses, most of which would be semi-detached although detached houses and short terraces are also proposed.

3.6. 769 car parking spaces would be provided. The proposed development would be served by the public foul sewerage and water supply networks. Surface water drainage would be to individual soakpits for each of the houses and apartment blocks.

4.0 Planning History of the Site

4.1. There is no planning permission that would authorise development on the site. The board granted permission for a club house across the railway from the application site under PL26. 244574, Reg. Ref. in December 2015 after carrying out an appropriate assessment for its implications of the SAC at Slaney River Valle SAC and the Wexford Harbour and Slobs SPA.

5.0 Section 5 Pre Application Consultation

5.1. A pre-application consultation with the applicants and the planning authority took place at the offices of Wexford County Council on the 20th October 2017 in respect of a proposed development of 387 homes and 2 creches on the site. The main topics raised for discussion at the tripartite meeting were –

- Proposed Railway Bridge
- Principle of Proposal and Zoning Provisions
- Consideration of Impacts of Possible Future Bridge over the Slaney
- EIAR and Appropriate Assessment
- Drainage and Flood Risk
- Design, Density, Layout of Open Space
- Any other Matters

Copies of the record of the meeting and the inspector's report are on this file

5.2. The board issued an opinion which stated that the submitted documents required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development in respect of the following issues-

- Site access and roads layout including the proposed railway bridge
- The potential impacts of gas emissions from the landfill site at Carcur
- The provision of a coastal walk
- Potential for impacts on Natura 2000 sites
- Drainage and flood risk

- Residential density
- Impact of the railway on residential amenity

The opinion also stated that specific information should be submitted in relation to –

- Access and compatibility with the permitted railway bridge and planned bridge over the Slaney, and with DMURS
- Monitoring of emissions from the disused landfill
- A coastal walk and protection of otter habitats
- Detailed drainage proposals and a site specific flood risk assessment and works to amend ground levels
- A Natura Impact Statement
- A planning report
- An inward noise impact assessment
- Childcare

5.3. Applicant's Statement of Response

5.3.1. The applicant's states that it will build the authorised bridge over the railway which would then be taken in charge by the council. An agreement has been made with CIE for the building of the bridge. The housing scheme has been designed around objective T8 of the development plan for the road across the site that would link with the bridge over the Slaney. Site sections are submitted which demonstrates that the proposed road would be compatible with a bridge over the Slaney at a gradient similar to that of the existing bridge to Ferrybank. The submitted engineer's report demonstrates compliance with DMURS. The proposed housing and ancillary services would be in keeping with the zoning of the site which establishes the principle of the development. The statement refers to section 7.3.4.1 of the EIAR in relation to the landfill. The disused facility is 130m from the proposed housing on the other side of the railway and it is unlikely that the latter could be affected by emissions of gas from the former. The landfill was closed 33 years ago. Monitoring of methane by the council has recorded background levels only. The planned coastal walk shown on the development plan map is outside the application site. Direct access to the shore from the proposed housing is restricted in order to protect

the habitats of otters and the Natura 2000 sites at the estuary. This is why pedestrian routes are shown around the proposed housing scheme through a series of open spaces and landscaped areas rather than along the shore. Lighting will be designed to avoid spill onto the estuary. There would be a setback of 10m from the reed bed to the south-east of the application site. Fill material imported to the site will be inert and will be monitored for invasive species. The proposed development would not impinge or disturb the habitats and Natura 2000 sites on the estuary, therefore. The proposed development would be protected from flooding by raising floor levels to 3.25m OD. The ground on the site has high infiltration capacity and surface water drainage will be to soakpits. The development is laid out so that overflows from the soakpits would flow to the sea along the streets. The proposed development would displace the storage capacity of the site to the sea, where its impact would be negligible. The net density of the proposed development would be c40dph which is appropriate for an outer suburban site under the 2009 sustainable urban residential guidelines. An inward noise assessment indicates that the railway would not cause intrusive noise during the day. Impacts at night will be mitigated by a 3m boundary wall and upgraded glazing on the relevant facades. Two creches would provide appropriate facilities for childcare on the site. The specific information requested in the opinion has been provided.

6.0 Relevant Planning Policy

6.1. National Policy

6.1.1. The government published the National Planning Framework in February 2018. Objective 3c is to deliver at least 30% of new houses in settlements other than the cities. Objective 11 is to favour development that can encourage more people to live or work in existing settlements. Objective 35 is to increase residential density in settlements.

6.1.2. The Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments were issued in March 2018. Section 2.4 states that peripheral urban locations are generally suitable for development at densities of less than 45 dph that includes a minority of apartments. It contains several specific requirements with which compliance is mandatory. The minimum floor area for one-

bedroom apartments is 45m^2, for two-bedroom apartments it is 73m^2 and for three-bedrooms it is 90m^2. Most of proposed apartments in schemes of more than 10 must exceed the minimum by at least 10%. Requirements for individual rooms, for storage and for private amenities space are set out in the appendix to the plan. Ground floor apartments should have floor to ceiling heights of 2.7m.

6.1.3. The minister issued Guidelines for Planning Authorities on Urban Development and Building Heights in December 2018. Section 3.6 states that development in suburban locations should include an effective mix of 2, 3 and 4 storey development. SPPR 4 is that a planning authority must secure a mix of building heights and types and the minimum densities required under the 2009 guidelines in the future development of greenfield and edge of city sites

6.1.4. The minister and the minister for transport issued the Design Manual for Urban Roads and Streets (DMURS) in 2013. Section 1.2 sets out a policy that street layouts should be interconnected to encourage walking and cycling and offer easy access to public transport. Section 3.2 identifies types of street. Arterial streets are major routes, link streets provide links to arterial streets or between neighbourhoods, while local streets provide access within communities. Section 3.3.2 recommends that block sizes in new areas should not be excessively large, with dimensions of 60-80m being optimal and 100m reasonable in suburban areas. However maximum block dimensions should not exceed 120m. Section 4.4.1 states that the standard lane width on link and arterial streets should be 3.25m, while carriageway width on local streets should be 5-5.5m or 4.8m where a shared surface is proposed.

6.1.5. The minister issued Guidelines for Planning Authorities on Flood Risk Management in November 2009. The site includes land in flood risk zones A and B in the categories set out in the guidelines, where residential zoning or development requires justification. The test for zoning refers to land adjoining the core of settlements designated for growth. The test for development control refers to the zoning of the land in a plan that has been adopted or varied in accordance with the guidelines, and that the proposal has been subject to a flood risk assessment that demonstrates that it would not increase flood risk elsewhere and that it includes measure to ensure that residential risks to the area and the development can be managed to an acceptable level, and that this can be achieved in a manner compatible with wider planning objectives on good urban design.

6.1.6. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas were issued by the minister under section 28 in May 2009. Section 1.9 recites general principles of sustainable development and residential design, including the need to prioritise walking, cycling and public transport over the use of cars, and to provide residents with quality of life in terms of amenity, safety and convenience. Section 5.11 states that densities for housing development on outer suburban greenfield sites between 35 and 50 dph will be encouraged, and those below 30dph will be discouraged. A design manual accompanies the guidelines that lays out 12 principles for urban residential design.

6.1.7. The minister issued Guidelines for Planning Authorities on Childcare Facilities in June 2001. Section 3.3.1 of the guidelines recommends that new housing areas be provided with childcare facilities at a standard of one facility with 20 spaces for every 75 homes.

6.2. Local Policy

6.2.1. The Wexford Town Development Plan 2009-2015 remains the applicable development plan. The site is zoned for mixed use residential. It is crossed by the line of a roads objective T8 to provide an inner orbital road and new bridge over the Slaney. A landmark site is designated on the site where that road would meet the bridge. Objective TO2 is to realise the recreational potential of the estuary and TO3 is to provide a coastal walkway along it. The plan's maps show the route of a coastal walkway on the town side of the railway in the vicinity of the application site. Policy NH6 is to protect riparian zones by providing a buffer of at least 5-10m from watercourses.

6.3. Statement of Consistency

6.3.1. According to the statement the proposed development is in line with a masterplan for the overall landholding which extends somewhat beyond the application site. It would be consistent with the provision of a linear park along the waterside and would provide a gateway feature on the entrance to the town from the planned bridge over the Slaney. The design has had regard to an Action Area Plan that was prepared before the applicants acquired the site from CRH plc. The road infrastructure to serve the site has been authorised by the planning authority and provided by the applicant, except for the bridge over the railway. Residential development is the next

stage in the long term vision for the area. The site is zoned for mixed use residential development under the 2009 town development plan. It is part of zone 4 of the town as designated in that plan where recent development has occurred at the hospital, county hall and the offices of the Department of the Environment. The proposal would comply with specific objectives in the plan including T8 to provide a ring road and new bridge for the town which is substantially complete up to the railway at the boundary of the site. The carriageway of the road exceeds the standards set out in DMURS. The bridge over the railway has been authorised by the council. The extent and levels of the proposed development would facilitate the planned bridge over the Slaney. The layout would facilitate the achievement of objectives T02 and T03 for amenity along the shoreline. While the protection of the habitats and species in the estuary takes priority over those objectives, the proposed development addresses the waterside situation of the site insofar as possible with a linear park and walkways, although the habitats of otter and birds will be protected by fencing. The will be a 10m setback of development from the boundaries of the SAC and SPA. Childcare will be provided in two facilities. The proposed 7 storey apartments blocks will provide landmark features on the entrance to the town. There will be four phases in the development moving from east to west. The bridge over the railway will be completed first and will provide the construction access for phases 1 and 2. It is proposed that the existing bridge and quarry entrance would provide access for phases 3 and 4. The proposed density is justified with reference to national guidelines rather than the provisions of the development plan. The density of 40dph is calculated by excluding t 3.6ha of major open space from the net site area.

6.3.2. The development would comply with the requirement for appropriate assessment and a Natura Impact Statement is submitted. The density of 40dph complies with the recommendations for suburban greenfield sites in the 2009 sustainable urban residential guidelines. The proposed development would also meet the 12 criteria in the design manual that accompanied the guidelines. The submitted housing quality assessment demonstrates compliance with the 2018 guidelines on apartment design. A site specific flood risk assessment has been submitted to demonstrate compliance with the 2009 flood risk management guidelines. Parts of the site in its existing state are within flood zones A and B due to tidal and fluvial flood risks. This will be addressed by raising the site so that floor levels are above 3.25m OD and

thus the 0.1% AEP flood levels, and therefore the proposed housing would be in flood risk zone C. This would not have any impact on flooding elsewhere as the storage capacity from be displaced to the sea. The proposal complies with the principles and standards of DMURS. Creches would be provided in accordance with the 2001 Childcare guidelines. A mix of heights and types would be provided on the site in accordance with the 2018 guidelines on building height.

7.0 Third Party Submissions

7.1. The submission from Faythe Harriers Hurling and Camogie Club states that access for construction vehicles via the existing quarry entrance would have an unacceptable impact on their club due to disruption and traffic hazard, particularly to its underage members.

7.2. The submission from Jacinta Somers states that proceeding with the application would damage the observer's position and that the board should suspend engagement with the planning application by 1st May 2019. Previous submissions have been made to the board regarding land ownership and the history of dealing at Carcur. The status of the road constructed there by CRH or its successors is disputed by the observer and there are outstanding issues regarding the former landfill operated by the county council and the proposed development and application cannot proceed in these circumstances. The applicant does not have the requisite legal interest in land to make the application or carry out the development on land that it purportedly purchased from CRH. The scale and importance of the proposed development mean that an in-depth analysis should be carried out to establish that all aspects of the application come within recognised planning and environment guidelines, directives and all other legal requirements prior to the consideration of any grant of planning permission. The access road to the site is not adequate to serve the proposed development and may have to be removed, so the board may not grant the present application. Extensive documentation is submitted regarding land ownership and dealings, the planning history of the area and the operation and remediation of the adjacent landfill.

8.0 **Planning Authority Submission**

8.1. The report states that a formal submission was not made by the elected members of the district committee but they generally welcomed the proposed development.

8.2. The Chief Executive's report stated that the development complied with the zoning of the site and was in keeping with the county's core strategy and so was acceptable in principle. The conclusions of the Natura Impact Statement are accepted. The proposed density is in keeping with policy. The proposal for apartments along the main street through the site that would form part on the planned inner orbital route is acceptable. The proposal was the subject of previous consultation with the council in which it sought a high degree of permeability and proper block sizes within the scheme that would comply with DMURS. The submitted proposal achieves this. It represents a high standard of urban design and properly responds to the context of the site. The street dimensions are broadly in line with DMURS. The submitted details on cycle facilities are sparse and it would be preferable for segregated cycle lanes along the main street, but the matter can be addressed by condition. Car parking would be provided in line with development plan standards with 2 spaces per house and 1.5 per apartment. There is a concern that some perpendicular spaces are too close to junctions. The site and location of the public open space is acceptable, and the private open space complies with development plan standards. A lighting scheme is required to protect bats and the adjacent habitats in the SPA and SAC designed in accordance with the EIAR. The floor areas of the proposed apartments comply with the 2018 guidelines and more than 50% of them are dual aspect. Emissions from the former landfill indicate low levels of methane in the vicinity. Each dwelling should have the means to charge electric cars. The proposed childcare proposals are acceptable. The proposed houses with universal accessibility should be identified. Proposals under Part V of the planning act have been agreed. The proposed construction access over the existing bridge for phases 3 and 4 of the development should be changed to avoid impacts on the adjacent sports club. A condition should address the control of Japanese Knotweed.

8.3. The conclusions of the submitted Site Specific Flood Risk Assessment are accepted. The proposal for surface water drainage to soakpits for each house and building are not satisfactory, as they could fail if paving were installed or they were otherwise built

on. In the event of a grant of permission a condition should be attached required a revised drainage system that provides attenuation.

8.4. The report concludes that various weaknesses in the proposal regarding surface water drainage, cycle facilities and public lighting can be properly addressed by condition. A grant of permission was recommended and 27 conditions were submitted. Condition no. 2 would require a new surface water drainage system that would provide attenuation to be agreed and implemented in the development. Condition no. 4 would prevent the use of the existing quarry entrance for construction traffic. Condition no 14 would require segregated cycle ways on main access and orbital route. Condition no. 21 would require 1.8m rendered block walls between back gardens and facing public areas.

9.0 **Prescribed Bodies**

9.1. The submission from Irish Water states that it can facilitate the proposed connections to its water supply and foul drainage networks.

9.2. Transport Infrastructure Ireland stated that it had no observations on the proposed development.

9.3. The submission from the Department of Culture, Heritage and the Gaeltacht in relation to archaeology concurred with the submitted assessment and recommended that archaeological monitoring occur. In relation to nature conservation it stated that the proposed fence and buffer zone between the development and the estuary needed to maintained for the life of the project and details of ongoing maintenance are required. Hedge removal should not occur in the breeding season for birds. An invasive species management plan is required in relation to Japanese Knotweed.

9.4. The submission from An Taisce states that sufficient measures have not been proposed in the NIS to ensure that there is no impact on the adjacent Natura 2000 sites in the estuary. Noise and disturbance during construction has the potential to affect the habitats and species there. Where uncertainty arises, as with the wildfowl data in this case, then the precautionary principle should apply. There is a lack of evidence and certainty that would be capable of removing all reasonable scientific doubt as to the effects of the proposed works on the SPA. Reference is made to the judgement of the ECJ C 304-05. This site is in an area with potential tidal and pluvial

flooding. The subject proposal has not demonstrated how it would comply with public policy as set out in Smarter Travel.

10.0 Appropriate Assessment

10.1. The application site does not include any part of a designated Natura 2000 site. However it adjoins two such sites – the Special Area of Conservation at the Slaney River Valley, sitecode 000781 and the Special Protection Area for Wexford Harbour and Slobs, sitecode 004076.

10.2. The conservation objectives for the SAC at the Slaney River Valley are to restore the favourable conservation condition of the following species –

- 1095 Sea Lamprey Petromyzon marinus
- 1096 Brook Lamprey Lampetra planeri
- 1099 River Lamprey Lampetra fluviatilis
- 1103 Twaite Shad Alosa fallax
- 1106 Atlantic Salmon Salmo salar (only in fresh water)
- 1355 Otter Lutra lutra,

and to maintain the favourable conservation condition of the following species

- 1365 Harbour Seal Phoca vitulina –

and to restore the favourable conservation condition of the following habitats –

- 91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles
- 91E0 * Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion,Alnion incanae, Salicion albae)

and to maintain the favourable conservation condition of the following habitats –

- 3260 Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation
- 1130 Estuaries
- 1140 Mudflats and sandflats not covered by seawater at low tide

10.3. The Conservation objectives for the SPA for Wexford Harbour and Slobs are to maintain the favourable conservation condition of the following habitat –

A999 Wetlands,

and to maintain the favourable conservation condition on the following species –

- A004 Little Grebe Tachybaptus ruficollis wintering
- A005 Great Crested Grebe Podiceps cristatus wintering
- A017 Cormorant Phalacrocorax carbo wintering
- A028 Grey Heron Ardea cinerea wintering
- A037 Bewick's Swan Cygnus columbianus wintering
- A038 Whooper Swan Cygnus cygnus wintering
- A046 Light-bellied Brent Goose Branta bernicla hrota wintering
- A048 Shelduck Tadorna tadorna wintering
- A050 Wigeon Anas penelope wintering
- A052 Teal Anas crecca wintering
- A053 Mallard Anas platyrhynchos wintering
- A054 Pintail Anas acuta wintering
- A062 Scaup Aythya marila wintering
- A067 Goldeneye Bucephala clangula wintering
- A069 Red-breasted Merganser Mergus serrator wintering
- A082 Hen Harrier Circus cyaneus post-breeding/roost
- A125 Coot Fulica atra wintering
- A130 Oystercatcher Haematopus ostralegus wintering
- A140 Golden Plover Pluvialis apricaria wintering
- A141 Grey Plover Pluvialis squatarola wintering
- A142 Lapwing Vanellus vanellus wintering
- A143 Knot Calidris canutus wintering

- A144 Sanderling Calidris alba wintering
- A149 Dunlin Calidris alpina wintering
- A156 Black-tailed Godwit Limosa limosa wintering
- A157 Bar-tailed Godwit Limosa lapponica wintering
- A160 Curlew Numenius arquata wintering
- A162 Redshank Tringa totanus wintering
- A179 Black-headed Gull Chroicocephalus ridibundus wintering
- A183 Lesser Black-backed Gull Larus fuscus wintering
- A195 Little Tern Sterna albifrons breeding
- A395 Greenland White-fronted goose Anser albifrons flavirostris wintering

10.4. The conservation objectives for the above SPA also refer to the adjacent SPA at the Raven sitecode 004019 which is c6.3km east of the current application site. The conservation objectives for the latter SPA are to maintain the favourable conservation status of the following habitat-

- A999 Wetlands,

and to maintain the favourable conservation condition of the following species –

- A001 Red-throated Diver Gavia stellata wintering
- A017 Cormorant Phalacrocorax carbo wintering
- A065 Common Scoter Melanitta nigra wintering
- A141 Grey Plover Pluvialis squatarola wintering
- A144 Sanderling Calidris alba wintering
- A395 Greenland White-fronted goose Anser albifrons flavirostris wintering

10.5. The proposed development is of a substantial scale and is close to the SAC at the Slaney River Valley and the SPA at Wexford Harbour and Slobs. The carrying out of the development and its occupation would have the potential to affect the designated

sites through its alteration of the drainage regime on the application site and changes in the level and nature of activity on the application site. The substantial works required to fill the site to a level that would be safe from fluvial, tidal and coastal flooding would also have the potential to cause a release of sediments to water that would threaten water quality and thus habitats and species in the Natura 2000 sites in the estuary. Before a grant of permission was considered, therefore, an appropriate assessment is required of the implications of the proposed development for those sites in view of their conservation objectives. As the conservation objectives for the SPA at Wexford Harbour and Slobs refers to those for the SPA at the Raven, the appropriate assessment should also address the implications for the latter SPA in view of its conservation objectives.

10.6. A Natura Impact Statement was submitted with the application which can inform the required appropriate assessment. It refers to other Natura 2000 sites within 15km of the site. These are the SACs at Raven Point Nature Reserve, Screen Hills, Long Bank and Blackwater Bank. These sites are geographically removed from the site and there is no pathway between them and the application site whereby housing development upon the application site would have the potential to have likely significant effects upon them. An appropriate assessment of the implications of the proposed development on their conservation objectives in not necessary, therefore. The Natura Impact Statement submitted with the application provides sufficient information to allow an appropriate assessment of the implications of the development for the SAC at the Slaney River Valley and the SPAs at Wexford Harbour and Slobs and the Raven to be carried out.

10.7. The NIS sets out which of the conservation objectives of the applicable Natura 2000 sites could be affected by the development which include those that refer to the marine habitats and species in the SAC near or downstream of the application site, including otters. The freshwater species and terrestrial habitats, including freshwater pearl mussel, brook lamprey and alluvial forests, to which the conservation objectives of the SAC refer are remote and upstream of the application site and could not be affected by the development. The relevant conservation objectives for fish species include no barriers to migration and clean gravels for spawning. Sedimentation of watercourses and pollution of waters are a threat. The conservation objectives for otters include no significant decline in the distribution of

the species or its habitats in the terrestrial, freshwater or marine environment, no significant decline in feeding resources or habitats for resting, breeding or shelter and no increase in barriers to connectivity. In relation to the SPAs the NIS reviews waterbird data which indicate that regularly occurring species in the area include Cormorant, Grey Heron, Little Grebe, Oystercatcher, Curlew, Black-tailed Godwit, Redshank and Black-headed Gull. The NIS also identified a potential for Hen Harrier and Little Tern in the area. It refers to the fact that the conservation objectives of the SPAs refer to the favourable conservation condition of wetlands in terms of extent only. As the proposed development would not affect the extent of wetlands, it would not have implications for the achievement of the conservation objectives of the SPAs that refer to that habitat. The NIS sets out information regarding the existing ecological characteristics of the site and surrounding area. It is based on a survey of the site's habitats, a survey of otter activity and analysis of waterbird data and additional bird counts for the present assessment.

10.8. The proposed development would not involve the loss of any habitats in the Slaney Valley SAC. The application is covered by vegetation and so is not subject to sedimentation. The raising of ground levels upon it as part of the proposed development would therefore not affect flows of sediment in the estuary that could have indirect effects on physical structure of saltmarsh habitat there. There is a potential for the development to have impacts on estuary, tidal mud and saltmarsh habitats through the release of sediments or other pollutants during construction of the development. The estuarine waters of Wexford Harbour are classified as potentially eutrophic and of moderate. Measures are set out in the NIS to mitigate this potential impact including adherence to construction method statements in accordance with the requirements of the IFI and the NPWS that refer to standard practices such as the storage of hydrocarbons on bunded areas. The provision of impermeable cement washout areas, diversion of runoff through settlement ponds, filter channels and silt traps as appropriate and proper soil handling is also specified in the NIS. The implementation of these measures would be likely to avoid a deterioration in the quality of waters in the SAC. During the occupation of the development the potential impact on water quality would be mitigated by the drainage of foul sewerage to the town's treatment plant, and the percolation of stormwater runoff via oil interceptors to the ground. Littering or increased activity

along the shoreline will be controlled by fencing and planting to augment the vegetation there, restricting access to the shoreline. There would be a negligible increase in NO_x levels arising from the occupation of the housing which would not have a significant effect on the species or habitats in the SAC. Measures are set out at section 10.1.5 of the NIS to mitigate the potential for the deposition of dust on the habitats in the SAC during construction, including the watering and sweeping of road, wheel washing, restricted vehicle speeds and the covering of vehicles moving soil and similar materials. Tidal covering would mobilise any dust deposited on the saltmarsh. No significant impact on productivity, growth or density of saltmarsh or marginal habitats or saltmarsh is anticipated in the long term. As there would be no in-stream works in the proposed development, or alterations to water quality or the sediment regime, there would be no impact on the annex I habitat of floating river vegetation. As the proposed development is not likely to affect water quality it would not be likely to affect the fish species to which the conservation objectives of the SAC refers. No significant disturbance of harbour seal is predicted as its breeding, moulting and feeding sites in the SAC are c5km from the application site, and no other significant negative effect would arise from a change in water quality or otherwise. Section 10.5 of the NIS reports that Japanese Knotweed and three-corned leak have been found on the site. The extensive filling of the site that is proposed also raises a potential for negative effects from invasive species. Measures to avoid such impacts are therefore set out including the monitoring of the site and works upon it and to control and eradicate such plants as they are found. This would avoid the risk of the spread of such species and thus an impact on the habitats in the SAC.

10.9. The NIS includes an otter survey that identified four zones of activity close the proposed development including around the pond in the north east corner of the site and around the reed bed at its south-eastern corner. There is a potential for the development to lead to loss of otter habitat through direct incursion or by disturbance by people, dogs or artificial light. The development would lead to the loss of the pond in the north-eastern corner of the site (outside the SAC) that is used by otters for washing. To mitigate any *ex situ* effect in this regard a similar pond of $293m^3$ will be constructed nearby prior to the filling of the existing pond. Planting around the new pond will consist of scrub and hedge to provide privacy and shelter from the housing.

the marginal habitats around the site of grassland, scrub and hedgerow used by otters will be retained after the proposed development, with an minimum buffer zone of 10m along the shoreline that will be fenced off from the proposed housing. The fence will have a low wall of 575mm with a railing of 1525mm on top of it. It would be likely to avoid negative effects on otter habitats due to the activity of people or dogs. The literature on the subject indicates that otters can tolerate proximity to areas occupied by humans in towns and cities. The proposed lighting scheme has been designed using directional LED lighting to avoid illumination of shoreline habitats. The lux levels at the boundary road around the housing would be between 1.4 and 4.9, with a localised area of 8.1 lux that would be screened from the marginal habitats by existing tall vegetation. Construction activity to carry out the proposed would have the capacity to displace otters particularly if a natal holt was established. Measures are set out at section 10.4.4 of the NIS to mitigate any such effects in line with guidelines on the subject prepared by the NRA including pre-construction surveys and inspections and the established of temporary buffer zones of 150m around any breeding holt. Fencing of the buffer zone along the marginal shoreline habitat will occur before the commencement of other construction works. No works involving wheeled or tracked vehicles would take place within 20m of any active but non-breeding hole, and scrub clearance or digging within 15m of such holts would only occur under licence. The information submitted in the NIS is therefore sufficient to support a conclusion beyond reasonable scientific doubt that the proposed development would not have adverse effects on otters in the SAC.

10.10. With regard to the SPAs at Wexford Harbour and Slobs and at the Raven, section 11 of the NIS refers to its previous finding that the proposed development would not have a negative impact on water quality in the estuary and so could not adversely affect the achievement of the conservation objectives of those SPAs by that mode. The bird surveys on the site did not reveal any use of the application site by hen harriers, so the loss of habitat upon it would not reduce the foraging habitat available to that species in the SPAs or have adverse implications for the conservation objective of the SPA at Wexford Harbour and Slobs which refers to that species. The habitats on the application site that would be lost to the proposed housing are not of use to any of the other species that are the subject of conservation objectives

in the SPAs and there would be no direct effect on the SPAs from the proposed development.

10.11. Section 11 of the NIS extensively analyses the potential effect of disturbance of the bird species for which the SPAs, noting that such effects might be significant if they lead to a habitat being abandoned by a species (which would have the same impact as the loss of the habitat) or if the disturbance caused a loss of feeding time and evasive behaviour that had energetic impact on the birds. Section 11.3.1of the NIS cites literature that demonstrates that multiple disturbance events during daytime hours would have to occur to cause impacts on wader survival rates. Human activity already occurs along the shoreline, with recreational use by walkers and bait digging observed during the ecological surveys of the site. The proposed development would cause a major increase in human activity on the application site both during construction and occupation. The intertidal and sub tidal habitats near the application site are used by Cormorant, Grey Heron, Little Grebe, Oystercatcher, Curlew, Black-tailed Godwit, Redshank and Black-headed Gull. Section 11.3.4 of the NIS describes the responses of birds to disturbance, with the modal direct response distance of birds flushed by walking along the shoreline given as 50-75m during surveys on the site. Section 11.4.1 of the NIS reviews literature regarding the impact of disturbance from construction on adjacent populations of waterbirds. Multiple projects on Cardiff Bay were found to have an effect on population levels, but no significant impact was found in several other cases that involved single projects. Birds in the vicinity of the application site are unlikely to have become habituated to noise. The noise generated by the construction of the development has been forecast and compared to the levels of disturbance to birds arising from such noise levels on other projects. It is then compared to the recorded waterbird populations in the intertidal habitat in the vicinity of the application site and in the SPAs. This allows a calculation that around 1% of the population of the relevant species of the Wexford Bay are likely to be displaced by noise during construction. The displacement caused by visual disturbance would be lesser, as would impacts on the waterbird population in the subtidal habitat. These impacts which would not have adverse implications for the achievement of the conservation objectives of the SPAs relating to those species given the period over which the noise would be generated. During the occupation of the proposed development pedestrian activity within the

development near the shoreline would be screened from birds in the SPA by vegetation in the buffer zone. Direct access to the shoreline would be controlled by fencing, although there would be likely to be some unauthorised access by children climbing over it. However it is noted that such access already occurs along the shoreline. Table 17 of the NIS sets out a worst-case scenario in this regard whereby less than 1% of the population of various bird species in Wexford Bay would be displaced during occupation of the proposed housing. Therefore the construction and occupation of the proposed development would not cause disturbance and displacement of birds that would have adverse implications for the achievement of the conservation objectives of the SPAs. The extensive information and analysis provided in the NIS puts this conclusion beyond reasonable scientific doubt. The assertion to the contrary in the submission from An Taisce is not well supported and is not accepted.

10.12. Section 13 of the NIS considers the potential for cumulative effects on the SAC and SPAs arising in combination with other plans or project. The application site is a discrete piece of land that is zoned for residential use in the development plan for Wexford town. However most of the coastal lands adjacent to the SPAs and SAC that are the subject of this appropriate assessment are not zoned for development of this or other types, with extensive strips zoned for open space and amenity. The future development of the town in accordance with that plan, which was itself subject to appropriate assessment, would not lead to effects on the Natura 2000 sites that would, in combination with the proposed development, have adverse implications for the achievement of their conservation objectives. The plan has an objective for the construction of a bridge over the Slaney that would land at the application site. If works to build that bridge were carried out at the same time as the proposed development than disturbance to species could arise that would be significant in that regard. However no consent has been sought or obtained for that bridge at this time and such a coincidence of works is highly unlikely and would have to be the subject of a further appropriate assessment. The paths in the proposed development near the shore could link to the coastal walking route which it is an objective of the development plan to provide . However, as stated above, the habitats and species in the SAC and SPAs are protected from the use of the proposed routes within the application site by the provision of a buffer zone with vegetation and fencing and a

future link to a coastal walking route would not be likely to give rise to significant effects on the Natura 2000 sites other than those considered in the course of this appropriate assessment. It is therefore concluded that the proposed development would not be likely to give rise to effects on any Natura 2000 site that were significant due to their combination with the effects from any other plan or project.

10.13. Having regard to the foregoing, it is reasonable to conclude on the basis of the information on the file, which is adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Special Area of Conservation at the Slaney River Valley, sitecode 000781, or the Special Protection Area for Wexford Harbour and Slobs, sitecode 004076, or the Special Protection Area at the Raven site code 004019, or any other European site, in view of the site's Conservation Objectives. This conclusion is consistent with the submission on the application made by the Department of Culture, Heritage and the Gaeltacht.

11.0 Environmental Impact Assessment

11.1. Statutory Provisions

11.1.1. The application was accompanied by an Environmental Impact Assessment Report (EIAR), which is mandatory for the development in accordance with the provisions of Part X of the Planning and Development Act 2000 (as amended) and Schedule 5 of the Planning and Development Regulations 2001-2015. Item 10 of Part 2 of Schedule 5 provides that an EIA is required for infrastructure projects comprising of:

> *(b) (i) Construction of more than 500 dwelling units*
>
> *…..*
>
> *(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.*

The development would provide 413 homes on a site of 13.84ha in a town. It therefore exceeds the threshold at b(iv) and so EIA is mandatory.

11.1.2. Chapter 2 of the EIAR provides a non-technical summary of its content. Section 14 provides a summary of the mitigation measures described throughout the report.

Section 1.8 describes the expertise of those involved in the preparation of the report. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application. A summary of the submissions made by the planning authority and prescribed bodies has been set out at Sections 7, 8 and 9 of this report. The appropriate assessment at section 10 also informs this EIA, which has also had regard to the application documentation, including the EIAR and NIS, and the submissions received. As outlined below, the EIAR and the other documentation submitted with the application does not contain sufficient information regarding the proposed filling of the site and the proposed method of surface water drainage to enable the likely effects from the proposed development on the environmental factors of soil and water to be properly identified, described and assessed. Therefore the EIAR does not comply with article 94 of the Planning and Development Regulations 2000, as amended.

11.2. Alternatives

11.2.1. Chapter 4 of the EIAR provides a description of the alternatives studied by the developer. The proposed uses of the site is largely determined by the zoning of the site in the development plan. Its proposed layout is informed by the objective in the plan to provide an inner orbital road through the site that could link with a bridge over the Slaney at a specific point, and the need for a buffer zone along the Natura 2000 sites in the estuary. The density and built form of the development follows national policy on those topics. The consideration of alternatives by the developer therefore relates to design choices within those parameters. The description of the consideration of alternatives in the EIAR is reasonable and coherent, and the requirements of the directive in this regard have been properly addressed.

11.3. Likely Significant Direct and Indirect Effects

11.3.1. The likely significant indirect effects of the development are considered under the headings below which follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU:

- population and human health;
- biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;

- land, soil, water, air and climate;
- material assets, cultural heritage and the landscape; and
- the interaction between those factors

11.4. Population and human health

11.4.1. The proposed development would provide accommodation for 413 more households in a town with a housing stock of 9,438 at the 2016 census. It would therefore be likely to have a significant effect on the population of the town. As this growth would be on zoned and serviced land in accordance with regional and local plans and national policies, the impact is considered to be positive.

11.4.2. The proposed development would be predominantly residential, which is the same use as that prevailing in the built up area of the town. The site is served by municipal foul drainage and water supply. There is a disused landfill site at Carcur on the other side of the railway from the proposed development. It closed 33 years ago and gas levels have been monitored by the county council, with the results indicating that the methane levels are not higher than expected background levels. it is unlikely, therefore, that there would be a significant adverse effect of human health arising from the proposed construction and occupation of housing on this site due to the location of the previous landfill. This EIA therefore concludes that the proposed development would not have a significant effect on human health.

11.4.3. The construction of the proposed housing would give rise to a potential impact from emissions of noise and vibration, as described in section 9 of the EIAR. Measures to reduce effects in this regard are set out in section 9.6 of the EIAR. They include limiting hours of works, the use of appropriate plant and machinery, the erection of acoustic barriers and providing systems to monitor emissions and record any complaints. Section 9.5.6 of the EIAR describes the likely effect of inward noise from the railway on the occupants of the houses, which would be limited by the low level of traffic on the railway. Nevertheless it might result in noise of 49dB$_{LAeq,\ 1\ hour}$ at night and so mitigation is proposed through the installation of higher performance glazing and raising the wall along the railway to 3m, which should reduce nighttime noise levels in the homes to 45dB. The proposed measures are proven and have been shown to be effective in similar circumstances, and so would be sufficient to render significant adverse effects due to noise or vibration unlikely.

11.5. **Biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC**

11.5.1. Section 6 of the EIAR refers to biodiversity. The likely effects of the proposed on species and habitats for which the Natura 2000 sites adjacent to the site are designated is considered in the appropriate assessment in section 10 of this report which informs the conclusions of this EIA. The habitats on the application site include recolonized bare ground, spoil and bare ground, exposed sand, gravel or till, buildings and artificial surfaces, scrub, dry grassland, dry meadow, wet grassland and reed and large sedge swamp. They are not of significant ecological value and their loss in the course of the development will not have significant effects on the environment. The hedgerows on the periphery of the site are of ecological value and will be retained in the buffer zone around the proposed housing. A small pond of c300m^2 in the northeast corner of the site is of value due to its contribution to otter habitats. It will be lost in the course of the development. This loss will be mitigated by the establishment of an alternative pond in the development as described in the appropriate assessment above, and the residual impact on the environment is not likely to be significant. There is an area of wet willow-alter-ash woodland in the central part of the site c0.36ha in extent, as well as an area of oak-ash-hazel of c0.33ha along the southern boundary of the site. The small extent of the those habitats means that their loss is not likely to have a significant adverse effect on the environment. There would be no loss of the oak-ash-hazel woodland to the west of the site within the SAC. The habitats within the site are not used by waterbirds to any significant extent and their loss would not be likely to have a significant effect in this regard. The site is of low local importance to terrestrial bird species with the occurrence of common and widespread species. Mitigation measures in this regard include the large scale retention of hedgerow around the edge of the site and avoiding site clearance during the breeding season between 31st March and 1st September, as well as planting in the finished development. The residual impact on terrestrial birds is not likely to be significant.

11.5.2. With regard to bats, common pipistrelle, soprano pipistrelle, long-eared bat and Leisler's bat are likely to occur on the site. The proposed development would retain the peripheral hedgerow around the site which is likely to be used by those species for foraging and commuting. The lighting scheme for the proposed development has

been designed using LED directional lighting to restrict illumination of the boundary vegetation. The habitats in the site that would be lost consist mostly of bare and recolonising ground with only small pockets of woodland, and so are not likely to provide a significant foraging resource for bats. A bat roost survey will be undertaken before construction to allow specific measures to avoid harm to bats during site clearance. The residual impact of the development on bats would be slightly but not significantly negative due to the loss of some foraging habitats within the site. The proposed development is not likely to have significant effects on other mammals.

11.5.3. The alteration in the habitats on the site is likely to have a negative residual impact on invertebrates on the site. There is likely to be displacement of common lizard during construction with a residual moderate negative impact on that species. The creation of a new freshwater pond is likely to have a positive effect on the population of common frog. The proposed development would not be likely to affect the conservation status of any of these species, and the likely effects are not considered to be significant effects on the environment.

11.5.4. Having regard to the foregoing, and to the conclusions of the appropriate assessment, it is concluded that the proposed development is not likely to have significant effects on biodiversity or the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC

11.6. **Land and soil**

11.6.1. The proposed development would alter the use of large area of land from a disused sand and gravel on the edge of a town to a residential use within that town. This effect would be significant. As this growth would be on zoned and serviced land in accordance with regional and local plans and policies, this impact on land is considered to be positive.

11.6.2. The characteristics of the soil on the site have been affected by the extraction of sand and gravel from it. The proposed development would have a significant effect on the soil on the site as it is proposed to the ground levels on the site by 1m to 3m to bring it to 2.95mOD to protect the development from flooding, with the floor levels of buildings another 0.3m above that. Section 7.1 of the EIAR states that the imported material would be inert soil and rock from other construction sites controlled by the applicant. The likely quantities of imported material are not provided in the

EIAR. The soils on the site are not of particular value in environmental terms and the proposed filling of the site with imported inert fill would not be likely to have significant negative direct effects on soil. However the substantial amount of earth works that would be necessitated by the development would give rise to a risk of the release of sediments to water and thus could have an indirect impact on that factor of the environment which may have implications for the Natura 2000 sites beside the site. The works to soil would also give rise of potential emissions to dust to air. Section 8.6.1 of the EIAR sets out the measures required to reduce the emissions of dust. The measures required to avoid or reduce effects on water quality are not set out in the relevant section 7 of the EIAR which describes soils and water, or section 14 which sets out a summary of mitigation measures. The EIAR is deficient in this regard. However the requisite measures are set out in section 10.1.3 of the NIS, including the proper stockpiling of soil, and the diversion of runoff to proper drainage channels and settlement ponds and silt traps. The specified measures are standard practice whose efficacy is well established. Their implementation would render it unlikely that adverse indirect effects on water due to works to soil during the construction of the development would occur.

11.7. Water, including flood risk

11.7.1. Foul effluent from the development would be drained to the town's sewerage system. Irish Water has reported that it can facilitate this connection. The impact on water quality of the additional sewage from the site on the town's system and the effluent from its treatment plan is unlikely to be significant, having regard to the scale of the proposed development in relation to the town and the licence by the EPA of discharges to water from the town's treatment plant to serve a population equivalent of 42,500. It currently serves a population equivalent of less than 30,000 . Irish Water has also reported that it can facilitate the proposed connection to its water supply, and significant environmental effects are not likely to arise in respect of this aspect of the development. Substantial groundworks on the site are proposed, including extensive filling, which could give rise to the release of sediments to water. As stated in section 11.6 above, the measures required to avoid this impact on water quality are not set out in the EIAR but are described at section 10.1.3 of the NIS. The measures set out in that section of the NIS would also render it unlikely that the release of hydrocarbons, cement or other pollutants would have negative effects on

water quality during the construction of the proposed development either. Subject to their implementation the proposed development would not be likely to have significant negative effects on the quality of water.

11.7.2. The site is low lying land beside a major estuary. A site specific flood risk assessment report was submitted with the application and is considered in this EIA. It refers to the CFRAM study for the south-east region issued by the OPW 2016 which showed that large parts of the north and east of the site are at risk of flooding at the 10% AEP fluvial event and the 10% AEP tidal event. Therefore large parts of the site are within flood risk zone A under the 2009 guidelines for planning authorities on flood risk management, with further areas within flood risk zone B. The submitted report refers to the Irish Coastal Protection Strategy Study issued by the OPW in 2013 which predicts that the extreme tidal or flood level in Wexford Harbour at the 0.1% AEP event would be 2.95mOD. It is therefore proposed that ground levels in the development be raised to that level and finished floor levels to 0.3m above that to mitigate the risk of flooding in the development. This would displace c20,000m^3 of flood storage from the site which would have a negligible effect elsewhere given the size of the estuary. The report concludes from the dense vegetation on the site that sediment is not deposited upon it and so the proposed filling would not alter the transport and deposition of sediment in there in a manner that could affect flood risk in other places. The submitted report concludes that the proposed development would be subject to the justification test for development management set out in the 2009 guidelines because it would provide housing on lands within flood zones A and B, but that it would pass that test because the land is zoned under the Wexford Town Development Plan 2010-2015 *sic*; would not give risk to additional risk of flooding elsewhere; and includes measures to minimise flood risk on the site by the raising of the floor levels to 3.25mOD which can be done in a manner compatible with urban design principles. The proposed stormwater drainage system from the development divert runoff the individual soakaways serving the proposed houses, apartment blocks and public spaces. Section 7.3.1 of the EIAR states that this would prevent contaminants entering the adjacent waters. The soakaways are designed in accordance with BRE 365 based on measurements of the infiltration rate of soil on the site and recorded rainfall. The measured infiltration rates were between 2.25mm and 8.3mm per minute, reflecting the location of the site

on a spit of sand and gravel. The capacity of the soakaway would be based on a 20 year return rainfall event with an additional 10% for climate change. Surcharges would flow onto streets within the development which are graded so that they would flow to the shore.

11.7.3. The proposal to raise levels on the site to avoid flooding of the proposed homes from the Slaney is straightforward. The proposed minimum floor level if 3.25m OS is justified in relation to flood levels predictions made by the OPW. The impact on flood risk elsewhere would be negligible, either from the displacement of flood waters or alterations to sediment flow. These conclusions of the Site Specific Flood Risk Assessment Report submitted by the applicant, which are repeated in section 7.2.1 of the EIA,R are accepted. However there are issues with the application of the development management justification test of the 2009 guidelines in the manner proposed in the applicant's report. The site was zoned for residential use in a development plan made in 2009. There is no indication that this zoning was made or reconsidered by reference to the 2009 flood risk guidelines. Neither the text of the plan nor its SEA refers to them. This is the first item that needs to be addressed under the development management justification test and it relates to the principle of development on the site. However the report from the council indicated that it accepted the conclusions of the submitted site specific flood risk assessment report. As the council is the plan making authority, its advice on this issue of zoning carries substantial weight and it is not recommended that this application be refused due to the lack of clarity as to whether the zoning has been reconsidered since the 2009 flood risk management guidelines in line with item 1 of the test in Box 5.1 of the guidelines.

11.7.4. Item 2 of the development management justification test also requires the development includes measures to minimise flood risk to people and property. There are deficiencies in the submitted proposals and EIAR relating to flood risk management and storm water drainage. The proposal to drain surface water runoff from such a large housing development, including extensive streets, apartment blocks and numerous houses, to individual soakaways is not standard and the implementation of such a system for large scale schemes is not a well-established practice. This site is beside an estuary and a large part of it is in flood zones A or B in the categories set out in the 2009 guidelines on flood risk management. The risk

of flooding is therefore a significant environmental issue for consideration of the current EIA. There are doubts about the long term effectiveness of the proposed drainage measures due to the many different persons who would be responsible for the maintenance of the soakaways. The submitted SSFRA report states that in events where the system is overwhelmed excess runoff would flow to the shore along the streets. It is not clear from the submitted details whether this would avoid inundation of residential buildings given the location of soakaways relative to the buildings and the streets. The engineering letter submitted with the application referred to soil tests that showed the sandy soil and gravel on the site has a high infiltration capacity. However the site would be extensively filled to raise it above historic flood levels and so the tests may not reflect the characteristics of the imported soil that would surround many of the soakaways. It is also conceivable that saltwater ingress would affect the infiltration capacity of the soil at the same time as pluvial, fluvial, tidal and coastal flood events were at their maximum extent. The proposed stormwater drainage proposal would therefore require detailed information and evidence to demonstrate how and whether it could function effectively in the long term to protect the occupants and material assets in the proposed development from the effects of storm water flows from pluvial and possibly tidal, coastal and fluvial flood events. Neither the EIAR nor the Site Specific Flood Risk Assessment provide the details on the baseline environment, the surface water drainage proposals, their functionality and the likely effects on the environment to justify such a novel approach on a site subject to flood risk. The council recommended that a condition be attached seeking a revised storm water drainage system with attenuation. However because water is a factor of the environment set out Article 3 of the EIA Directive, such a drainage system and its likely effects on the environment would have to be described in an EIAR and then assessed in an EIA before a grant of permission was considered. The submitted Natura Impact Statement and appropriate assessment above are also predicated on the proposed soakaways with drainage to ground and would have to be revisited if another drainage system was proposed. Condition no. 2 proposed in the council's submission would therefore be invalid. The application site which is at risk of flooding and it has not been demonstrated that the development includes proper measures to minimise flood risk to people and property. The proposed development therefore fails to comply with item 2 of the development management justification test set out in Box 5.1 of the

2009 guidelines on flood risk management. The deficiencies in the submitted proposals and information regarding the proposed surface water drainage system therefore require the current application to be refused.

11.8. Air and climate

11.8.1. The construction and occupation of the proposed development would not be likely to have significant effects on the climate. The occupation of the largely residential scheme would not be likely to have significant effects on air.

11.8.2. The construction of the proposed development would have the potential to have effects on air through emissions of dust, having regard to the extensive earthworks that would be required to raise the levels of the site to avoid flood risk. Measures to reduce the risk of significant effects in this regard are set out at section 8.6.1 of the EIAR and include covering of vehicles, watering of roads and wheel washing. These are standard measures which are likely to avoid significant negative effects on the air arising from the proposed development.

11.9. Material assets

11.9.1. The proposed development would increase the stock of housing in the town in accordance with its development plan, as well as proving accommodation for ancillary services in childcare and retail to serve the occupants of the housing. The positive effect in reduced by the risk of flooding to which the new material assets may be subject. The layout and levels of roads would facilitate the future provision of a bridge over the Slaney in accordance with the town's development plan as demonstrated by the sections and site layouts submitted with the application, which in turn would facilitate roads that would serve the wider area. The proposed development would therefore have a significant positive effect in relation to material assets, qualified by the outstanding issues in relation to the drainage of surface water.

11.10. Cultural heritage

11.10.1. The site is not designated for the protection of archaeological or architectural heritage, although it is proposed that works on the site will be subject to archaeological monitoring. In these circumstances the proposed development would not be likely to have significant effects on cultural heritage.

11.11. **The landscape**

11.11.1. The site is not designated for the protection of its landscape. Nevertheless it occupies a position by the estuary. The estuary is a valuable element of the landscape and the existing condition of the site contributes to its setting. The proposed development will be close to and somewhat above the shoreline and would be visible from a wide area around the estuary. It will therefore have a significant effect on the landscape. Whether this impact is considered to be positive or negative requires informed judgment by the consent authority. Chapter 10 of the EIAR provides information to that end. It notes that the proposed development would be an extension of the existing built-up area of the town and that substantial buildings, including the DofE offices, hospital and county hall already stand on higher land that would be behind the site in views from around the estuary. The development itself achieves an acceptable level of urban design in relation to the scale, details and layout of the proposed buildings. This EIA therefore concludes that, while the development will have a significant effect on the landscape around the town and estuary, it would appear as a coherent and planned extension to the existing town and that its impact would therefore be positive.

11.12. T**he interaction between those factors**

11.12.1. The potential impact of the development on material assets interacts with that on the population due to the provision of a substantial amount of housing for the population. The potential impact of the development on soil, water and biodiversity interact due to the need to avoid the emissions of sediments to surface waters to protect water quality and the aquatic habitats there. The potential impact on land and soil interacts with that on air due to the need to control dust emissions during ground works. The gaps in the submitted information relating to the proposed development and its potential impact on water and soil and measures to mitigate those impacts are therefore also relevant to the consideration of its likely effects on biodiversity, although the requisite measures were described in the NIS.

11.13. **Cumulative Impacts**

11.13.1. The proposed development would occur on zoned land that is relatively isolated, being largely surrounded by Natura 2000 sites and land zoned for open space where significant development is unlikely. The wastewater treatment system

for Wexford is licenced for discharges from a population equivalent to 42,000 while it currently serves and equivalent of less than 30,000. A cumulative impact between the proposed development and other planned development in the town is therefore unlikely to arise in relation to water. The only development that is likely to occur that could have a significant impact in cumulation with the current proposal is the planned bridge over the Slaney. As stated in section 11.9 above the proposed development has been designed to facilitate that bridge. The completed bridge would therefore have a limited impact on the physical form of the proposed development and would not alter its effects in relation to the factors of the environment required to be addressed under EIA. If works to construct the bridge were to occur at the same time as works to carry out the proposed development, then there would be potential for cumulative impacts on biodiversity, soil, water and air due to the potential emissions and disturbance arising from two substantial construction projects in close proximity. However no consent has been sought or obtained for that bridge at this time and such a coincidence of works is highly unlikely and would have to be the subject of a further screening for EIA at the least. Cumulative impacts from the construction of the bridge are therefore unlikely to arise. Therefore a cumulation of effects from planned or permitted development and that currently proposed would not be likely to give rise to significant effects on the environment other than those that have been described in the EIAR and considered in this EIA.

11.14. Reasoned Conclusion on the Significant Effects

Having regard to the examination of environmental information set out above, to the EIAR and other information provided by the developer, and to the submissions from the planning authority and prescribed bodies in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Significant direct positive effects with regard to population and material assets due to the increase in housing in the town that would result from the development, which would be reduced by the risk of flooding to which the proposed housing may be subject

- A significant direct effect on land by the change in the use of a relatively large site from brownfield and scrub to residential. Given the limited value of the existing

condition of the land in environmental terms and its location adjoining the built up area of the town and the need for housing in the region, this effect would not have a significant negative impact on the environment.

- A significant effect on the landscape due to the scale of the development and its location near the shoreline along the estuary. Given the standard of urban design achieved by the proposed development and its proximity to the existing built-up area of the town which includes substantial buildings on higher land that would frame the proposed development in views from around the estuary, this effect would not have a significant negative impact on the environment.

- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.

- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.

- Potential indirect effects on water which due to the proposed location of a substantial residential development on lands beside an estuary that are at risk of flooding. The information submitted in the EIAR and the other documentation submitted with the application regarding the proposed measures to mitigate this impact by providing a surface water drainage system that relies on numerous soakpits is not sufficient to demonstrate that such measures are likely to be successful in protecting the proposed development from flooding or to comply with the justification test set down for residential development within floodrisk zones A and B set down in the 2009 Guidelines on the Planning System on Flood Risk Management. The EIA of the likely effects of the development on this factor of the environment cannot be completed, therefore.

- Potential significant effects on soil during construction due to the extensive filling required to carry out the development and to protect the proposed development from flooding The EIAR does not contain sufficient information to describe this aspect of the development and the measures to mitigate its potential direct effect on soil and indirect effect on water quality due to the possible release of sediments or other pollutants to water during the construction of the development, although the implementation of the measures set out at section 10.1.3 of the NIS would render it unlikely that the such negative effects on water quality would occur.

The proposed development is not likely to have significant adverse effects on human health, biodiversity or cultural heritage.

Adequate information is therefore not available to enable the likely significant environmental effects arising as a consequence of the proposed development to be satisfactorily identified, described and assessed.

12.0 Assessment of Other Issues

12.1. The planning issues arising from the proposed development can be addressed under the following headings-

- Policy principle of development
- Density and housing mix
- Urban design
- Residential amenity
- Access and Parking
- Procedural issues

12.2. **Policy and the principle of development**

12.2.1. The proposed development is residential with some ancillary commercial and childcare facilities that would mainly serve the needs of its occupants. It would be in keeping with the zoning of the site. The residential development would form part of the town of Wexford and so would in keeping with the objectives of the NPF, particularly objectives 3c, 11 and 35. Childcare facilities would be provided in line with the recommendations of the 2001 guidelines on that topic. The principle of the proposed development of this site is therefore supported by local and national planning policy and is accepted.

12.3. **Density and housing mix**

12.3.1. Substantial areas of open space are proposed in the site which would protect the habitats and amenity of the adjoining estuary rather than merely serving the needs of the occupants of the proposed development. Similarly the proposed main street would form part of an inner relief road for the town that is planned to serve a wider population than that living in the proposed housing. It is therefore reasonable to

exclude these parts of the scheme from the site area upon which its net density would be calculated. The stated net density of 40dph is therefore accepted. The site is adjacent to the existing town but at some remove from its centre, so the range of 35-50dph recommended for outer suburban sites in the 2009 sustainable urban residential guidelines would be applicable. The proposed density is within this range and is therefore acceptable. The proposed development would provide a suitably broad range of house types and sizes, particularly compared to the prevailing types in the existing town, which would be in keeping with the recommendation for peripheral urban areas set out in section 2.4 of the 2018 apartment design guidelines. 14 one-bedroom apartments are proposed, representing 6% of the total. This complies with SPPR1 of the guidelines. The proposed housing mix is therefore also acceptable.

12.4. **Urban design**

12.4.1. The proposed development would provide a mix of building heights and type ranging from 2 storey houses to 7 storey apartment buildings. The location of higher buildings at the main access points to the scheme at both ends of the main street is appropriate. The proposed development would therefore comply with the 2018 guidelines on urban development and building height, including SPPR3. The provision of streets, walkways and open space around the edge of the site facing the estuary would be an attractive feature. The block sizes elsewhere in the proposed scheme are of an appropriate size and would not contravene the dimensions recommended at section 3.3.2 of DMURS. Combined with the main street though the site that follows the roads objectives in the development plan, they would ensure that the overall layout is permeable and legible. The architectural design of the proposed buildings achieves a suitably high standard. The submitted proposals for landscaping, including planting and boundary and surface treatments, are also satisfactory, although the visual impact of some of the rows of parking spaces would benefit from additional tree planting. The proposed development therefore achieves a proper standard of urban design.

12.5. **Residential amenity**

12.5.1. The proposed apartments would exceed the minimum floor areas required by SPPR3 of the 2018 apartment design guidelines. The guidelines require that a

majority of the apartments would exceed the minimum size by 10%. The submitted schedule of accommodation indicates that 67 of the 238 apartments would exceed the minimum size by 10% or more. However, the method for calculating the required extra floorspace set out in section 3.9 of the guidelines indicates that 805m^2 over the minimum of 17,390m^2 would be required for the proposed mix of one-, two- and three-bedroom apartments, while the floor area of the proposed apartments in this scheme is 1,427m^2 above the minimum. The requirement for additional floorspace above the minimum would therefore be met by the proposed development. The planning authority reports that over 50% of the proposed apartments would be dual aspect, which would comply with the standard required by SPPR4 for a suburban development. The floor to ceiling heights at ground floor level would meet the minimum of 2.7m required by SPPR5, and the number of units per core would be less that the maximum of 12 set by SPPR6. The proposed apartments would therefore comply with the SPPRs set out in 2018 apartment design guidelines. Apartments in blocks 2, 3, 6 and 7 would have communal open space, while those in blocks 1, 4 and 5 would not. However the latter blocks would be beside or near public open space. It is not clear from the submitted drawings that the proposed ground floor apartments facing streets would have adequate privacy strips in line with the advice at section 3.41 of the guidelines, as was raised in the submission from the planning authority. This is a matter that might be addressed by condition. Otherwise it is considered that the proposed apartments would generally comply with the 2018 guidelines. The internal accommodation and private open spaces provided to the proposed houses would also be satisfactory. The proposed homes would therefore afford their occupants a reasonable standard of residential amenity.

12.5.2. The public open space in the proposed development would consist of larger linear spaces around the edge of the site and smaller areas within the proposed housing. Its scale, form and layout are acceptable and it would provide useful amenity to the residents of the area, although it is noted that the area along the shore and the reed bed to the south-east of the housing would be fenced off and would provide a visual amenity only.

12.5.3. The application site is not adjacent to existing housing and it would not affect the amenities of property in the vicinity of the site.

12.6. **Access and parking**

12.6.1. Subject to the completion of the authorised bridge over the railway, the site would have the benefit of safe road access with adequate capacity. The site is reasonably close to the exiting services and facilities in the town centre and the railway station, and its development for housing would be in consistent with national policy on the promotion of sustainable travel modes, including that set out Smarter Travel.

12.6.2. The proposed streets within the site generally accord with the applicable guidance in DMURS in relation to the frequency of junctions, corner radii and the widths of carriageways and footpaths. As the main street through the development would form part of a wider route for the town, it would benefit from dedicated cycle facilities designed in accordance with the National Cycle Manual. However facilities that were segregated from the carriageway but not from the footpath and which did not maintain priority at the junctions with side roads would not be appropriate, having regard to the guidance at section 1.7 and 1.9 of the manual. The matter could be properly addressed by condition.

12.6.3. Bicycle storage facilities would be provided for the proposed apartments. Car parking would be provided in accordance with the standards set out in the section 11.14 of the development plan, with 2 spaces per house and 1.5 per apartment, which is considered adequate.

12.6.4. The submission from Faythe Harriers regarding the unsuitability of the proposed construction access over the existing bridge for phases 3 and 4 of the development is correct. The remnants of the lane leading to the existing bridge from the new road are not capable of safely accommodating heavy traffic. However the matter could be properly addressed by condition requiring construction access for all phases to be over the permitted bridge that would serve the rest of the development.

12.6.5. The proposed development would therefore be acceptable in terms of the safety and convenience of road users.

12.7. Procedural issues

12.7.1. The application before the board falls to be determined on the basis of the proper planning and sustainable development of the area having regard to the material considerations set out in section 34(2) of the planning act. A decision on a planning application cannot be used for other purposes and may seek to determine issues of enforcement under Part VIII of planning act or of other legislation related to previous

acts or omissions, nor can it determine issues relating to the ownership of land. The matters raised in the submission from Jacinta Somers would not, therefore, justify refusing the current application for permission or to refrain from making a decision upon it.

13.0 **Recommendation**

13.1. I recommend that the board refuse permission for the reason set out below.

14.0 **Reasons and Considerations**

The Environmental Impact Assessment Report and the other documentation submitted with the application does not provide sufficient information regarding the proposal to drain surface water runoff to several soakpits to demonstrate that this would adequately minimise flood risk to the people and property in the proposed development and that the residual flood risk can be managed to an acceptable level. The proposed development would therefore fail to meet the justification test set out in section 5.15 of the Guidelines for Planning Authorities on the Planning System and Flood Risk Management issued by the minister in November 2009 which applies to the site because parts of it are within Flood Risk Zones A and B as described in those guidelines. The proposed development would therefore contravene those guidelines. The information contained in the Environmental Impact Assessment Report does not fully describe the extensive groundworks that the proposed development would require. The information before the board is not sufficient, therefore, to complete an environmental impact assessment of the proposed development with regard to the factors of soil and water.

Stephen J. O'Sullivan
Planning Inspector

27th June 2019