



An
Bord
Pleanála

Inspector's Report ABP-304661-19

Development	Construction of 98 houses and a crèche
Location	Crosstown, Ardavan, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20181762
Applicant(s)	Ferrybank Enterprises Limited
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third
Appellant(s)	Martin McDonald & Others Maurice Cronin Crosstown Residents Group
Observer(s)	None
Date of Site Inspection	13 August 2019

1.0 Site Location and Description

- 1.1. The appeal site is located on the northern outskirts of Wexford town in an area known as Crosstown which has been subject to sporadic one off units addressing the public roads and more recent low density urban developments. There are also a number of commercial operations in the area with a large motor outlet, transport operations, rental car offices and other uses such as a religious meeting hall. The site is adjoined on a number of its boundaries by existing one-off residential properties set back from the road on large sites.
- 1.2. The application site has an area of 5.95 hectares and it is noted that the applicant also owns 1.51 hectares of land which adjoins the site to the west. The site which is relatively level falls in gradient. The site has a number of access points one of which is located on the R741 adjoining a car wash facility and a number of houses. The site has c. 125 metres of frontage onto the R741 between existing residential units. There is a footpath and bicycle lane along this public road up to the site boundary. There are two entrances to the site along the Crosstown road to the north of the site both of which have limited width.

2.0 Proposed Development

- 2.1. The proposal comprises the construction of 98 detached, semi-detached and terraced units and a crèche which has an area of 284 sq.m and which is located centrally within the development.
- 2.2. Initially it was proposed to provide vehicular access to the development from both the R741 and the Crosstown Road. Additional pedestrian access points are proposed to the northwest onto the Crosstown Road and to the east onto the R741 south of the proposed vehicular access.
- 2.3. The proposed housing development provides for 2, 3 and 4 detached, semi-detached and terraced units in 20 house types which include a mix of single, two and three storey units. They are outlined as follows by bed number:

No. of Beds	House Type	Height	No. of Units	% of Overall
2	Bungalow & Terrace	Single & Two-storey	24	24.5
3	Bungalow, Semi-detached & Detached	Single & Two-storey	60	61
4	Semi-D & Detached	Two & three storey	14	14.5

- 2.4. It is proposed to deliver the development in six phases. In terms of public open space to serve the housing development it is stated that a total of 9,159 sq.m of space is proposed representing 15% of the site. It is proposed by means of usable space, play areas and green areas. In addition it is proposed to provide 2,097 m² of incidental areas and herb gardens within the site. This provides a total green area of 11,256 sq.m or 18% of the development.
- 2.5. Two parking spaces per unit are proposed with 19 visitor spaces and 11 spaces for the crèche providing a total of 226 spaces.
- 2.6. Private open space is proposed by way of private rear and in some instances front/side gardens.
- 2.7. It is proposed that the houses will be connected to the public sewer and public water mains.
- 2.8. The density of the proposal is 16.33 units per hectare.
- 2.9. Further information was requested, the response to which, provided that the entrance onto the Crosstown Road was pedestrian only.

3.0 Planning Authority Decision

- 3.1. Wexford County Council decided to **grant** planning permission subject to 23 conditions. These include revised footpath layout (No. 4), Special development contribution for a retaining wall to facilitate modified road layout (No. 5), bus stop and

shelter south of entrance (No. 6), construction access from R741 and subsequent changes to phasing (No. 7).

3.2. **Planning Authority Reports**

3.2.1. First Planning Report

A report prepared by the Executive Planner dated 8 February 2019 recommends refusal for three reasons – density is too low, insufficient details on surface water drainage and potential effects on Natura 2000 sites. The assessment is summarised as follows:

- Principle of proposed development acceptable subject to adequate residential amenity, not result in traffic hazard, protects environment and accords with provisions of Town Development Plan.
- Design of dwellings good in general and accords with layout discussed at pre-planning, linkages from Crosstown Road to R741 importance for permeability, 20 difference house designs with design of good quality.
- Suggested density of 16.5 units p/h which is at minimum end of density in development plan and well below National guidelines and consider that examination of potential densities achievable on site highlights significant housing provision shortfall with densities in National guidelines yielding between 208-297 units providing average shortfall of 154 units.
- Note pre-planning advice of December 2018 but consider recent ABP decision (ABP-302310-18) to refuse on low density supersedes this and other advice.
- Public open space requirement of 10% provided and all dwellings meet private open spaces requirement.
- Clarity required on boundary proposals throughout the proposed development other than on landscaping plan which addresses external site boundaries only.
- Alterations required to entrance onto R741 and lack of details on Crosstown Road access with Construction Management Plan also required.
- While issue of flooding raised in most submissions, flood maps show no flooding issues on site but note surface water issue on the site.

- Drainage system on R741 upgraded with road and pavement improvement works which are ongoing but further information required relating to attenuation design calculations and connection of Phase 2 & 3 lands, stated that this is noted but as recommending refusal for another reason will include drainage as reason for refusal as has not been properly addressed since previous application on site.
- AA undertaken which outlines the NIS submitted which screens in Slaney River Valley SAC and Wexford Harbour and Slobs SPA and stating Stage 2 assessment required with potential significant effects include change in water quality and notes that NIS concludes no significant effects.
- Assessment of NIS states that satisfied that NIS provides adequate information to clearly identify potential impacts and uses best scientific information and knowledge. Notes that site is directly linked to two Natura 2000 sites and potential for project to have significant indirect impacts acknowledged.
- Given concerns outlined in Area Engineers report regarding surface water disposal, not satisfied that measures detailed are appropriate to manage any potential indirect effects from contamination by surface waters and considered reasonable to conclude that proposal would adversely effect integrity of two Natura 2000 sites and that this should be a reason for refusal.
- Refusal recommended for three reasons – low density, lack of detailed surface water drainage proposals and potential for significant effects on Natura 2000 sites.

3.2.2. Supplementary Report and Further Information Request

A 'supplementary report' dated 14 February from the Senior Planner states the following:

- Refers to report of Exec. Planner and notes the comments regarding density and references Guidelines on Sustainable Residential Development where densities of less than 30 dwellings p/h on outer suburban lands should be discouraged.
- States that while he does not disagree that higher densities could be accommodated at a location close to the town centre that he is concerned that to increase density significantly would have a negative impact on the existing low density development that surrounds the site.

- Therefore important that proposed development respects the form of the buildings and landscape sound the site edges and the amenity enjoyed by the neighbouring users.
- Also notes that public transport to the area is very limited and despite the location is very much car dependent.
- Opinion that the density and layout of the development is the correct approach and complies with the preplanning advice given to the applicants.

Following same further information is requested as follows:

- Design, layout and location of the access is not in accordance with Council's overall objective for the R471 with a full design required to address:- road width and verge, cycle lanes, footpaths, right hand turning pocket, access gradient, road safety audit recommendations and revisions to the Crosstown access.
- Inadequate proposals submitted in relation to surface water disposal and advised to contact area engineer to discuss revised proposed for management of same.
- Details of a construction management plan for the site.
- Amend NIS to have regard to changes as required on foot of FI.

3.2.3. Second Planning Report

The second planning report is signed by the Senior Planner dated 20 May 2019 and uses the first planning report as a template including the further information request amending sections in the assessment as follows:

- Masterplan statement Zone 2 states that new development should be of low and medium density with low density development adjoining the existing dwellings with masterplan also outlining the need for improvements to the sewer, storm water and road infrastructure.
- Not possible to make vehicular linkage to the Crosstown Road due to absence of sightlines and land will be reserved to provide a link it if can be delivered in the future.
- Noted that density while lower than medium residential density in Town Plan is in compliance with the masterplan zone 2 which calls for low to medium density.

- Reiterates statement on density set out in supplementary report above.
- 1.8m high block walls required and will be conditioned.
- No expected issues with water and sewer mains capacity due to recent investment.
- Pedestrian network throughout the site is innovative and layout provides for good surveillance from proposed development however previous assessment missed fact that there is only one footpath on the main access road into the site and a condition is required to provide a footpath along this road.
- Construction and waste management plan submitted with measures to protect watercourses with proposal to use Crosstown Road access for construction traffic unacceptable.
- Further information submitted provides calculations and design of surface water attenuation system and considered acceptable but final design measures and location of attenuation tanks required further agreement to avoid tank under roads and ensure design meets best available standards.
- In relation to AA it states that issues regarding surface water attenuation have been resolved with the submission of further information and amended proposal has been reviewed by applicant's ecologist and PA satisfied that the revised proposals will mitigate against risk of pollutants entering the Natura 2000 sites and would not adversely affect the integrity of same.
- Recommendation to grant with conditions.

3.3. Internal Reports

Senior Exec Engineer Borough District of Wexford

Report of 17 May 2019 provides a response to the FI and states FI request complied with and recommends conditions. Following is stated/required by condition:

- Noted there is adequate reserved capacity within the augmented surface water system on the R741 to accommodate the attenuated flow from the site.
- Detailed design prior to construction required for both storm tanks to ensure system proposed adequate for site conditions.

- Revised R741 road design submitted accords with long term objective of the council with developer to carry out road widening, footpath and cycle lane installation/modification.
- Retaining wall required to facilitate modified layout at raised verge within roadside verge in front of house immediately north of the site on R741 with a site specific level (levy) required of €30,000.
- Bus stop and shelter to be provided.
- Footpath on both sides of main access road desirable and should be considered.
- Road width of 5m acceptable however main access road to be increased to 5.5m
- Revised junction layout on Crosstown Road does not provide for vehicular access and considered adequate until such time as upgrade works considered for area.

Fire Officer - Compliance with Fire Regulations required.

3.4. **Third Party Observations**

- 3.4.1. There were **33** submissions **received by the PA** and the issues have been noted and considered and are generally similar to the issues raised in the third-party appeals.

3.5. **Submissions**

- 3.5.1. Department of Culture, Heritage and the Gaeltacht – report received 7 May 2019, conditions proposed requiring pre-development archaeological testing to be attached as outlined in the report.

4.0 **Planning History**

4.1. **Subject Site**

- 4.1.1. **Ref.20180587** – Permission refused for 99 residential units and infrastructural works including new pedestrian/bicycle access onto the R741 and Crosstown Road. Reasons for refusal related to surface water drainage proposals, potential impact on SPA and SAC, absence of crèche.

- 4.1.2. **Ref. 20171548** – Permission sought for 65 units comprising first phase of 126 unit development – application declared invalid.
- 4.1.3. **Preplanning** – a number of references are included within reports and appeals to pre-planning consultations which were undertaken. These include – Ref. P20170364 for 85 houses on c.7.82ha. Ref. P20180674 included in report from PA but no details of proposal provided for this reference.

4.2. **Sites in vicinity**

There are a number of recent decisions on appeals before the Board in the immediate area of the site which are considered to be of relevance.

- 4.2.1. **Ref. 20180713** (ABP-302310-18) (northwest of site) – Permission refused (January 2019) on appeal for 24 houses. Reason for refusal related to inadequate housing density.
- 4.2.2. **Ref. 20161462** (PL26.249001) (north of the site) – Permission refused on appeal for 59 houses and 5 commercial/light industrial units – there were 4 reasons for refusal which related to material conflict with policies and objectives of the plan, contrary to guidelines regarding sequential development, traffic hazard and potential increased risk of flooding.
- 4.2.3. **Ref. 20160970** (PL26.247934) Permission granted for 24 houses (September 2017).

5.0 **Policy Context**

5.1. **National Planning Framework, 2018**

- 5.1.1. The National Planning Framework, 2018 – 2040, recommends compact and sustainable towns/cities, brownfield development and densification of urban sites. Policy objective NPO 35 recommends increasing residential density in settlements including infill development schemes and increasing building heights.

5.2. **Sustainable Residential Development in Urban Areas, 2009**

- 5.2.1. The Guidelines promote higher densities in appropriate locations. A series of urban design criteria is set out, for the consideration of planning applications and appeals. Quantitative and qualitative standards for public open space are recommended. In general, increased densities are to be encouraged on residentially zoned lands,

particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout. Chapter 6 sets out guidance for residential development in small towns and villages.

5.3. Wexford Town and Environs Development Plan 2009-2015 (extended)

- 5.3.1. At the outset it should be noted that pursuant to the provisions of Part 8 of the Electoral, Local Government and Planning and Development Act 2013, the lifetime of the Wexford Town and Environs Development Plan 2009-2015 has been extended with the Plan continuing to have effect until 2019, or such time as a new County Development Plan is made.
- 5.3.2. The site has two zonings. The majority of the site is zoned B residential medium the objective of this zone "*to protect and enhance the residential amenity of existing and developed communities*". The remainder of the site is zoned G – Commercial & Mixed Uses (C1) the objective of which is "*to make provision for commercial and mixed uses*". In respect of uses on commercial/mixed use zones, the Plan states that the purpose of this zoning is to provide commercial and office developments. It is further stated that the Council will consider residential type developments where it can be demonstrated that they do not conflict with commercial/industrial development. Residential is stated as open for consideration on lands zoned C1 (Commercial/Mixed Use) in the landuse matrix.
- 5.3.3. The site is located within Masterplan Zone 2 (Crosstown). The Plan provides an overview of the area outlining committed infrastructure and constraints and opportunities one of which is sporadic commercial and housing development. In terms of future development it is stated that the development of newly zoned lands is depending on the provision of a suitably sized graveyard extension which is required to serve the town. In terms of residential it is stated that given the short distance from the town centre that a mixture of low and medium density is recommended with lower densities required adjoining existing dwellings and no dwellings to back onto exposed areas and particular care required on lands to the east facing Wexford Harbour and west to the Slaney. In terms of services it is stated that future growth is dependent on provision of public sewer connection to Wexford Main Drainage and

delivery of planned investment by WCC. Road reservations are required on the R741 with new individual accesses restricted.

- 5.3.4. Section 11.08 of the Plan addresses residential development. An indicative residential density is provided for each zone. The indicative residential density for the medium residential zone is 17-25 units per hectare.

6.0 The Appeal

There are three third party appeals which I have summarised as follows:

6.1. Martin McDonald and Others.

- 30 appeal issues are set out which are summarised as follows:
- Original application was for 126 houses (Ref. 20171548 - *invalid*) with current proposal for 98 houses seeking to circumvent the SHD process with overall proposal for the 126 units should have been made directly to ABP under SHD legislation;
- Statutory requirements in respect of significant further information ignored with third parties denied the right to participate in the process.
- WCC installed storm water sewer on R741 at Crosstown (375mm for 500-600m) without any plans at a cost of €137,272 in consultation with applicants with no records of same and no provision to comment on the matter of surface water following receipt of further information as not allowed to respond to FI response.
- Construction of drainage works significant and may impact on the SAC and SPA an in absence of detailed plans not possible to say what impact may arise given absence of detail on discharge point with no NIS for the works.
- Obvious potential threat to SAC and SPA with minimum requirement that a full assessment of current and future storm water requirements carried out and NIS for same.

- Proposed to maintain existing hedgerows given 'rural location' but if permitted would be an urban area and required 2.5m high walls required set back from the hedgerow.
- Surplus of topsoil will arise once that required for site works excluded which will require removal by trucks.
- No percolation test reports, trial pit surveys or evidence that any site investigation carried out with statements that no flooding occurs when site has 3 permanent ponds with some residents unable to get house insurance due to flood risk.
- Run-off from the site floods adjacent properties and caused a boundary wall to collapse with any containment from stockpiled materials on site would cause damage to existing properties on run-off path and would flow into the SAC.
- Additional hard surfaces within site will exacerbate existing flooding.
- Three ponds indicated on a drawing submitted indicating high water table and host frogs which are internationally important species.
- Surface water drainage design and sizing of pipes will exacerbate flooding.
- Proposed construction period excessive with existing development causing major complaints with debris on public roads and dangerous driving conditions.
- Stockpile area shown on drawings less than 25m from nearest watercourse.
- Public notices does not reference vehicular entrance onto Crosstown road as shown on drawings.
- On previous refusal Dept. of Culture and heritage requested a condition be included for pre-development archaeological testing and applicant has not submitted any proposal with Council ignoring request with no condition attached.
- Foul sewer design outside recommended gradient.
- Site includes two folios with applicant not owner of one folio and no consent from legal owner.
- Reference within drawings to possible access to adjoining properties with no permission/agreement from adjoining property owners.

- Same arguments apply to subject site as applied to refusal for a single unit less than 200m from proposal with refusal including matters such as haphazard backland development, traffic hazard, issues relating to AA.
- TIA does not take account of traffic associated with the cemetery, other development in Ferrybank and admit proposal will increase existing traffic by 5.5%, trip rate generation under estimated, data used more than 12 years old, only one survey undertaken when 2 required, inconsistencies with previous TIA, proposal would add to existing congestion on road and impact on junction at town side of bridge, new orbital route is 15-20 years from realisation, proposal excessively car dependent.
- Crosstown a transitional area and should be not zoned medium residential with previous board decision on nearby development to refuse on grounds of sequential development.
- Part of site zoned commercial/mixed use with main entrance in that area.
- Question need for large-scale housing development when population growth in Wexford static between 2011-2016.
- Wexford has vacancy rate of 12% ex. holiday homes with vacant units available and no need for new units.
- Proposal would comprise overdevelopment of the area in the absence of infrastructure and social amenities.
- Birds highlighted in SI194/2012 regulations (Wexford Slobs SPA) are known and recorded to have nested on site and used it for feeding.
- Applicants screening statement states potential for contaminated surface water entering Slaney and light, noise and water pollution affecting birds.
- Proposal would cause removal of 1000m of hedgerow with dramatic effect on fragile eco-system in the area and listed as threat to biodiversity in County Action Plan on Biodiversity.
- Financial statements for applicant sought from CRO with company finances dormant and no construction history with no finance or experience to carry out development with insufficient funds for Bond sought in condition 10.

- With inclusion of crèche, 8.9% public open space provided with 10% required.

6.2. Maurice Cronin

- Appeal document by consultant accompanied by letter from appellant.
- Appellant property immediate east of proposal directly adjoining houses 33 & 26 with an existing agricultural laneway serving the site running along appellants southern boundary;
- Units are proposed at higher ground level in close proximity with ridge height of House 33 9.6m above level of rear garden and 13.4m separating, blocking sunlight and reducing daylight with no analysis.
- Houses 26 & 27 are three storey and ridge level 13.4m higher than garden level 23m from property blocking sunlight and daylight.
- Houses will overlook appellant property and appear over dominant with difference in ground levels making impact worse with normal 2m boundary wall not mitigating impact.
- Proposed units will present as an obtrusive mass to existing property with screening from trees and planting lost by their removal.
- Three new pedestrian walkways on three boundaries resulting in loss of privacy and potential for anti-social behaviour especially along boundaries which are not overlooked with lack of surveillance not good design practice and should be removed and if not a 2m wall around appellants property required.
- Question necessity for all of the paths with some increasing walking distance and absence of some parts would not impede permeability or integration particularly given absence of surveillance.
- Zoning provides for new housing subject to protection of existing residential amenities with PA failing to address same with objection requiring more detailed drawings regarding boundary treatments and sections through existing and proposed units and daylight and sunlight analysis which were not requested.
- Increase in ground levels on site has led to flooding of appellant's garden and threatened house.

- Accepts principle of development and overall design but concerned at layout, ridge height and scale of units closest to him.
- Further information request was not used to address concerns.
- Mitigation of concerns could be achieved by condition including relocation of houses 33 and 32 by 4/5m to west, change in house type of 26, 27 & 33 to bungalows.

6.3. **Crosstown Residents Group**

- Current application assessed against development that is over 10 years out of date and on proposals from a different economic environment, proposal premature pending the replacement of the existing out of date plan.
- To facilitate projected housing demand, development at density of 35 units p/h would require only 51ha with 217 ha zoned.
- Large scale housing should not be permitted where there is possibility that future housing not encouraged due to lack of supporting infrastructure.
- Portion of site zoned C1 'commercial/mixed use' with residential not a permitted use although limited housing could be open to consideration as part of a mixed use development.
- Only undeveloped C1 lands in masterplan area is within application site and proposed for housing preventing development of supporting uses with proposed crèche not on C1 lands and considered material contravention process should have been enacted to permit housing and open space on C1 zoned lands.
- Permission refused for similar development for three reasons with pre-planning discussions taking place with PA and noted that discussions were in respect of entire holding and not part thereof as now proposed.
- No consultation undertaken at referral stage with Irish Water and NPWS not consulted, further information received was not deemed significant with no opportunity for further submissions and no evidence in planner's report that observations received were taken into account.

- Understood that works were undertaken (October 2018) by WCC in consultation with applicant to install new stormwater pipes to augment existing storm water drains with insufficient capacity (details in McDonald and others refers).
- Works appear to have been undertaken without any appropriate assessment with FOI not mentioning any screening which is at odds with previous refusal reason on subject site which relates to uncertain effects on SAC/SPA and not clear how if AA required for subject proposal how it was not required for the storm water sewer.
- Should have been a Section 177AE application to the Board and may be that WCC should have to apply retrospectively to the Board with a remedial NIS.
- Appellant considering seeking a Section 5 referral on the matter and considered premature to grant permission for a development until status of drainage infrastructure established and regularised.
- Significant amount of information lacking in NIS as detailed in objection to the PA and will prevent the Board from conducting an appropriate assessment.
- No apparent reason for excluding some of lands other than to avoid the SHD process directly to ABP with exclusion preventing full impact of development potential including ecological impacts and from residents perspective uncertainty over the impact of housing on remainder of lands.
- Certain key infrastructure to facilitate major developments in Masterplan zone 2 not now proposed including second river crossing, orbital route (T8), road reservation, new school and sewer connection to Wexford Treatment Plant with only work on list undertaken is sewer connection to WWTP which it is noted is not working properly and noted IW not consulted on subject proposal and no funding for works outlined.
- No report submitted to address likely impact of proposal on existing community facilities, public transport, educational facilities and recreation amongst others.
- Board requested to take into account all of the traffic concerns raised in submissions to PA with great existing difficulties accessing R741 in am peak and

other times and concerns proposal and other zoned lands will add to existing problems with road only access to town centre.

- No details provided on public transport serving the area.
- No assessment of visual impact including housing backing onto the river.
- Nature and scale of housing proposed no regard to scale and character of housing in the area characterised by low density housing within a sylvan setting.

7.0 Responses

7.1. Response from Applicant to Third Party Appeals

7.1.1. Applicant's response to third party appeals, received 10 July 2019, is accompanied by a series of appendices from a number of consultants and is summarised as follows:

- Consider proposal comprises high quality residential scheme presenting appropriate response to site characteristics and surrounding area, designed in line with feedback from Council and further information request delivering 98 high quality family homes at a time of acute demand.

Response to Appeal of M. Cronin

- Proposed dwellings due west of M. Cronin property resulting in shadows falling away from appellant with shadow analysis undertaken demonstrating no shadowing impact to appellant's property for majority of year with marginal shadowing of small portion of property in March.
- Section diagram included in appeal by appellant erroneously located appellant house and dwelling 33 parallel to each other with house 33 at an east/west angle;
- No resultant loss of amenity to appellant's property during summer months and minor impact in March.
- Careful consideration given to protection of appellant's amenity with no windows in gable walls of either House 26 or 33 except for opaque bathroom windows and closest obliquely facing windows from rear of House 26 to n-w of appellants is 29m which is more than adequate to prevent overlooking.

- Separation sufficient to mitigate any potential overbearing impact, house 33 has similar FFL's to appellants with gable end addressing appellant.
- House 26 3-storeys with significant separation appropriate but if ABP consider overbearing willing to accept condition that Houses 26 & 27 are 2-storey.
- Appellant happy to accept condition requiring 2m screen wall provided as boundary treatment to appellants property with suggestions proposed by appellant regarding changes to location and house type not warranted.
- Concerns that footpaths will not be overlooked appear in opposition to concern that appellant's property will be overlooked.
- Footpaths included to provide good permeability but consider footpath to west could be omitted without undue inconvenience to new residents as it is not well overlooked and area could be included in rear gardens of Houses 26 & 33.
- Pathway to south of appellant will benefit from good surveillance and is an existing agricultural entrance omission would result in left over land more likely to attract anti-social behaviour with high quality footpath improving appearance and provides most convenient access to bus stop and if ABP consider appropriate to maintain this connection applicant happy to accept condition to omit pathway to north of appellants property.

Response to Appeal of M. McDonald & Others and Crosstown Residents Group

- Accepted applicant in control of adjacent lands capable of accommodating additional residential development and intention to bring those forward in phase 2, proposal is for 98 units and below SHD threshold and no statutory requirement for landholdings to be brought forward in totality with potential development and integration of additional lands part of consideration.
- Proposal well below mandatory threshold for carrying out EIA and issue of project splitting does not arise with any additional application for development assessed on its merits.
- Observers informed of submission of further information and availability of inspection but as determined that it was not significant it was not required to be re-advertised with no provision for further submissions.

- Vehicular entrance onto Crosstown Road omitted at further information stage and does not form part of development.
- Indication of future accesses to adjoining lands considered good practice in designing residential layouts and no letter of consent required as proposal is indicative.
- Understood that new surface water drainage along R741 comprised upgrading of existing 225mm pipe to 375mm pipe with question of whether works subject to AA screening remit of Local Authority as competent authority with applicant not responsible for carrying out the work and grounds of appeal not relevant.
- Proposed surface water infrastructure includes series of attenuation tanks allowing full treatment as each phase is constructed, limiting discharge to greenfield rates eliminating potential for discharge of inadequately treated surface water to the Slaney with the issue fully assessed in NIS.
- No requirement to amend the NIS at FI stage as proposals and calculations had been fully considered and advised that due to administrative error at WCC full surface water network proposals not made available to Drainage Division resulting in request for FI (statement from NIS author in App. C).
- Site not within any identified flood zone and no recorded instances of flooding with response to existing surface water conditions on site included in Appendix C noting that only isolated drains found during site surveys and concerns relating to ponds/flooding likely related to waterlogging following heavy rainfall with proposed development providing a formal drainage system for the site.
- Detailed response to traffic matters provided in Appendix A with robust calculation methodology used in assessing trip generation and potential traffic impacts, accepted as with all new development resultant traffic increase but proposal contributing average of 1 vehicle per minute to local road network with any noticeable impact limited to morning peak queuing at Wexford Bridge.
- Potential traffic impact likely to be reduced by ongoing improvements such as Bridge Loop bus services operated by Wexford Bus (commenced Feb 2019) providing early morning service to local secondary school and an hourly service to Redmond Sq. and surrounding areas with stop within 600m.

- Additional bus stop conditioned by PA south of proposed entrance improving sustainable transport modes with ongoing upgrades to local infrastructure including cycle lane and footpath.
- Subject scheme/new bus stop will assist in providing the critical mass required to sustain public transport and encourage modal shift to sustainable modes.
- Applicant not responsible for other construction schemes in the area and issues arising on other sites not relevant with construction management plan for the subject site submitted as part of RFI, implementation of which has been conditioned with construction access from the R741 and not Crosstown Road.
- Figures relating to re-use of topsoil assessed by Design Team and within NIS with additional clarification on same provided in Appendix C demonstrating re-use of topsoil correctly assessed.
- Engineering response (App B) confirms proposed foul sewer system appropriate designed in line with requirements and that adequate capacity within WWTP with Condition 12 requiring applicant enter into agreement with IW with condition 17 requiring Engineer ensure development constructed in accordance with taking in charge requirements.
- Forthcoming adoption of Southern RSES noted and acknowledged new CDP will take adopted RSES in account which will not result in any significant de-zoning of lands such as subject site located in environs of a key town which RSES seeks to strengthen.
- Zoning of site in principle reserved function of elected members subject to public consultation with proposal in compliance with medium density zoning.
- While density at 17 units per hectare complies with development Plan parameters of 17-25 it may be considered low in context of national policy where densities of 35-50 encouraged but note prevailing character of the local area which is low density single dwelling with need to strike a balance with density of 17 units p/h found acceptable in previous decision of ABP under PL26.247934.
- Noted that residential uses are open for consideration on commercial/mixed use zoned lands and therefore no material contravention occurs with sufficient lands available for provision of commercial uses within Crosstown as demand arises.

- Development in Crosstown subject to requirements including extension to graveyard which is responsibility of WCC and not considered relevant to development of lands zoned for residential development at a significant remove, connection to WWTP is in place with no evidence to support statement that same is not working, and as agreed at pre-planning 4m setback proposed along R741 for footpath and cycleway with requirement to meet road reservations met.
- TIA demonstrates development can be accommodated by existing road network with no evidence that provision of second river crossing or inner orbital route requirement to proceed with proposal.
- Range of social infrastructure and amenities within Crosstown commensurate with status as smaller settlement within environs with services including hotel within walking distance.
- Existing vacancy rates not an appropriate indication of housing demand with site zoned in accordance with settlement strategy and proposed to be delivered on a phased basis.
- Proposal provides for a total of 9,159 sq.m of public open space which equates to 15% with generous provision of incidental green space providing a further 2,097 sq.m a total of 18% of the site area and include two 5-a-side playing pitches.
- Retention and enhancement of existing boundary hedgerows most appropriate design response in interest of visual and ecological amenity and if ABP considered regarding use of boundary hedging where development backs onto existing residential units happy to accept condition to require block wall boundary.
- No evidence of common frog identified on site and site does not provide a suitable habitat for SCI bird breeding populations.
- Not considered proposal is at odds with existing character of the area with heights limited and dwellings set back with site essentially a large infill development which is not prominent within the landscape with no significant visual impact issues arising.

7.2. Response from PA to Third Party Appeals

7.2.1. Response from the PA to the appeals is as follows:

- Subject site zoned residential medium density and commercial/mixed use in Plan with residential development acceptable in principle under zoning.
- Overall density of 16.5 units p/h considered acceptable and not have a negative impact on the surrounding character of the area. Response from Third Parties to Other Third Party Appeals

7.2.2. A response was received from M. McDonald and others to the invitation to comment on other Third Party Appeals. The submission reiterates many of the points made in the original appeal rather than specifically commenting on the other third party appeals received. It is summarised as follows:

- Proposal out of character with low density area and would conflict with master zone 1;
- ABP decision under PL26.249001 refused permission for 59 houses on basis of housing need with same requirement applying here, reason relating to haphazard development also applies in absence of community facilities as does car dependency with refusal reason related to multiplicity of access points of relevance to R741 with recent decisions with scale of proposal causing traffic hazard.
- Approach to town centre overpopulated with entrances including entrance to Borough Council car park and other businesses with sightlines poor.
- Traffic associated with cemetery blocks local roads blocking entrances with all such traffic using R741 with further entrances exacerbating problem.
- Proposed cycle access onto Crosstown Road inappropriate as on bend with no cycle paths existing or likely with Crosstown Road in poor structural repair worsened by recent construction works and proposal to use this entrance for construction inappropriate.
- TIA seriously deficient making no reference to impact on Crosstown or Ferrybank Roads with traffic count at bridge required with a full traffic assessment of the area required with no plans for second bridge and Enniscorthy by-pass implausibly included as means of reducing traffic.
- Road Safety Audit highlights serious issues including proper facilities for vulnerable pedestrians.

- Refusal reasons for development at Carcur (ABP-304066-19) relevant to subject proposal.
- Proposal at 98 units seeks to avoid SHD process.
- Failure to provide adequate time for third party submissions on additional information submitted.
- Installation of storm water sewer on R741 without adequate planning and failure to respond to requests in relation to this matter and failure to address concerns relating to potential flooding and effects on SPA and SAC.
- Failure to comply with Section 179 of Planning and Development Act 2000 and Part 8 of Regulations in respect of advertising certain works.

7.3. **Response from Third Parties & PA to Response from Applicant to Appeals**

- 7.3.1. A response was received from the PA stating that they had no comment to make. The three appellants responded and they are summarised as follows:

Maurice Cronin

- Shadow analysis selective and misleading with no results for afternoon hours in winter or summer with house 33 leading to significant loss of sunlight with added sense of overshadowing with more comprehensive study required.
- Number of inaccurate comments about level differences with significant differences between existing and proposed leading to overbearing impact with views from rear rooms dominated and while no overlooking windows in gable, overlooking from rear and side garden extensive given levels with original requests to modify units 26, 32 & 33.
- Welcome omission of western and northern footpaths as proposed and appropriate boundary screening along property and request Board impact a condition requiring a 2m high screen wall along appellant's boundaries.

Crosstown Residents Group

- While accepted no statutory requirement for landholdings to be developed in totality, no logical explanation for splitting or phasing the development provided with current process including protracted public consultation.

- Surface water arising has potential to adversely affect EU site with hydrological links acknowledged and complete lack of knowledge surrounding recent surface water works undertaken and considered no further development should be permitted which would connect to this infrastructure until potential impacts of same established.
- Bridge Bus loop service replaces existing service with dependence on car to access work with no reduction in congestion and traffic queues on R741 and addition of additional bus stops and pathways will not reduce congestion.
- Survey information outdated with no evidence to support contention that outside peak times there is not queuing with local experience that severe congestion along this road at many other times with comprehensive traffic survey required.
- RSES to issue shortly triggering review of Wexford Development Plans with lands in masterplan area 2 to be serviced by new and improved roads most of which no longer planned and considered de-zoning of the lands inevitable particularly in Crosstown.
- Do not concur that surrounding houses will screen proposal and reduce visual impact with the site highly visible and surrounded by low density housing with relatively high density proposed transforming semi-rural area negatively with detailed landscape evaluation and photomontages required.

Martin McDonald & Others

Note: two responses received one of which includes attachments with both summarised as one as follows:

- No explanation provided as to why proposed housing development on entire holding split with questions arising in respect of impact of full scale of proposal;
- Not for first party to judge what is deemed significant with third parties denied an opportunity to comment on further information and PA refused to explain why with correspondence to PA included with PA contravening relevant legislation.
- Omission of vehicular access at further information not known by appellants as denied access to further information submitted as deemed not significant.

- Applicant's suggestion that indication of future access to adjoining lands good practice in design of residential layout unlawful given requirement to have legal interest in some of the lands and question why land included for further entrances which may not become available for years.
- Questions over status and validity of application given ownership of lands with incorrect information submitted which is misleading.
- Information provided by FOI shows applicant in communication with Local Authority regarding works to surface water infrastructure and clear installed for proposed development without any design drawings, costings, NIS or notifications to any other body, no record of pre-planning discussion with FOI appeal details attached.
- Error which provided that surface water details not made available to drainage section resulting in request for further information extraordinary state of affairs and ABP must question errors in surface water procedures.
- Run-off flooding from the site becoming a usual occurrence and cannot be classed as waterlogging with no percolation tests undertaken and consider in-depth examination of upgrade relevant as affects existing and future occupants.
- Factual information of surveys undertaken to support NIS not provided, incorrect references to boundary walls which are hedgerows and therefore not a buffer.
- Two rare aquatic plant species found on the site and while frogs not recorded by survey they exist on the site with survey undertaken outside of bird breeding season for listed bird species.
- Confusion in response as to the location of the site vis-à-vis the SPA.
- Design/gradients of upgraded 375mm sewer outside specification and not fit for purpose, will back up and cause flooding, bypassing petrol interceptors and pollute the Slaney SPA and not designed to deal with rainfall increases.
- School bus service introduced will not improve school traffic given 24 person capacity with traffic delays in the area announced on national radio at peak times.
- Congestion in Crosstown area during funerals outlined.

- Consider not adding additional 5.5% to peak time congestion favourable to adjustment of signals at the bridge, trip calculations submitted in response to appeal 25% lower than those in planning application, incorrect references to dates outlined in appeals with peak traffic flows increasing since 2016 based on cars on road with no provision for funeral traffic.
- Queue at bridge getting worse and Council reluctant to solve with queuing on Bridge occurring at all times of day and at weekends and bus service not sufficient as serving wide rural area to solve.
- Continuous white line at site entrance and haphazard cycle lanes to the bridge create traffic hazards with no comment on road safety audit.
- CSO figures show slowing new build sales in Wexford where there is static population growth falling by 30% between 2015-2018 leading to oversupplied market with Wexford County Plan flawed.
- Level of excavation required (approx. 15,000m³) and areas requiring fill and suitability of material questioned with lack of site investigation and percolation tests highlighted.

8.0 Assessment

- Process
- Principle of Development
- Density / Scale
- Layout and Design
- Residential Amenities
- Traffic / Access
- Surface Water
- Other Issues
- Appropriate Assessment
- EIA Screening

8.1. Process

- 8.1.1. There are a number of matters outlined in the appeals submitted which relate to the process by which the application was determined at PA stage and other related matters. I will address each in turn.
- 8.1.2. There is a concern expressed in the appeals at the inability to respond to the further information received and the timing related to information made available. It is the role of the PA to determine whether further information received is significant or not. In this case it was deemed not to be significant and therefore there was no requirement for the applicant to re-advertise same which would have provided an ability to submit observations on same. The PA process has been undertaken as per the requirements of the relevant Regulations and therefore I do not consider that the concerns expressed undermine the process.
- 8.1.3. The appellants state that the public notices should have referenced the proposed vehicular access onto the Crosstown Road. The applicant's agent states that the vehicular access proposed onto the Crosstown Road was omitted at further information stage. While it is arguable that it may have been appropriate to include such works in the original notice, given its omission at FI stage I do not consider that this is fatal to the application process.
- 8.1.4. The matter of what is referenced as 'project splitting' is outlined in two of the appeals. This relates to the decision of the applicant to propose 98 units in the current application such that the 100 unit threshold for SHD applications to the Board would be avoided with 1.51 hectares of the applicant's landholding not included within the application. While it may be preferable to have included the entire holding within the application which would have potentially taken it over the 100 unit threshold, there is no legal impediment to prevent the applicant from adopting the approach undertaken. I would also note that the term 'project splitting' refers in the main to approaches to avoid EIA however given the proposed numbers of units in the current proposal, I consider that given the EIA threshold for residential development is 500 units for mandatory EIA that project splitting as it applies to EIA is not relevant.
- 8.1.5. I note the concerns expressed regarding the financial situation of the applicant company and the experience of same in construction. This is not a planning matter

and I would note that any permission granted pertains to the land rather than the applicant.

- 8.1.6. There is considerable discussion in the appeals and circulations regarding the planning status of the recently upgraded storm water sewer which was completed within the public road adjoining the site by the local authority. This comprises a section of 500/600m from the subject site to the discharge point into the River Slaney. The appellants suggest that the correct Local Authority procedures were not carried out and that an NIS should have been prepared. The first party response states that they understand that the new surface water drainage along the R741 comprised upgrading of an existing 225mm pipe to 375mm pipe with the question of whether the works were subject to AA screening falling within the remit of the Local Authority as the competent authority with the applicant not responsible for carrying out the work and grounds of appeal are not relevant.
- 8.1.7. The PA regrettably do not provide any detail to the Board on the matter. The only documentation on file from Wexford County Council is provided by the appellants by way of a freedom of information request which refers to:- the new 375mm diameter surface water sewer laid in the western side of the R741, the new surface water sewer which augments the existing infrastructure, the upgraded surface water drainage system at Crosstown. There are two documents from Wexford County Council to the appellant in this regard the second of which effectively provides no additional information to that in the original response (20 February 2019). It is stated in the original response that there were no construction drawings and that the works were carried out on the verbal instruction of the Engineer. It is also stated by the Roads Section in the response to the FOI that it was decided to upgrade the existing surface water system to accommodate any future development in the area which involved increasing the size of the existing surface water drain from 225mil to 375 mil with the 375mil pipe connected directly to the existing surface water system and not connected directly into the Slaney. It is also stated that 'we didn't do a Natura Impact Assessment'. The final request for details of minutes or records of meetings between the Council and other parties was refused stating that there are no minutes of meetings.
- 8.1.8. In respect of the situation arising with regard to the surface water sewer, the upgraded infrastructure is in place. The Board is not an enforcement authority and

therefore it is not within the remit of the Board in this instance to seek to determine the validity or otherwise of the process to undertake the works. It is regrettable that the Planning Authority in their responses to the appeals and circulations could not provide some detail as to the process undertaken and to the location of the connection of the works to the existing discharge point. In terms of the preparation of an NIS, this matter is one for the competent authority, in this case Wexford County Council, to determine whether or not AA screening or AA is required. I note that one of the appellants proposes that a Section 5 reference on same may be sought. In conclusion, I consider that it is not the role of the Board through the vehicle of an appeal to seek to determine the status of a piece of infrastructure or determine the validity of the process to undertake same.

8.2. Principle of Development

- 8.2.1. The site has two zonings. The majority of the site is zoned B residential medium the objective of this zone “*to protect and enhance the residential amenity of existing and developed communities*”. The remainder of the site is zoned G – Commercial & Mixed Uses (C1) the objective of which is “*to make provision for commercial and mixed uses*”. In respect of uses on commercial/mixed use zones, the Plan states that the purpose of this zoning is to provide commercial and office developments. What is critical to the Boards consideration of the matter is whether it is appropriate to consider residential development in principle on lands zoned commercial and mixed uses (C1) or whether it would comprise a material contravention as is suggested by one of the appellants. I do not consider that residential development on the commercial/mixed use zoning would materially contravene the Plan. The Plan specifically provides for the consideration of residential development on the lands. It states in the Plan, under the explanation of the zoning, that the Council will consider residential type developments where it can be demonstrated that they do not conflict with commercial/industrial development. Having regard to the amount of lands zoned commercial/mixed use in the plan in the vicinity of the site and its relative distance from the town centre, I consider that the principle of residential development on the zoning on this site is appropriate. Furthermore, the site has limited road frontage to the R741 and is surrounded by low density residential development.

- 8.2.2. There is reference in the appeal documents to a previous reason for refusal determined by the Board under PL26.249001 which included 59 housing units. I would note that this application was solely on lands zoned commercial/mixed use and was within a different masterplan area (No.1) to the subject site whereby specific considerations are outlined for the acceptability or otherwise as is the case of residential development on C1 lands. The circumstances in terms of policy are not comparable and therefore I do not consider that this is a relevant precedent in respect of the proposed development.
- 8.2.3. There is considerable discussion about the need for the proposed housing given the relatively limited population growth in Wexford during the most recent intercensal period. I would note that the site is currently zoned for medium density residential development and in this regard I consider that the principle of developing a residential development on the lands is acceptable. The suitability of the residential development currently proposed is considered in the following sections.

8.3. **Density / Scale**

- 8.3.1. The Wexford Town Development Plan, 2009 – 2015, sets out guidance in relation to residential density in Section 11.08.01 of the Town Plan. The appeal site is zoned 'Residential – Medium Density' and accordingly the indicative residential density for the appeal site is 17 – 25 units per ha. National Guidance in respect of residential development is set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009. The Guidelines define 'outer suburban/greenfield' sites at Section 5.11 as open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities. In terms of recommended densities they state that the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. It is also stated that development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares.

8.3.2. The overall size of the appeal site is 5.95 ha and therefore the density proposed is approximately 16.33 units per hectare. I note that the first report from the PA, that of the Executive Planner, has quite rightly in my opinion, recommended refusal of the proposal with one of the issues relating to the inappropriately low density proposed. I would also note that the Executive Planner also refers to the decision of the Board to refuse permission on a nearby site for inappropriately low density and considers that this decision would negate the advice set out in the pre-planning advice. I would note for the benefit of the Board that pre-planning advice is without prejudice. However, despite the recommendation of the Executive Planner, a supplementary report was prepared by the Senior Planner which states that while he does not disagree that higher densities could be accommodated at a location close to the town centre that he is concerned that to increase density significantly would have a negative impact on the existing low density development that surrounds the site. It is stated that it is important that the proposed development respects the form of the buildings and landscape around the site edges and the amenity enjoyed by the neighbouring users. It is also noted that public transport to the area is very limited and despite the location is very much car dependent. It is concluded that that the density and layout of the development is the correct approach and complies with the preplanning advice given to the applicants.

8.3.3. The subject site is c.1.5m from the town centre in Wexford. While it is eminently accessible to the town centre by foot or bicycle, the site is most appropriately described in the context of Wexford as an outer suburban Greenfield site. As outlined above, the Guidelines state that densities of between 35 and 50 units per hectare are appropriate and where densities below 30 units per hectare should be discouraged. I would also note that the Development Plan recommends medium density of 17-25 units on such sites and while not in sync with National Guidance the proposed density at 16.33 units per hectare is almost half the minimum figure in the National Guidance and does not even meet the local Development Plan minimum. The site, while surrounded by one-off road fronting dwellings, is of a significant scale and measures could be included to ensure that the residential amenity of properties around the boundary of the site could be protected. I discuss layout matters and residential amenities elsewhere in this assessment however, I believe that the amenities of the existing properties cannot determine the sustainable use of the

entire site of a large area of zoned land. While it is appropriate that the residential amenity of existing properties are appropriately protected such protection should not determine the development of the entire site. Therefore, I do not consider that concerns relating to residential amenity are valid in this regard. In respect of the concerns regarding the absence of public transport in the area, while it may be correct to suggest that the area is not well served, it is not reasonable to believe it could ever be justifiably served by public transport if densities of 16.33 units per hectare are permitted on such serviced lands. I would also note that there has been recent public investment in the area in the provision of public footpaths and cycle lanes and in order to justify same, sustainable densities are required.

- 8.3.4. Furthermore, as referenced above in respect of the Executives Planners report, the Board have recently (18 January 2019 – Ref. 20180713) refused permission for 24 units on a site to the northwest of the subject site on the grounds that the density is too low. Therefore I would suggest that there is precedent for the refusal of low density housing development within the immediate area of the subject site. I would note that the applicants agent reference Ref. 20160970 (PL26.247934) where the Board granted permission for 24 houses at a density of c.17 units per hectare. While I note this decision I would also note that it was made in September 2017 prior to the publication of the National Planning Framework which seeks at its core to promote sustainable patterns of settlement and prior to the most recent decision outlined above to refuse permission for 24 units for the reason of inappropriately low density.
- 8.3.5. I would also reference the prevalence of detached and semi-detached ‘family’ type dwellings within the Crosstown area. This is replicated in the proposed scheme although I do note it provides some two-bed units and terraced units in terms of design. Variety within this neighbourhood for smaller ‘family’ units with the average household size in Ireland 2.75 persons is essential in order to create sustainable neighbourhoods. This matter is further considered in the next section. Therefore it is not reasonable nor can any rational justification be provided for permitting residential development on zoned land at the density proposed. It would not be a sustainable use of zoned and serviced land and therefore I consider that the proposal herein should be refused on the grounds of insufficient density.

8.4. **Layout, Design, House Types and Connections**

- 8.4.1. Neither the application documentation as submitted nor the planning report prepared by the PA mention the Urban Design Manual which accompanies the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009 nor do they reference the Design Manual for Urban Roads and Streets (DMURS) 2013. In this regard I have a number of concerns about the proposed layout and design. Firstly, the treatment of the eastern boundary of the site as it addresses the R741. The proposal provides that the proposed units are set back from this boundary with an area of open space defining the boundary with the main public road. I consider that it is inappropriate to address this busy public road with open space which it is proposed could incorporate a 5-a-side pitch. This boundary requires a strong urban edge to define the development. The building line to the north and south of the site is staggered and therefore I consider that the subject development could establish its own building line and create a strong visual presence along this roadway which is currently bereft of any strong urban visual markers.
- 8.4.2. The unit design and the overall approach within the design of the units is to create a modern innovative approach. The units proposed around the central open space address the street with no in curtilage parking which is acceptable however, as I point out in the context of the open space below the car parking then surrounds the open spaces. It may be more appropriate to review the location and extent of car parking within such areas. It is stated that two spaces per unit and 19 visitor spaces are proposed and I would consider that providing two spaces for two-bed units is excessive. Furthermore, 19 visitor spaces for a development of this scale also appears excessive.
- 8.4.3. In terms of public open space to serve the housing development it is stated that a total of 9,159 sq.m of space is proposed representing 15% of the site. It is proposed by means of usable space, play areas and green areas. In addition it is proposed to provide 2,097 m² of incidental areas and herb gardens within the site. This provides a total green area of 11,256 sq.m or 18% of the development. The quality of the overall public open space proposed is poor and while the central open space is well considered it is entirely surrounded by car parking as outlined above. Indeed almost all the public open space proposed is surrounded by car parking. The surveillance of

many of the open spaces is poor particularly to the south east of the site. It is stated that 2,097 sq.m of the site comprises incidental open spaces and herb gardens. Other than limited herb gardens, these incidental spaces serve no function and a more innovative layout would eliminate such spaces in favour of a more appropriate density and better useable public open space.

- 8.4.4. Finally in terms of the proposed crèche, I consider that the central location of the crèche while creating a focal corner might be more appropriately located closer to the entrance to the development. I would also consider that the open space associated with the crèche is minimal particularly when you consider the amount of incidental open space around the proposed development which has little to no usable value.
- 8.4.5. I note that almost 25% of the units proposed are two-beds which is appropriate. However I would also note that a significant number of same are proposed as Part 5 and in the context of the housing market I would suggest that the number of two-bed units could be increased.
- 8.4.6. I would note that the site is well connected to the town centre with a footpath and cycle path from the site to the town centre although the new cycle path ends close to the bridge and in this regard external connectivity from the site to the town centre is sufficient. I would note however, that investment in infrastructure such as that recently developed in the area requires that sites are sustainably developed at appropriate densities as I outline above in Section 8.3.
- 8.4.7. In respect of internal connectivity, of concern to one appellant in particular is the location of some internal footpaths within the site particularly to the southeast. In the documentation submitted there are footpaths on all internal boundaries of the property owned by Maurice Cronin located to the southeast of the site. While providing internal connectivity some of the paths appear superfluous and are not located on reasonable desire lines within the development. I note that the response to the appeals from the first party proposes where they quite rightly point out that footpaths have been included to provide good permeability but they consider that they footpath to west of the appellants property (Cronin) could be omitted without undue inconvenience to new residents as it is not well overlooked and area could be included in rear gardens of Houses 26 & 33. I consider that it is reasonable to

propose this omission if the Board are minded to grant permission. However as I outline elsewhere rather than making already large sites even larger the subject site requires a complete rethink based on a more sustainable density. In reference to the other pathways surrounding Mr. Cronin's property, they state that the pathway to the south of appellant will benefit from good surveillance and is an existing agricultural entrance and its omission would result in left over land more likely to attract anti-social behaviour with high quality footpath improving appearance and provides most convenient access to bus stop. While it is an existing entrance and I note is currently unkempt I do not agree that it benefits from good surveillance. Quite the opposite in fact and furthermore, more than half of the laneway is addressed by properties not in the applicants control. I would therefore consider that the provision of any pedestrian access along this route requires careful consideration. Access to the bus stop via the proposed main access point to the site would be marginally longer for most of the potential future occupants. The applicants suggest that if ABP consider it appropriate to maintain this connection that the applicant is happy to accept condition to omit pathway to north of appellants property. I agree that the pathway to the north would not be required if the pathway to the south was maintained however I consider that a complete revision of the layout in both locations is the most appropriate way forward.

- 8.4.8. I note that the matter of connections to adjoining lands is raised by an appellant in the context primarily of the applicant not having sufficient legal interest to provide same. As the first party's agent has quite rightly pointed out, incorporating potential connections within schemes to adjoining lands is best practice layout design and critical to the principles of the Urban Design Manual and DMURS. The appellants concerns regarding legal interest are unfounded as it is not proposed to provide same unless and until the adjoining land is proposed for development. However I do have concerns that these proposed future connections could result in the creation of ransom strips as the location of the proposed connections in many instances includes grass verges and kerbing and does not extend to the boundary such that these areas for future connections could be taken in charge by the Local Authority. I consider that this matter should be rectified if the Board are minded to grant permission.

8.5. Residential Amenities

- 8.5.1. While I have outlined above my recommendation that the scheme as proposed requires complete revision I will address the matter of residential amenities as it arises from the proposal currently before the Board. I have addressed the matter in terms of density above. In this regard I consider that the principle concerns relate to the properties to the south and east of the proposed development with a number of properties existing to the north and west but which are at a greater remove. I have addressed the concerns regarding the proposed pathways around Mr. Cronin's property in the section above, and while I consider that the entire proposal requires revision I consider in particular that the proposed pathways in the vicinity of the property have poor surveillance and require omission.
- 8.5.2. In respect of the impact on the amenity of Mr. Cronin's property I note the concerns expressed particularly the concerns related to the level differences between the proposed FFL of the proposed units and those of the existing property. I do not consider that there would be adverse overshadowing given the orientation of the proposed dwellings to the west of the appellants property. I do not consider that it is necessary to provide a more comprehensive daylight/sunlight assessment of the proposed impact. In terms of overlooking, I consider that this concern relates to perceived overlooking and subject to appropriate boundary treatments between the existing property and those proposed that this matter could be addressed. I do not consider that it is appropriate to reduce the units to single storey units particularly as the separation distances between the proposed units and the existing property are sufficient. I do not consider that the development as proposed in the current application would impact the residential amenities of any other adjoining property given the separation distances proposed. Having regard to my recommendation that permission be refused for the proposed development I consider that any revised scheme on the subject site should address the boundary treatment between the appellant's property, other adjoining properties and the proposed development providing detailed drawings and sections to address the concerns expressed by the appellant.

8.6. Access/Traffic

- 8.6.1. The principle issue in respect of access and traffic relates to the ability of the local road network to absorb the additional traffic associated with the proposed development. I have addressed the matters of car parking, pedestrian/cycle connections to the town centre and public transport elsewhere in this assessment and therefore I do not consider that it is necessary to repeat these matters in this section. The subject site is zoned for residential development. There is in my opinion an appropriately designed access from the site onto the R741. The main concern I would suggest is the existing congestion on the R741 into Wexford town centre which requires all traffic use the single bridge crossing into the town centre. I agree with the appellants that this route is congested at times other than at peak AM and PM hours with significant tailbacks along this route into the town centre outside of peak hours. However I do not consider that the anticipated increase of 5.5% on the existing peak hour traffic would create an adverse impact. While traffic and the attendant parking associated with funerals at the local cemetery creates considerable local congestion I do not consider that refusing permission on the grounds of traffic impact for the proposed development would lessen the impact of same on the network. It appears that a traffic plan for this area, consideration of parking for the cemetery and other mitigation measures which would include signal timings at the Bridge would benefit the traffic regime in the wider area.

8.7. Surface Water Disposal

- 8.7.1. The matter of process by which the surface water drainage system was undertaken is addressed in Section 8.1 above and therefore I do not consider that it is necessary to repeat same in this section. Suffice to say that there is existing upgraded infrastructure available to facilitate the transport of surface water from the site, which it is proposed to attenuate on site to the discharge point into the River Slaney. The matter of appropriate assessment is addressed in Section 8.10 below. The concerns outlined as to the matter of when the relevant section of the Local Authority received the surface water proposals is a matter of administrative process in the local authority and is not a matter of relevance to the Board who have the relevant details of the proposed surface water regime for the development before them. In relation to flooding, I note that the site is not within a flood zone and while the appellant's

document relevant incidents of flooding/surface water overflows and associated damage to local property I consider that an appropriate surface water management for the site which would control outflows from the site could potentially mitigate the existing concerns.

8.8. Other Matters

- 8.8.1. I would note that the Department of Culture, Heritage and the Gaeltacht submitted their comments to the PA during the application process. They recommend that pre-development archaeological testing is undertaken and set out a number of conditions in this regard. I would note that the Senior Planner did not include these conditions in their recommendation and proposed conditions and they are not included in the Notification of Grant of Permission. If the Board are minded to grant permission for the proposed development I would recommend that a condition is attached which requires such pre-development testing.

8.9. Appropriate Assessment

Introduction

- 8.9.1. A Natura Impact Statement accompanied the application documentation received by the Board. The NIS submitted provides a description of the development including the site stripping proposed and the surface water drainage strategy proposed for the site (section 2). The site is described in section 3 noting that it is dominated by arable land (BC1) with broad beans being the only crop planted within the site during the 2017 growing season. The hedgerows are described as being species poor with drainage ditches at the base of same. No surface water drains were noted, it is stated, connecting the site to other surface water drainage features to the east. It is stated that the site is not within a flood zone nor is there a history of flooding.
- 8.9.2. I would note at the outset that this Appropriate Assessment does not address the effects associated with the works undertaken to the surface water disposal network which is addressed in Section 8.1 of the assessment above.

Stage 1 Screening

8.9.3. The subject site itself is not located within any Designated European site, however the following Natura 2000 sites are located within 15km of it:

Site Name & Code	Approx. Distance from Site
Slaney River Valley SAC (site code 000781)	Nearest part of Natura site is c. 100m to the south of the site
Wexford Harbour & Slobs SPA (site code 004076)	Nearest part of Natura site is c. 100m to the south of the site
The Raven SPA (site code 004019)	Nearest part of Natura site is c. 4.6 km to the east of the site
Raven Point Nature Reserve SAC (site code 000710)	Nearest part of Natura site is c. 4.6 km to the east of the site
Long Bank SAC (site code 002161)	Nearest part of Natura site is c. 11 km to the east of the site
Blackwater Bank SAC (site code 002953)	Nearest part of Natura site is c. 13 km to the east of the site
Screenhills SAC (site code 000708)	Nearest part of Natura site is c. 5.2km to the northeast of the site
Carnsore Point SAC (site code 002269)	Nearest part of Natura site is c. 14 km to the south of the site

8.9.4. Figures 1.2 & 1.3 of the NIS illustrate the SPA's and SAC's within 15km of the site although I note that the Carnsore Point SAC is not included in Figure 1.2. However I would note at this point that only a marginal tip of the site boundary is included within the 15km radius of the subject site. Figure 1.4 highlights the hydrological pathway from the appeal site to the Slaney River Valley SAC and Wexford Harbour & Slobs SPA which occurs by way of a surface water sewer which runs along the public road to a discharge point into the Slaney River shown to be located close to the junction of the R741 and the road immediately to the north of the estuary and south of the site. The NIS provides a brief screening within Section 1 of the report which states due to the hydrological pathway the screening assessment undertaken resulted in

the conclusion that the Slaney River Valley SAC and Wexford Harbour & Slobbs SPA occur within the zone of influence of the project and in the absence of appropriate mitigation measures are at risk of likely significant effects from elements of the project. It is further stated that during the screening assessment that the other European sites listed were not within the zone of influence of the project with no potential pathways and their remote location from the site. The screening section of the NIS is very brief and provides little detail as to how the decision to proceed to Stage 2 was undertaken. I would also note there is reference on page 11 to the River Finn which I take to be a typo error.

8.9.5. **Slaney River Valley SAC (site code 000781)**

The site is located c.100m to the south of the subject site. The site synopsis states that the site supports populations of several species listed on Annex II of the E.U. Habitats Directive, and habitats listed on Annex I of this Directive, as well as important numbers of wintering wildfowl including some species listed on Annex I of the E.U. Birds Directive. The presence of wet and broadleaved woodlands increases the overall habitat diversity and the occurrence of a number of Red Data Book plant and animal species adds further importance to the site. Overall it is considered to be of considerable conservation significance.

The site is a Special Area of Conservation (SAC) and is listed for the following qualifying interests:

- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]
- Water courses of plain to montane levels with the *Ranuncion fluitantis* and *Callitricho-Batrachion* vegetation [3260]
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0] (priority habitat under the Directive)
- *Margaritifera margaritifera* (Freshwater Pearl Mussel) [1029]
- *Petromyzon marinus* (Sea Lamprey) [1095]

- Lampetra planeri (Brook Lamprey) [1096]
- Lampetra fluviatilis (River Lamprey) [1099]
- Alosa fallax fallax (Twaite Shad) [1103]
- Salmo salar (Salmon) [1106]
- Lutra lutra (Otter) [1355]
- Phoca vitulina (Harbour Seal) [1365]

As noted in the Conservation Objectives for the site, the SAC overlaps with a number of other Natura 2000 sites – Wexford Harbour and Slobs SPA, Raven Point Nature Reserve SAC and The Raven SPA. It is stated that the status of the freshwater pearl mussel as a qualifying Annex II species for this SAC is under review and once the outcome of same will determine whether a site specific conservation objective is set for the species. Conservation objectives for the other species seek to restore the favourable conservation condition or maintain the favourable conservation condition.

The subject site is linked to this SAC by way of the surface water network linking the site to the discharge point into the Slaney.

8.9.6. **Wexford Harbour & Slobs SPA (site code 004076)**

The site is located c.100m to the south of the subject site. The site synopsis for this site states that the site is divided between the natural estuarine habitats of Wexford Harbour, the reclaimed polders known as the North and South ‘Slobs’, and the tidal section of the River Slaney. The site is of international importance for several species of waterbirds but also because it regularly supports well in excess of 20,000 waterbirds (average peak of 49,030 for the 5 winters 1996/97-2000/01). Wexford Harbour and Slobs is one of the top three sites in the country for numbers and diversity of wintering birds. It is further stated that Wexford Harbour and Slobs SPA is one of the most important ornithological sites in the country supporting internationally important populations of Greenland White-fronted Goose, Light-bellied Brent Goose, Black-tailed Godwit and Bar-tailed Godwit. In addition, it has 26 species of wintering waterbirds with populations of national importance and nationally important numbers of breeding Little Tern.

The site is a Special Protection Area (SPA) and is listed for the following qualifying interests:

- Little Grebe (*Tachybaptus ruficollis*) [A004]
- Great Crested Grebe (*Podiceps cristatus*) [A005]
- Cormorant (*Phalacrocorax carbo*) [A017]
- Grey Heron (*Ardea cinerea*) [A028]
- Bewick's Swan (*Cygnus columbianus bewickii*) [A037]
- Whooper Swan (*Cygnus cygnus*) [A038]
- Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]
- Shelduck (*Tadorna tadorna*) [A048]
- Wigeon (*Anas penelope*) [A050]
- Teal (*Anas crecca*) [A052]
- Mallard (*Anas platyrhynchos*) [A053]
- Pintail (*Anas acuta*) [A054]
- Scaup (*Aythya marila*) [A062]
- Goldeneye (*Bucephala clangula*) [A067]
- Red-breasted Merganser (*Mergus serrator*) [A069]
- Hen Harrier (*Circus cyaneus*) [A082]
- Coot (*Fulica atra*) [A125]
- Oystercatcher (*Haematopus ostralegus*) [A130]
- Golden Plover (*Pluvialis apricaria*) [A140]
- Grey Plover (*Pluvialis squatarola*) [A141]
- Lapwing (*Vanellus vanellus*) [A142]
- Knot (*Calidris canutus*) [A143]
- Sanderling (*Calidris alba*) [A144]
- Dunlin (*Calidris alpina*) [A149]
- Black-tailed Godwit (*Limosa limosa*) [A156]
- Bar-tailed Godwit (*Limosa lapponica*) [A157]
- Curlew (*Numenius arquata*) [A160]

- Redshank (*Tringa totanus*) [A162]
- Black-headed Gull (*Chroicocephalus ridibundus*) [A179]
- Lesser Black-backed Gull (*Larus fuscus*) [A183]
- Little Tern (*Sterna albifrons*) [A195]
- Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395]
- Wetland and Waterbirds [A999]

As noted in the Conservation Objectives for the site, the SPA overlaps with a number of other Natura 2000 sites – Slaney River Valley SAC, Raven Point Nature Reserve SAC and The Raven SPA. The conservation objectives for the species seek to maintain the favourable conservation condition of same.

The subject site is linked to this SPA by way of the surface water network linking the site to the discharge point into the Slaney.

8.9.7. **The Raven SPA (site code 004019)**

The site is located c.4.6km to the south of the subject site. The site synopsis for this site states that the Raven SPA is of international ornithological importance as it provides important roosting habitat for the Wexford Harbour Greenland White-fronted Goose flock. The site also supports a range of other species, including five which have populations of national importance. It is stated that five of the wintering species that regularly occur are listed on Annex I of the E.U. Birds Directive, i.e. Red-throated Diver, Great Northern Diver, Greenland White-fronted Goose, Golden Plover and Bar-tailed Godwit. Little Tern, a species breeding within the site, is also listed on Annex I of the directive. Raven Point is a statutory Nature Reserve and a Ramsar Convention site.

The site is a Special Protection Area (SPA) and is listed for the following qualifying interests:

- Red-throated Diver (*Gavia stellata*) [A001]
- Cormorant (*Phalacrocorax carbo*) [A017]
- Common Scoter (*Melanitta nigra*) [A065]
- Grey Plover (*Pluvialis squatarola*) [A141]
- Sanderling (*Calidris alba*) [A144]

- Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395]
- Wetland and Waterbirds [A999]

As noted in the Conservation Objectives for the site, the SPA is adjacent to the Wexford Harbour and Slobs SPA and partially overlaps with a number of other Natura 2000 sites – Slaney River Valley SAC and Raven Point Nature Reserve SAC. The conservation objectives for the species seek to maintain the favourable conservation condition of the qualifying interests.

There is no hydrological or ecological link to the subject site.

8.9.8. **Raven Point Nature Reserve SAC (site code 000710)**

The site is located c.4.6km to the south of the subject site. The site synopsis for this site states that the site the Raven Point Nature Reserve is an excellent example of a dynamic dune system that contains a suite of coastal habitats listed on Annex I of the E.U. Habitats Directive. It also states that it provides a roosting site for an internationally important flock of Greenland White-fronted Goose, a species listed on Annex I of the E.U. Birds Directive and it supports many uncommon species of plant and animal and overall is a site of considerable conservation significance. The site is also designated as a National Nature Reserve.

The site is a Special Area of Conservation (SAC) and is listed for the following qualifying interests:

- Mudflats and sandflats not covered by seawater at low tide [1140]
- Annual vegetation of drift lines [1210]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330]
- Embryonic shifting dunes [2110]
- Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) [2120]
- Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] (priority habitat under the Directive)
- Dunes with *Salix repens* ssp. *argentea* (*Salicion arenariae*) [2170]
- Humid dune slacks [2190]

As noted in the Conservation Objectives for the site, the SAC is adjacent to/overlaps with the Wexford Harbour and Slobs SPA, Slaney River Valley SAC and The Raven

SPA. The conservation objectives for the species seek to maintain and in some cases restore the favourable conservation condition of the qualifying interests.

There is no hydrological or ecological link to the subject site.

8.9.9. **Long Bank SAC (site code 002161)**

The site is located c.11km to the east of the subject site. The site synopsis for this site states that the site is of conservation importance for its submerged sandbanks, a habitat that is listed on Annex I of the E.U. Habitats Directive.

The site is a Special Area of Conservation (SAC) and is listed for the following qualifying interest:

- Sandbanks which are slightly covered by sea water all the time [1110]

As noted in the Conservation Objectives for the site, the SAC adjoins Carnsore Point SAC and Blackwater Bank SAC. The conservation objectives for the qualifying interest seek to maintain the favourable conservation condition of Sandbanks which are slightly covered by sea water all the time in this SAC which has a habitat area estimated at 1319 hectares.

There is no hydrological or ecological link to the subject site.

8.9.10. **Blackwater Bank SAC (site code 002953)**

The site is located c.13km to the east of the subject site. The site synopsis for this site states that the site is of conservation importance for its submerged sandbanks, a habitat that is listed on Annex I of the E.U. Habitats Directive.

The site is a Special Area of Conservation (SAC) and is listed for the following qualifying interest:

- Sandbanks which are slightly covered by sea water all the time [1110]

As noted in the Conservation Objectives for the site, the SAC adjoins Carnsore Point SAC and Long Bank SAC. The conservation objectives for the qualifying interest seek to maintain the favourable conservation condition of Sandbanks which are slightly covered by sea water all the time in this SAC which has a habitat area estimated at 3488 hectares.

There is no hydrological or ecological link to the subject site.

8.9.11. **Screenhills SAC (site code 000708)**

The site is located c.100m to the south of the subject site. The site synopsis for this site states that the site contains important examples of two habitats listed on Annex I of the E.U. Habitats Directive, with the heath area being particularly unusual. It is stated that the area is very important as a good example of a “kettle and kame” glacial landscape. The presence of several Red Data Book plant species also adds further importance to this site.

The site is a Special Area of Conservation (SAC) and is listed for the following qualifying interests:

- Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*) [3110]
- European dry heaths [4030]

The generic conservation objectives for this site seek to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

There is no hydrological or ecological link to the subject site.

8.9.12. **Carnsore Point SAC (site code 002269)**

The site is located c.100m to the south of the subject site. The site synopsis for this site states that the site is of considerable conservation significance for the presence of intertidal mud and sandflats, as well as reefs, all habitats that are listed on Annex I of the E.U. Habitats Directive.

The site is a Special Area of Conservation (SAC) and is listed for the following qualifying interests:

- Mudflats and sandflats not covered by seawater at low tide [1140]
- Reefs [1170]

The conservation objectives for the qualifying interest seek to maintain the favourable conservation condition of the qualifying interests.

There is no hydrological or ecological link to the subject site.

8.9.13. **Potential Effects**

While not expressly outlined in any detail in the screening undertaken in the NIS, the potential effects arise principally from the potential for contaminated surface water

discharge associated with the site and the potential for same to be carried to the sites in question. There is also potential for noise and light pollution from the site during construction and operation.

8.9.14. **Conclusion on Screening**

I have outlined in the table above the sites within c.15km of the subject site to provide the Board with information on the sites within the area. However I would note that I concur with the applicant's agent that only two of the sites have a potential hydrogeological connection to the subject site those being: - Slaney River Valley SAC and Wexford Harbour & Slobbs SPA. The remainder of the sites are at such a distance and/or have no pathway such that any potential impact could not be considered to have a potential adverse effect.

Therefore, it is reasonable to conclude that on the basis of the information on the file which I consider adequate that the proposed development either individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites:- The Raven SPA (site code 004019), Raven Point Nature Reserve SAC (site code 000710), Long Bank SAC (site code 002161), Blackwater Bank SAC (site code 002953), Screenhills SAC (site code 000708) and Carnsore Point SAC (site code 002269).

The screening conclusion provided in the NIS states that since there is potential for some adverse effect on the Slaney River Valley SAC and Wexford Harbour & Slobbs SPA that further consideration is required to assess the likelihood and significance of effects on the sites concerned. Therefore it would appear that, while not expressly stated in the NIS, without relevant mitigation measures that significant effects on the aforementioned Natura 2000 site cannot be discounted and it was determined that it was necessary to proceed to Stage 2 and prepare an NIS. I would note that the screening assessment does not address potential effects other than saying a hydrological pathway exists to the two sites in question. Neither does it outline potential mitigation measures. However, I agree that a Stage 2 AA is required. I also concur that the Stage 2 AA can be confined to the Slaney River Valley SAC and Wexford Harbour & Slobbs SPA sites and that the other sites mentioned above do not need to be addressed in the Stage 2 assessment.

Stage 2 Appropriate Assessment

8.9.15. Introduction

As outlined in the screening undertaken above, this AA relates to the following site:

- Slaney River Valley SAC
- Wexford Harbour & Slobs SPA

The features of interest and conservation objectives are outlined above. I would note that the NIS at Figure 4.1 illustrates a known black-headed gull roost location which is approximately 140m south of the project site and it is noted that the intertidal mudflats adjacent to the project site may function as a foraging resource.

8.9.16. Potential Effects and Proposed Mitigation

At Section 7 of the NIS, the authors address the likely significant effects on each of the relevant features of interest within the zone of influence of the project with Table 7.1 setting out the likely effect in the absence of mitigation. I propose to address the matter by way of addressing the potential effects and will reference where appropriate particular qualifying interests.

Hydrological Pathway

Arguably the principle potential indirect effect results from the hydrological pathway which would result at operational stage from the site to the River Slaney via the surface water drainage network. It is stated in the NIS that currently surface water from the site drains to ground and I note that one of the first elements of the construction phase of the project is the proposed installation of this network. I note that the NIS outlines the qualifying habitats and species occurring downstream of the pathway in the inner harbour with the potential for contaminated surface water to discharge to the Inner Harbour. There is therefore the potential for emissions to undermine the water quality in the Inner Harbour. The relevant qualifying interests are estuaries, mudflats, qualifying fish species such as sea lamprey, otters and harbour seal, black tailed godwit, great-crested grebe, goldeneye, redshank, curlew, black headed gull, heron and light-bellied Brent geese.

In order to address the potential concerns in respect of water quality in particular, a some mitigation measures are proposed in Section 9 of the NIS for the construction phase of the project. These measures seek to address pollution prevention of chemical substances, suspended solids with a Pollution Prevention Plan proposed.

Measures are also proposed to avoid the spread of non-native invasive species. The operation phase is addressed by way of implementing the surface water management system for the site appropriately with wastewater directed via an on-site pumping station to the Irish Water treatment plant.

I consider that the consideration of the potential effects of the chemical substances and suspended solids are wholly inadequate in the NIS. I note that the response to the third party appeals includes an appendix from the author of the NIS and includes details of the amount of soil stripping required. However the NIS does not provide any detail on the construction works required which could lead to the contamination of the surface water network. Furthermore, reference is made to a pollution prevention plan and construction management plans but there is no provision of same. There is no details as to the proposed interceptors and in general the information provided is sparse. I do not consider that sufficient information has been provided to satisfy the Board regarding the prevention of adverse effects on the relevant Natura 2000 sites.

Noise

Noise during the construction period has been identified in the NIS (s.5.2) as a potential effect of the proposal on the bird species and other qualifying species. The NIS outlines evidence which suggests that birds rapidly and successfully habituate to new noise sources but are most affected by high incidental noise. Reference is made to Cutts, Hemingway and Spencer 2009 where by it was considered that in order to avoid impacts to birds ambient construction noise levels should be restricted to below 70dB(A) with waterbird habituating to regular noise below this level. The NIS reproduces the Waterbird Disturbance Mitigation Toolkit (Table 5.1) which facilitates the calculation of the likely disturbance effect for a noise level and distance of receptor from the source. The NIS outlines that all likely noise dose levels resulting from the construction phase will be within acceptable dose levels particularly given the separation distances between the subject site and the SPA. I consider that it has been satisfactorily demonstrated that noise associated with the construction of the proposed development would not have an adverse effect.

Lighting

While I note that the NIS (s. 5.3) considers public lighting from the proposed development to be a potential effect I consider that given the location of the site within the built up area of Wexford with existing lighting arising from existing residential development in the area and public lighting along public roads that the lighting associated with the proposed development would not cause an adverse effect on qualifying species. However I do note that it is stated that measures are outlined in the NIS to further minimise any potential for light pollution associated with the project. However, this section of the NIS does not reference what those measures are or indeed where within the NIS they are addressed and I have not been able to categorically determine what they comprise.

8.9.17. In-combination effects

Described at section 5.4 of the NIS as cumulative effects, reference is made to the number of existing and proposed planning applications in the area ranging from small-scale extensions to housing estates. It is stated that in the event that a number of projects overlap with the construction phase of the proposed project the potential exists for additional emissions in the form of silts and construction related materials to the River Slaney. The NIS does not address what if any additional mitigation measures may be necessary to address the concerns expressed if an overlap of construction projects occurred and I would suggest to the Board that if they are minded to grant permission that this may need to be addressed.

8.9.18. Stage 2 Conclusion

On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European site(s) No. 000781 Slaney River Valley SAC and 004076 Wexford Harbour & Slobbs SPA, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.'

8.10. EIA Screening

8.10.1. Based on the information on the file, which I consider adequate to issue a screening determination, it is reasonable to conclude that there is no real likelihood of

significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.

9.0 Recommendation

- 9.1. I have read the submissions on the file, visited the site, had due regard to the planning policy, and all other matters arising. I recommend that planning permission be refused for the reasons set out below.

10.0 Reasons and Considerations

1. Having regard to the provisions of the “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas” issued by the Department of the Environment, Heritage and Local Government (2009) in relation to housing density in outer suburban/greenfield sites in cities and larger towns, it is considered that the proposed development would result in an inadequate housing density that would give rise to an inefficient use of zoned residential land and of the infrastructure supporting it, would contravene Government policy to promote sustainable patterns of settlement and the policy provisions in the National Planning Framework, 2040, and would, therefore, be contrary to the provisions of the said Guidelines and national policy provisions. Furthermore, the proposed development would be contrary to the policy objectives in the Wexford Town and Environs Development Plan, 2009 – 2015 as they relate to density for residential medium zoned lands, and therefore, the proposed development would be contrary to National and Local policy objectives and the proper planning and sustainable development of the area.

2. The “Urban Design Manual – a Best Practice Guide” issued by the Department of the Environment, Heritage and Local Government (2009), to accompany the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas includes key criteria such as context, connections, inclusivity, variety and distinctiveness. It is considered that the development as proposed results in a poor design layout that is unimaginative and substandard in its scale and layout, fails to provide high quality usable open spaces and fails to

facilitate adequate and appropriate natural surveillance of green spaces and pathways. Furthermore, the proposed layout fails to create an appropriate urban edge to the public road, results in significant incidental open space and results in an overprovision of car parking. The proposed development, would therefore be contrary to the proper planning and sustainable development of the area.

3. The Board is not satisfied that on the basis of the information provided with the application and appeal, including the Natura Impact Statement that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European site(s) No. 000781 Slaney River Valley SAC and 004076 Wexford Harbour & Slobbs SPA, in view of the site's Conservation Objectives. The proposed development, would therefore be contrary to the proper planning and sustainable development of the area.

Una Crosse

Senior Planning Inspector

September 2019