



An
Bord
Pleanála

Inspector's Report

ABP-306644-20

Development	Construction of 99 no. two storey dwellings
Location	Boyne Road, Ferganstown and Ballymacon, Navan, Co Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	NA190802
Applicant(s)	Churchbay Developments Limited
Type of Application	Permission
Planning Authority Decision	Grant permission (29 no. conditions)
Type of Appeal	Third Party (2 no.)
Appellant(s)	Navan and District Angling Association William Prentice
Date of Site Inspection	26/05/2020
Inspector	Conor McGrath

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1.0 Site Location and Description

- 1.1. The appeal site comprises an area of approx. 4.88ha located on the northern side of Boyne Road, on the eastern edge of Navan. The site is irregular in shape, comprising two fields and part of a third field to the north. The lands are undulating but generally fall from southeast to northwest. Within the larger eastern field, levels vary from approx. 49m OD to 41m OD. The northern boundary of this field is open, marked by intermittent trees. Beyond this boundary, levels in the northern part of the site fall more steeply toward the river Boyne and the Boyne Canal to the north. The boundary between the eastern and western fields comprises mature trees and hedgerow. To the northwest of the site is an area of mature woodland. The smaller western field is traversed by a drain / watercourse flowing northwest to the boundary with the eastern field.
- 1.2. The site has frontage of approx. 300m to the Boyne Road (L1600) which connects to the N2 at McGruders Cross approx. 8km to the east. The roadside boundary comprises mature hedgerow set behind a grass verge. There is a stile in the southwestern corner of the larger field. This is a busy route and the speed limit of 80 km per hour applies at this location. There are currently no footpaths or public lighting along this stretch of road.
- 1.3. There is a pattern of single housing along the Boyne Road extending out from the town, which includes houses to the east and west of the appeal site and on the southern side of the road. Navan Wastewater Treatment Plant is located on lands approx. 200m northeast of the appeal site. A gateway in the southeastern corner of the lands is signposted from the public road as the Boyne Way. This provides access to the river and the canal walkway along the Ramparts to the north, at Rowley's Lock. This route is not well defined within the site but generally follows the eastern boundary.

2.0 Proposed Development

- 2.1. The proposed development originally comprised 99 no. dwelling units on the site. This was reduced at further information stage to 85 no. units, and a childcare facility,

to be provided within one semi-detached unit. Dwellings are provided as a mix of terraced, detached and semi-detached two-storey houses. The mix of units is as follows:

1-bed	4 (4.7%)*	Terraced	22
2-bed	10 (11.7%)	semi-detached	55, plus semi-detached creche
3-bed	58 (68.2%)	Detached	8
4-bed	13 (15.3%)	Total	85, plus creche

* provided as ground and first floor end of terrace apartments

2.2. The site is to connect to mains sewerage services. Given levels on the site this requires a pumping station on the northern part of the site to facilitate a connection to existing public sewer on Boyne Road. Surface water is to be subject to attenuation and discharge to the existing stream running north to the River Boyne.

3.0 Planning Authority Decision

3.1. Decision

In considering the application, the planning authority sought further information in relation to a range of matters including:

- Redesign to retain and incorporate the right of way to the river.
- Usability of proposed public open space.
- Provision of on-site childcare facilities.
- Revised surface water drainage proposals.
- Revised internal roads layout and achievement of adequate sightlines at the entrance from Boyne Road.
- Phasing proposals.
- Undertaking of an Archaeological Impact Assessment.

Additional unsolicited additional information was also received from the applicants in relation to landscaping of the development. The planning authority subsequently

decided to grant permission for the proposed development subject to 29 no. mainly standard conditions, including the following:

3. The total number of dwelling units permitted shall be 85 units and one creche building as per the site layout submitted on 06/12/2020.
4.
 - (a) The access gate to the east of the site, which provides access to the Canal and River Boyne, shall be restricted to pedestrian use only.
 - (b) Prior to the commencement of development, the applicant shall submit detailed landscaping proposals for the public open spaces, in particular the access route to the River Boyne and Canal along the eastern site boundary. The landscape plan shall confirm the location of access gates / stiles for providing access to the River Boyne and Canal and submit design details for same.
 - (c) Prior to the commencement of development, a revised landscape plan, site layout plan and Landscape Rationale Document detailing the omission of the Children's Playground shall be submitted for agreement.
 - (d) No trees outside of the applicant's ownership in the northwest quadrant of the site shall be removed.
7.
 - (a) Landscaping shall take into account public lighting design.
 - (b) Alterations to public lighting design.
9. Part V provision
29. S.48(2)(c) development contribution of €100,000 toward the provision of footpaths and cyclepaths required to facilitate the development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

12/08/19 The development is acceptable in principle under the zoning objectives. The proposed development will not be likely to have a significant effect on European Sites. The density accords with the Navan Development Plan and regional and national guidance for similar sites. The report of the Conservation Office is noted, however, the design is in keeping with other developments on Kentstown Road and Boyne Road. The rural design guide is not applicable to urban

zoned lands. The area is characterised by ribbon development and the site forms an infill site. The design approach will ensure that a significant number of dwellings will not be visible from Boyne Road and will appear as a lower density development.

There may be a historical right of way through the site, although not registered. The development plan identifies the route and it was provided for in the previous permission on the lands. The right of way should be retained in its current location and redesign is required. Pumping station is not a permissible use in H1 Amenity lands. It is located to achieve separation from houses and will not negatively impact on H1 zoned lands. It is required to support the development and is acceptable. There is a requirement for childcare facilities. Further information requested.

20/01/20 The walkway / right of way is retained along the eastern boundary, overlooked by housing. This is not a designated right of way. Details of gates, landscaping can be subject to agreement. Roads reports state that access should be for pedestrian use only, in line with the development plan objectives. A grass surface would be more visually appealing than hardcore surface. There is sufficient public open space provided, excluding the H1 zoned lands. The lands are not so steep as to cause health and safety concerns. A creche will be provided in one semi-detached dwelling and the design is acceptable. A special levy will provide for a footpath / cyclepath to link to the existing footpath at the cemetery. The proposed phasing plan is acceptable. Permission recommended.

3.2.2. Other Technical Reports

- Housing: Agreement in principle issued to developers following submission of Part V proposals.
- Public lighting: Revised lighting and landscaping plans submitted were largely satisfactory. Public lighting shall be installed in accordance with Meath Co. Co. technical specifications and requirements.
- Transportation: Revisions to road and footpath layouts identified. There is no footpath or cycle connections to the town. A special levy of €100,000 should be charged for provision of required footpaths and cyclepaths to serve the

development. The access gate at the east of the site serving the right of way should be restricted to pedestrian only.

- Architectural Conservation Officer: The scheme does not reflect a considered or designed connection to the River Boyne, Ramparts Walk or proposed Boyne Greenway. It fails to recognise a historic access route (pedestrian and vehicular) and right of way. Following further information, the design is still considerably urban. The area should have a rural character and design approach. Where permission is granted, a revised landscaping scheme for the access to Rowley's lock and the Ramparts should be agreed. Archaeological monitoring of development to be subject to condition.
- Water Services: Following further information, the development broadly meets requirements in respect of the collection, treatment and disposal of surface water. Conditions recommended.

3.3. Prescribed Bodies

- Irish Water: Details of proposed pumping station to be agreed prior to commencement of development. If a gravity connection to the WWTP becomes available, the pumping station shall be decommissioned. A CCTV survey of the existing network on Boyne road to be undertaken and exact location of IW rising main on northern site boundary shall be identified.
- Dept. of Culture, Heritage and the Gaeltacht: An archaeological impact assessment should be prepared as further information.
- An Taisce: The right of way will be affected which provides access to Rowley's Lock and lockhouse, in the ownership of An Taisce. This facilitates vehicular access to the canal and river, which should be maintained. The density is inappropriate for the rural outskirts of Navan, remote from services and amenities. Social and affordable housing on the site is also inappropriate. There is regular congestion along this road which is not assessed in the application. This is not an urban road and lacks appropriate facilities. Open space serving the development extends into the High Amenity area, which is steeply sloping and unsuitable for such use.

The further information fails to address the underlying issue that the development is inappropriate for this location.

- OPW: In order to carry out maintenance work on the river Boyne and Canal, OPW require vehicular access routes. The vehicular access should be retained in its current location and kept separate from the housing development. Ensuring adequate flow in drainage channels will assist in prevention of flooding.

3.4. Third Party Observations

The planning authority received a large number of submissions on the application which generally raised issues relation to:

- Scale, design and layout of housing.
- Landscape and visual impacts,
- Impacts on the historic and cultural setting.
- Peripheral location and lack of amenities.
- Inadequate road, footpath and cycle facilities.
- Impact on right of way / access to the river.
- Traffic generation and congestion.
- Overlooking.
- Impact on nature and the adjoining SAC.
- Suitability of the proposed public open space.
- Drainage and flooding of adjoining roads.

4.0 Planning History

4.1. Appeal Site

- PA ref. NA 802672: Permission granted in 2009 for 37 no. houses on the site.
- PA ref. NA140132: Permission granted in 2014 for an extension of duration of permission of ref. NA802672, until December 2018.

- PA ref. NA50147 ABP ref. PL17.212887: Outline permission refused on appeal in December 2005 for 65 no. dwelling units on the site for the following reasons:
 1. The site is located within an area zoned A5 which is “To provide for low-density residential development of an individual dwelling design, having cognisance of the setting and visual qualities of the subject lands” The developer has not demonstrated that the development can be visually accommodated within this sensitive landscape area.the proposed development, by reason of its elevated location on the southern banks of the River Boyne, would undermine the landscape character of the candidate Special Area of Conservation, would be visually obtrusive at this location, would seriously injure the visual amenities of the area.
 2. The proposed development would result in the realignment of part of the Boyne Way, an existing public right of way, via the proposed public footpath, which follows the route of the internal road network. It is considered that a suitable alternative route of equal or improved convenience and character compared with the existing route would not be provided. The proposed development would seriously injure the character of a public amenity.
 3. The proposal to provide a vehicular entrance at a point where the 80 km/h speed limit applies would generate additional traffic turning movements from the appeal site onto this heavily trafficked route. The developer has not satisfactorily demonstrated that sightline distances of 160 metres in both directions can be provided The development would, therefore, endanger public safety by reason of traffic hazard and obstruction of road users.

- PA ref. NA40417 ABP ref. PL17.212849: Planning permission refused in December 2005 in respect of 51 no. dwelling units on the site for four reasons. Reasons no. 1 and 2 were the same as PL17.212887 above. Reason no. 3 referred to inadequacies in the surface water drainage system resulting in ponding on the public road. Reason no. 4 related to potential interference with adjoining recorded monuments.

4.2. Other sites:

- NA181528 ABP-304744-19: Permission refused on appeal in October 2019 for 63 no. residential units on a site of circa 2.67 hectares at Boyne Road, approx. 750m west of the subject appeal site, for one reason as follows:

The proposed development by reason of its design, form and layout would result in a low density development that lacks variety in terms of a mix of units, within residentially zoned land in the development boundaries of Navan and would be contrary to the S.28 Ministerial Guidelines on Sustainable Residential Development in Urbanand the accompanying Urban Design Manual. The development results in a poor design concept that results in a lack of integration and connectivity to the open space and a lack of permeability for pedestrians and cyclists. The proposed development would be contrary to the provisions of “Project Ireland 2040 - National Planning Framework” issued by the Department of Housing, Planning and Local Government (2018) and the “Design Manual for Urban Roads and Streets” (2019). The proposed development would represent an inefficient and unsustainable use of serviced zoned land and would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. National and Regional Policy

5.1.1. Project Ireland 2040 - National Planning Framework

The framework is concerned with securing compact and sustainable growth.

Objective 11 favours development within existing cities, towns and villages, subject to appropriate planning standards and achieving targeted growth

Objective 33 prioritises the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

Objective 35 is to increase residential density in settlements, through a range of measures.

5.1.2. **Eastern and Midland Regional Spatial and Economic Strategy (RSES)**

Located within the Core Region, Navan is designated as a Key Town, described as large economically active service and/or county towns that provide employment for their surrounding areas and with high-quality transport links and the capacity to act as growth drivers to complement the Regional Growth Centres. Their role is to provide for the sustainable, compact, sequential growth and urban regeneration in the town core by consolidating the built footprint through a focus on regeneration and development of identified Key Town centre infill / brownfield sites.

RPO 4.26: Core strategies in local authority development plans shall support objectives to achieve a minimum of 30% of housing in Key Towns by way of compact growth through the identification of key sites for regeneration.

Taking account of existing plans, section 4.3 notes that sites with long-term development potential at priority locations should not be 'reserved' in such a way as would create an unreasonable dependency on such sites being brought forward or that would impede the bringing forward of other suitable lands with better prospects for delivery in the short term, if the strategic sites are not being brought forward by their owners.

Navan Key Town RPO 4.42: Support the delivery of road infrastructure to release strategic residential and employment lands for sustainable development and to improve connectivity and the efficient movement of people and services in the town.

5.1.3. **Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities (2009)**

Section 4.1 recommends the provision of one childcare facility for every 75 dwelling units in the case of larger housing schemes.

Section 4.21 encourages a more flexible approach to quantitative open space standards with greater emphasis on the qualitative standards.

In respect of Outer Suburban / 'Greenfield' sites, section 5.11 notes 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. 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.

5.1.4. Design Manual for Urban Roads and Streets

The Design Manual provides guidance in relation to street design and design of residential areas. Four key design principles are interconnected street networks, multi-functional streets, a pedestrian focus and a multi-disciplinary approach. In this regard it is required that residential areas be accessible from multiple points, that pedestrian barriers be avoided in layouts and that there will be no frontage free distributor roads, with long uninterrupted straights and high boundary walls. The provision of good pedestrian and vehicular permeability is a requirement. These design principles reflect the provisions of the Guidelines on Sustainable Residential Development in Urban Areas.

5.2. Development Plan

5.2.1. Meath County Development Plan 2013 - 2019

Section 2.3.3 notes that the former Town Development Plan for Navan is to be read as part of the County Development Plan pursuant to Section 11(c) of the Planning and Development Act 2000 as amended.

Navan is designated as a Large Growth Town I, within the Hinterland Area at the top level in the settlement hierarchy. Section 2.3.2 notes that it is vital that the future growth of Navan attains critical mass and it has therefore been identified as the primary growth centre in Meath.

The plan notes that there was an excess of zoned lands in Navan (approx. 169ha) and an identified requirement for 3,984 no. housing units.

Planning for Navan and Drogheda Environs should take cognisance of accommodating an ultimate population of 50,000 persons in those towns.

Objectives of the plan (SS OBJ1, SS OBJ4, SS OBJ7, SS OBJ8) seek to direct development primarily towards the identified Large Growth Towns in a way that is

balanced, self-sufficient and supports a compact urban form and the integration of land use and transport.

Appendix 7 of the plan contains the landscape character assessment, which identifies the Boyne Valley as being of exceptional landscape value, high sensitivity and international importance. The assessment notes that development on the skyline should be avoided unless it is demonstrated to have no adverse visual impacts that cannot be mitigated against. In terms of capacity, the assessment notes, this LCA has low potential capacity to accommodate multi-house residential developments.

5.2.2. Navan Development Plan 2009 - 2015

The appeal site is zoned A2 New Residential: To provide for new residential communities with ancillary community facilities, neighbourhood facilities and employment uses as considered appropriate for the status of Navan as a Large Growth Town I.

The northern part of the site and lands further to the north / northwest are zoned H1 High Amenity: To protect and improve areas of high amenity. Lands to the east and south of the site lie outside the Navan town development boundary.

Map no. 2 identifies a Pedestrian access / amenity walkway running along the eastern site boundary from the Boyne Road.

Variation to the plan adopted in 2009 noted that the plan contained a surplus of 165.9 hectares of residentially zoned lands.

The Core Strategy for the County Development Plan 2013 – 2019 assumes a net density of 45 units per hectare. The Navan plan notes that having reviewed the location of available land banks and their relative remove from either the proposed R147 public transport corridor or the town centre, it is not considered realistic to propose such high densities across the entire development plan envelop. Instead, maximum densities have been differentiated across the available land parcels. The suggested density of 45 units per hectare is retained where this is considered appropriate. A density of 30 - 35 units per hectare for remaining residentially zoned

lands is more realistic having regard to their location at a relative remove from the town centre and the prevailing densities within the wider area.

There is extensive over zoning to provide for anticipated residential growth. Demand management techniques need to be applied which introduce a prioritization for residential development which ensure that no development occurs beyond the outer edges of existing built up areas while intervening lands lie undeveloped.

CS OBJ 2 To ensure that planning applications for residential development adhere to the Order of Priority Phasing Programme for Navan as set out in Table 2A4

Phase 1 lands include those sites with the benefit of an extant planning permission for multi-unit residential development from the date of publication of Variation No. 1 of the Navan Development Plan.

CS OBJ3: To operate an Order of Priority for the release of residential lands as follows:

- i) The lands identified with an A2 “New Residential” land use zoning objective corresponds with the requirements of Table 2A4 of this Development Plan and are available for residential development within the life of this Development Plan.
- ii) The lands identified with an A2 “New Residential” land use zoning objective but qualified as “Residential Phase II (Post 2019)” are not available for residential development prior to 2019.

Settlement Strategy policies POL 1 and POL 2 promote the development of Navan as a Large Growth Town I / a self-sustaining centre

Settlement Strategy OBJ 4: To promote a more compact urban form.

Section 5.3.4 Landscape, notes that the Landscape Character Assessment identifies the Boyne Valley is identified as being of exceptional value. Development should take cognisance of the special qualities of these landscapes and resulting impacts on the landscape. Development shall be of an appropriate design, scale and density that will enhance the landscape and ensure that no adverse impacts on the landscape. The impact of development on scenic landscapes adjoining the

development plan area shall also be taken into account in the design of development.

HER POL 29 To maintain and enhance the diverse and high-quality landscape in Navan and its environs.

INF OBJ 2 (a) To preserve and secure from further development a route for the future provision of Local Distributor Roads for the ... routes (including):

- LDR 6 Construction of the Local Distributor Road Link between the Boyne Road to the Kentstown Road R153 including the construction of a bridge under the existing Navan – Drogheda Rail Line and traversing the Old Road, Athlumney. A Part VIII planning consent is in place for LDR 6.

INF OBJ 5 To carry out street lighting improvements as required, but including:

- SLI 6 Along the Boyne Road

5.3. **Natural Heritage Designations**

The site of River Boyne and River Blackwater SAC includes the northern part of the appeal site, while the River Boyne and River Blackwater SPA extends to within approx. 270m of the appeal site.

5.4. **EIA Screening**

The site comprises an area of approx. 4.88ha and is located on the edge of the settlement of Navan, not within any business district. Schedule 7A information was submitted with the application and a screening determination has been issued in this case as follows:

Having regard to:

- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b) (i) and (iv) Infrastructure Projects, 1 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended),

- The location of the site on lands zoned for residential development in the Navan Town Development Plan 2009, and the results of the Strategic Environmental Assessment of the plan and the variations made thereto;
- The surrounding pattern of development and the availability of mains water and wastewater services to serve the development,
- The proximity of the site to the River Boyne and Blackwater SAC and SPA, the findings of the Natura Impact Assessment submitted with the application and the mitigation measures proposed as part of the development,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment,

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Appeals received from William Prentice and Navan and District Angling Association are summarised together below for convenience:

- The applicants do not have sufficient interest in the lands to implement the permission as there is a private right of way along the eastern site boundary.
- Removal of this access would result in landlocking of adjoining lands.
- Condition no. 4 of the planning authority decision excludes vehicular use of this route for agricultural, fisheries or other uses.

- The planning authority lacks jurisdiction to determine that a private vehicular right of way is extinguished or abandoned.
- This is not a public right of way.
- Access should be maintained for agricultural and commercial vehicles and machinery, and provided with a suitable surface, gates, and boundary treatment
- This condition leaves matters affecting third parties to agreement.
- The Boyne Road gate should be set-back and adequate sightlines provided.
- The development provides a new pedestrian access / diverted right of way to adjoining lands. The consent of affected landowners has not been obtained.
- The extent of lands within the ownership of Meath Co. Co. is unclear. It is not apparent that the transfer of these lands has been suitably authorised.
- It is not clear that adequate Appropriate Assessment was undertaken in respect of the adjoining SAC.
- Houses 1 – 8 are located unduly close to adjoining trees in the SAC, whose removal will be necessitated in order to avoid risk to the houses.
- The scale of development is excessive given the location and context.
- There are extensive alternative zoned lands available for development in the town based on the sequential approach and proximity to services.
- The development is premature pending provision of a footpath connection to the town, local primary school, leisure amenities and public transport.
- The development will generate additional car trips and represents inefficient use of roads infrastructure requiring further public investment to connect to the town.
- A full Road Safety Audit should be undertaken.
- The design and layout is inappropriate for this rural / urban edge location and fails to maximise solar gain as recommended in the guidelines for Quality Housing for Sustainable Communities.
- Development plan policies relating to housing mix and social and affordable housing are not complied with.
- A visual and landscape impact assessment should have been provided. The development is not sensitive to the industrial heritage of its setting.

6.2. Applicant Response

The first party make the following points in response to the two appeals received:

- There is no provision or intention to restrict angler's access to the river.
- The scheme was redesigned to maintain the pedestrian entrance and walkway along this route. Navan Angler's Association have no identifiable right of way over these lands.
- Planning authority reports acknowledge that this is not a public right of way.
- The lands are zoned and suitable for residential development and notwithstanding adjoining amenity lands, the densities are appropriate.
- Development of such sites should not be contingent on other lands being brought forward for development, in accordance with active land management principles.
- This medium-density development is designed having regard to its context and to meet the demands of the market in Navan, and is to be phased.
- A landscape and visual impact assessment submitted with the application concluded that there would be an overall long-term positive contribution.
- A Stage I and Stage II AA report was submitted to the planning authority.
- Local authority lands on the adjoining road are included in the application site to facilitate road improvements and will be returned to public ownership.
- The undertaking of a Road Safety Audit could be subject to condition.
- Housing will accord with all relevant building standards.
- The development was informed by a comprehensive arboricultural assessment and provides for the retention of all worthy trees and hedgerows.
- There will be no obstruction of pedestrian rights of way across the lands.

6.3. Planning Authority Response

In response to the appeal submissions, the planning authority comment as follows:

- All matters raised were adequately addressed at application stage.
- Roads and water service departments were satisfied with the development.
- There are no protected structures or recorded monuments proximate to the site and no features of interest were discovered on-site.

- The NIS identifies mitigation measures to address impacts on European sites.
- The site is zoned for residential development and is within walking distance of the town centre. Densities are in accordance with development plan provisions.
- There is no burden or right of way recorded on Folio MH50438F. The scheme was redesigned to retain access on its eastern side.
- Vehicular use of this route was restricted on health and safety grounds, in line with the development plan objective.
- Condition no. 4 requires that boundaries, gates and landscaping of this route be agreed.
- Condition no. 4(d) requires that no trees outside the application site be removed.
- A footpath will be provided along the site frontage and a sum was levied to provide a footpath to join with existing footpaths to the west.
- The development accords, with local, regional and national policy in relation to delivery of housing.

7.0 **Assessment**

7.1. It is proposed to consider the development under the following broad headings:

- Land use and development principle.
- Design and layout.
- Landscape and Visual amenity.
- Roads and traffic.
- Drainage.
- Archaeology.

7.2. **Land use and Development Principle**

7.2.1. The larger part of the appeal site is zoned for residential use in the Navan Town Development Plan 2009 – 2015, as varied. I note that permission was granted previously on the basis of a low-density residential zoning objective, having particular regard to the sensitivity of its setting. This low-density objective was subsequently

removed from the plan and the lands were rezoned as New Residential. The proposed development is generally in accordance with this residential zoning objective. The northern part of the site is zoned as High Amenity space. The development plan provides that uses not listed as permissible or open for consideration will be considered on their individual merits. In this regard, I note that the planning authority have accepted the location of the pumping station and attenuation storage tank within this land use zone.

- 7.2.2. Navan is designated at the top tier of the county settlement hierarchy and is identified as a Key Town at regional level. An excess of residentially zoned lands has been recognised at town and county development plan levels, however, the subject lands are identified as Phase 1 development lands in the town plan.
- 7.2.3. The subject site is located on the eastern periphery of Navan, outside the urban speed limit zone. The area is characterised by one-off housing development and agriculture, and the site is relatively remote from local services and amenities. Mains services are available in this area, however. While connectivity to the town centre is currently lacking in terms of footpaths and public lighting, I note the development plan objectives and the condition attaching to the planning authority decision requiring the payment a special development contribution in this regard.
- 7.2.4. The objectives of the town and county development plans are to pursue the compact sustainable development of the town. These objectives are reflected in the RSES objective to provide for sustainable, compact, sequential growth and urban regeneration in the town core by consolidating the built footprint through a focus on regeneration and development of identified Key Town centre infill / brownfield sites. The RSES recommends, however, that there should not be an “unreasonable dependency” on strategic lands delivering development where this would impede other suitable lands with more prospect of being developed in the short term. I note the extent of development which has taken place in the town since adoption of the plan. I note also the number of current planning applications with the planning authority and the Board in relation to residentially zoned lands in the town, including strategic housing applications. These include SHD consultations in relation to Masterplan lands at Ferganstown. Such development would be associated with development plan roads objective LDR 6, connecting Boyne Road and Kentstown Road.

7.2.5. While the development of the lands may be regarded as acceptable in principle, having regard to such activity, the objectives of the development plan and the planning history relating to the lands, the form and scale of such development should have regard to the peripheral location of the site and its sensitive landscape setting.

7.3. Design and layout

7.3.1. The development provides 85 no. residential units and one creche unit on the site. This equates to a density of 23 per hectare on residentially zoned lands, which would be a relatively low density for urban lands. As above, however, I note the peripheral location of the site and the sensitive visual context within which it lies. The appeal site has previously been the subject of a grant of permission for 37 no. units based on a low-density zoning objective. Prior to that, permission had been refused for developments of 55 and 67 no. units on the site on the basis of their landscape and visual impacts and I consider that these issues remain a valid consideration in this case.

7.3.2. The development is suburban in form and layout, comprising two-storey terraced, detached and semi-detached housing. The proposed creche is provided in the southwestern corner of the site, comprising one semi-detached unit which has been amended internally to accommodate childcare use. Capacity of this facility is regarded as acceptable for this development and adequate parking provision is available. Individual dwellings are provided with adequate private amenity space. Three main areas of public open space are provided equating to approx. 18.7% of the residential site area; including an area around the western stream, a central area with frontage to Boyne Road and along the eastern site boundary incorporating the access route to the River Boyne. The area of High Amenity space to the north of the residential area, is not included in the calculation of public open space but is to be generally accessible and available for use.

7.3.3. The northern section of the north-south internal field boundary is to be retained. Houses in the northwestern corner of the site are located in close proximity to existing mature trees which are located within the SAC. Terrace 01 (houses no. 1-4) necessitates the removal of a section of hedgerow along the northern site boundary, as "its retention would take up too much space within these gardens and restrict their

full use and potential". Along with a further section in the adjoining open space, a total of 52m of hedgerow along the boundary with the SAC will be removed. The arborist report accompanying the application also recommends the removal of trees on adjoining lands to the north, within the SAC and outside the applicant's control, based on risk to houses backing onto this boundary. House no. 5, in particular, would result in development works immediately adjacent to the defined root protection zone for such trees. This woodland block is identified as being of high local biodiversity value. I consider that redesign to achieve greater separation from this woodland block and to retain existing trees and hedgerows would be appropriate.

7.4. Landscape and Visual Amenity

- 7.4.1. The appeal site occupies an elevated position overlooking the River Boyne and the Boyne Canal to the north. The main development area is undulating, falling generally to the northwest. To the north, levels fall steeply toward the river such that the site occupies a position on the skyline when viewed from the river valley below. The development plan landscape character assessment identifies the Boyne Valley as being of exceptional landscape value and high sensitivity and requires that the design of development avoids adverse landscape impacts.
- 7.4.2. The site is located within the development boundary of Navan and has been zoned for residential use, however, the area is rural in character and lands to the north perform an important amenity function for the town. The Ramparts Walk provides a popular and important pedestrian route from Navan town centre downstream along the river and canal. There are views from the site north toward Donaghmore graveyard and round tower.
- 7.4.3. The ridge height of houses proposed on the northern edge of the development range between 9.15m and 9.46m. Having regard to their proximity to the edge of the steep slope of the river valley these structures would occupy a prominent position on the skyline above the river and canal. The absence of suitably detailed site section drawings hampers the assessment of such impacts, however, houses no. 84, 85 and 86, would comprise the most obtrusive features in this regard. While views to the site from the river valley / Ramparts Walk are restricted somewhat by summer-time

foliage, the proposed development will negatively impact on the landscape character of this area. Significant impacts on longer views from the north, including from Donaghmore, are less likely due to the presence of intervening mature vegetation and trees.

7.4.4. The planning application was accompanied by a Landscape and Visual Impact Assessment. While not detailed in nature, this includes an assessment of the impact on selected viewpoints. The conclusions of this assessment are generally considered to be reasonable, except in relation to *View 8 – Looking West, Northwest - Tow-path, Boyne Canal*. The view image incorrectly identifies the location of the proposed development and understates the impact on views from this sensitive location.

7.4.5. I do not consider that adequate regard has been had to the sensitive and elevated location of the site within the River Boyne landscape character area in the design and layout of the development. The Landscape and Visual Impact Assessment and the site sections submitted with the application do not adequately identify such impacts and I am not satisfied that the proposed development will not impact negatively on the sensitive landscape and visual amenities of this area. While this is raised generally in third party appeals, it was not raised as an issue by the planning authority.

7.5. **Right of Way**

7.5.1. Third party appellants have raised issues with regard to access across the appeal site from the Boyne Road to the canal and river to the north. A route along the eastern site boundary is currently signposted from the public road as the *Boyne Way* and is identified as a development plan objective for a pedestrian amenity / public access route. It has not been established in the application or appeal that this is a public right of way and the appellants claim a private right of way along this route. I note that such a private right of way will be subject to its own terms and conditions and it is not within the remit of the Board to adjudicate on such rights. There is currently no clearly defined path / route through the appeal site, although historic mapping does indicate an access along this route.

- 7.5.2. The development was revised at further information stage to provide an area of public open space along the eastern boundary, accommodating the subject route. While the scheme does not specify that this will continue north to the canal and river, this could be provided without significant modifications to the submitted scheme. I do not consider that conditions requiring agreement to maintain existing access would erode third party rights. I do not consider that it is appropriate, however, for the Board to seek to enforce the conditions sought by third parties in this case in relation to surfacing, which would not reflect current conditions and would comprise a civil matter between these parties.
- 7.5.3. Condition no. 4 of the planning authority decision restricts vehicular use of the route. Whilst there is an agricultural gate at the entrance from Boyne Road, there is no existing lay-by or pull in area associated with vehicular use of the entrance and the entrance would not accord with current design requirements. It is not apparent that there is regular vehicular access along this route to the canal and river. I query the appropriateness of applying such a restrictive condition where third parties have asserted an existing contrary right. The development itself will not generate new or additional vehicular movements along this route and no amendments to this entrance are proposed as part of the application. It is not clear what nature or frequency of vehicular access is envisaged by the appellant and no details in this regard are provided. Topography to the north of the site may also create difficulties for any future construction / maintenance traffic.
- 7.5.4. I do not consider that the nature of provision within the proposed development for the Boyne Way / anglers route to the river is unreasonable and it would accord with development plan objectives. Subject to appropriate landscaping, an adequate standard of amenity could be achieved along this route. I note that the scheme does not incorporate views of interest north to Donaghmore, however. The provision of a number of additional public parking spaces within the development would facilitate improved public / angler access to the Boyne Way route. Where there is an existing private right of vehicular access from Boyne Road, however, improvements to the agricultural entrance in the southeastern corner of the site could be undertaken to facilitate any material change in its use. I consider that such works would be outside the scope of this application, however.

7.5.5. Having regard to submissions on the file, I consider that the nature of provision through the site is acceptable and further that a restriction on use of the entrance should not be specifically attached in the event of a decision to grant permission.

7.6. Roads and Traffic

7.6.1. The Boyne Road / L1600 provides a connection from Navan east to the N2. This area is characterised by one-off housing and the appeal site is located outside the urban speed limit. The development proposes the removal of the existing roadside boundary and provision of a single vehicular access point. Adequate sightlines are achievable at this location.

7.6.2. There is no footpath or public lighting connections from the town to the site. Footpath provision extends to the Glenveigh residential development, approx. 250m to the west of the site on the southern side of the road, however, the standard of provision is not consistent. While there is public lighting along the frontage of the Glenveigh, there is no continuous provision along the Boyne Road until a point approx. 870m west of the site. There are no cycle facilities along the Boyne Road.

7.6.3. It is an objective of the development plan (NF OBJ 5) to carry out street lighting improvements along the Boyne Road (SLI 6). The planning authority have also attached a S.48(2)(c) special development contribution condition of €100,000 toward the cost of providing pedestrian and cycle facilities to serve this development. That condition was not subject to appeal. I note that in the case of PA ref. NA181528 / ABP-304744-19, the Transportation Section of the planning authority had also recommended a special development contribution of €30,000 towards the cost of providing pedestrian crossing facilities to serve that development. I would recommend that in the event of any decision to grant permission in this case, such footpath and cycle works would be completed prior to first occupation of any dwelling unit.

7.6.4. The assessment of traffic impacts submitted with the application does not identify particular capacity constraints on the road network serving the site and internal planning authority reports did not raise any issues in this regard. The Navan Local Transport Plan (Appendix 4 of the town development plan) notes that there are issues with the capacity of the junction of R153 Kentstown Road and the Boyne

Road to accommodate all planned growth in the east / south east of Navan. Much of this growth relates to extensive undeveloped residential and employment lands served by the R153 to the south and southeast of the Boyne Road area at Ferganstown. The development of such lands would be subject to infrastructural improvements identified in the Transport Plan. In this regard, I note the development approval and LIHAF funding associated with development plan objective LDR6 connecting Boyne Road and Kentstown Road.

- 7.6.5. Having regard to the objectives of the development plan for the area and the design of the proposed development, and subject to the completion of footpath and lighting works, I do not consider that the development would be unacceptable from a traffic safety point of view.

7.7. Drainage

7.7.1. Foul Drainage

The site is located on the eastern edge of Navan, within 200m of the municipal wastewater treatment plant. Given existing levels on the site, the development proposes the use of a foul pumping station, located on the northern part of the site, to collect wastewater and connect into an existing public sewer running west-east along the Boyne Road to this plant. Potential for a future gravity connection to the WWTP is referenced but not pursued as part of this application. Evidence of Irish Water confirmation of capacity to facilitate the proposed development has been provided, subject to final details being agreed. Emergency storage is provided at the pumping station, in excess of the 24-hour requirements.

The pumping station is located on sloping ground within H1, High Amenity, zoned lands and the SAC site. These H1 lands are not currently publicly accessible. Levels at the location of the pumping station compound vary between approx. 41m OD and 39.2m OD. Installation of the tank and pump will require excavation of up to approx. 6.5m minimum and ground cover at the location is stated to be 41m OD which is approximately the level of the proposed internal road to the south (Road 02). The pumping station compound will be enclosed with 2.4m high fencing. The works required to install this infrastructure at this location would be relatively significant and would result in the removal of this high amenity space from use,

however, subject to proposed screen planting, this not considered to have significant visual impacts on the surrounding area given the back-drop of mature trees to the west. The impact on the function of this overall H1 area is not regarded as significant.

7.7.2. Surface Water Drainage

The site is located on the edge of the Boyne River Valley, however, it is not affected by flood zones associated with the river. An existing drain runs northwest across the site before flowing north to the canal and river below. At time of inspection after a period of dry weather, the drain was relatively dry and had been subject to some widening / clearance works at its southern end. Beyond such works, the drain is relatively shallow.

Run-off from the development is to be collected and subject to attenuation to greenfield rates prior to discharge to this stream at the northwestern corner of the site. The proposed attenuation storage tank is located on sloping ground within the H1, High Amenity, zoned lands and the SAC. Levels at this location vary between approx. 41.5m OD and 37m OD. The tank measures approx. 46m x 14.4m, with a depth of 2.4m. This will require extensive excavations within the SAC and a proposed cover level of 40.8m OD will be approx. 3.8m over lowest adjoining ground levels. Landscaping plans indicate pathways crossing the tank. The treatment of this feature and ground levels on the site is not clear, however, and there would appear to be a requirement for the regrading of lands around the tank.

Note: See comments in section 8.0 on the excavation works associated with these services.

7.8. Archaeology

- 7.8.1. There are no recorded archaeological features within the site boundaries, however, at further information stage the first party were requested to undertake an archaeological impact assessment, given the archaeological potential of this area. An initial geophysical survey was undertaken followed by test trench investigations across the site. No features of archaeological significance were identified during

these site investigations and the assessment recommended that no further mitigation is required in respect of the development.

- 7.8.2. While no report from the DAU was received following receipt of further information by the planning authority, having regard to the information available and the results of the site investigations I am satisfied that the development will not have significant direct or indirect impacts on any features of archaeological significance in the area.

8.0 Appropriate Assessment

- 8.1. The northern part of the appeal site includes part of the River Boyne and River Blackwater SAC (002299). The River Boyne and River Blackwater SPA (004232) is focused on the main channel of the River Boyne approx. 270m north of and below the site. The drain on the western side of the site flows toward the river and these European Sites. The conservation objectives for these sites are as follows:

Natura 2000 site	Features of Interest	Conservation objectives
River Boyne and River Blackwater SAC 002299	Alkaline Fens Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> River Lamprey, <i>Lampetra fluviatilis</i> Salmon <i>Salmo solar</i> <i>Lutra lutra</i> (Otter)	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.
River Boyne and River Blackwater SPA 04232	Kingfisher <i>Alcedo atthis</i>	To maintain or restore the favourable conservation condition of the bird species listed as a Special Conservation Interests for this SPA.

- 8.2. An appropriate assessment Screening Report and Natura Impact Assessment were submitted with the application. The site is not required for or associated with the

conservation management of these sites. I note that there are no other European Sites within the zone of influence of the development or with hydrological connections thereto.

8.3. The Screening Report states that the appeal site does not contain any habitats identified above or associated with species for which the sites are identified. The adjoining woodland block within the SAC, to the northwest of the site, is described as a broadleaf woodland which is not a native woodland type or high value woodland listed on Annex 1. It is noted to be of high local biodiversity value, however. I note that the NPWS site synopsis for the SAC identifies the main areas of alkaline fen as being concentrated in the vicinity of Lough Shesk, Freehan Lough and Newtown Lough, which are all located upstream of Navan.

8.4. The Screening Report states that:

- There are no pathways for loss or disturbance of habitats within the SPA, given separation and the presence of the intervening Boyne Canal.
- No loss of high value habitats within the SAC will occur.
- There are potential impacts arising from construction activity due to sediment run-off from the site.
- Attenuation and SUDS measures will address operational surface water impacts.
- Significant operational impacts from failure of the foul pumping station cannot be ruled out.
- No water abstractions impacts are likely.
- No flood risk implications or effects on the floodplain arise.
- Lighting and noise disturbance are unlikely to impact on qualifying interests given separation from habitats. No additional disturbance impacts are likely.

8.5. In terms of in-combination effects, the Screening Report notes that the zoning of lands in the Navan Town Development Plan was subject to AA, concluding that there would be no significant effects on Natura Sites. Discharge from Navan and other municipal WWTP's to the river system are noted to be subject to licensing by the EPA. In this regard, I note that an EPA audit of the Navan treatment plan in 2019 indicated that discharge quality was in accordance with the terms of the relevant discharge license.

8.6. The screening report concludes that hydrological pathways to the River Boyne exist and that significant effects on the SAC cannot be ruled out. Significant effects on the SPA are not likely and are therefore screened out. These conclusions are considered reasonable.

8.7. Stage II Appropriate Assessment

The NIS predicts the following impacts:

- Potential significant impacts arising from sedimentation during construction.
- Potential significant operational impacts from pumping station failure.

Site specific conservation objectives for the SAC have not been defined, however, having regard to the generic conservation objectives and the objectives identified for these species in respect of other European sites, the NIS concludes that there is no likely significant effect on conservation objectives for River Lamprey, Otter or Alluvial Forests. Construction activity is not likely to impact on nutrient status or Alkaline fens and I note the upstream location of such fens identified in the site synopsis. The NIS identifies potential significant construction and operational impacts on Atlantic Salmon due to water quality impacts.

8.8. Identified mitigation measures:

Pollution prevention during construction:

- Follow IFI guidance to avoid silt reaching the river, including the use of a silt curtain along the northern boundary. All water leaving the site will pass through silt traps / settlement ponds.
- Contaminating substances will be stored in appropriately bunded areas.
- Site training and daily inspection of site measures.
- Measures to prevent silt loss during works to the stream / drain.

It is indicated that these measures are incorporated into the preliminary Construction Management Plan.

Pumping Station Malfunction

- Provision of 24-hour storage capacity.
- Installation of two pumps, including a stand-by pump.
- Maintenance contract and remote monitoring.

Subject to the above measures, the NIS concludes that significant effects on the integrity of the SAC, in particular Atlantic Salmon, can be avoided and that the proposed development, alone or in combination with other projects will not adversely affect the integrity of the SAC.

8.9. Conclusion:

- 8.9.1. The proposed development is located immediately adjacent to, and within the SAC. Potential impacts on the SAC relate to impacts on water quality during construction and possible malfunction of the wastewater pumping station. The design of the foul pumping station provides for adequate storage and back-up pump capacity such that significant effects on water quality in the event of malfunction are unlikely.
- 8.9.2. The preliminary Construction Management Plan submitted sets out generic measures for the management of sediment run-off from construction sites. These include the installation of silt fences and prevention of silt run-off to the adjoining stream through the use of silt traps and settlement ponds. Particular concerns arise in this case due to the location of foul and surface water management systems which require significant excavation works, on sloping ground within the SAC. The requirement to locate these measures within the SAC arises from the scale and layout of the proposed development and these facilities could otherwise be sited on residentially zoned lands.
- 8.9.3. Having regard to the location of the proposed works within the SAC, I consider that specific details in relation to the design and location of the proposed mitigation measures should have been identified in the application and NIS, including proposed settlement ponds. I note also that GSI mapping for the area records bedrock outcrops in the vicinity of these excavation works, which reflects quarrying activity identified on historic maps. It is not clear whether any site investigations in this regard were undertaken or whether specific construction practises or methodologies will be necessary to achieve the depth of excavation required in this case. In this regard it is not clear that the potential impacts of construction activity have been adequately described or mitigated for.

8.9.4. On the basis of the information on the file, I do not consider that I can conclude that the proposed development will not potentially impact on or affect the integrity of the River Boyne and River Blackwater SAC (002299) and River Boyne and River Blackwater SPA (004232), or any other European site, in view of the site's Conservation Objectives. In particular, I raise concerns with regard to potential impacts arising from excavations within the SAC and the lack of site-specific mitigation measures detailed. In such circumstances the Board is precluded from granting approval / permission for the proposed development. This would effectively constitute a new issue in the consideration of this appeal and the Board may wish to consider a request for further information in respect of these matters.

9.0 Conclusion and Recommendation

9.1. Having regard to the nature and form of development proposed in this sensitive landscape setting and the lack of certainty with regard to potential effects on the adjoining Natura Sites, a decision to refuse permission is recommended.

10.0 Reasons and Considerations

1.	The proposed development is located in an elevated location on the southern banks of the River Boyne, which is recognised in the development plan for the area as being a landscape of exceptional value. Having regard to the design and layout of development on the site, it is not considered that the proposed development would be visually accommodated within this sensitive landscape area and that, having regard to its impact on the skyline, would undermine the landscape character of the candidate Special Area of Conservation. The proposed development would therefore result in a significant negative impact on the visual amenities of the area and would be contrary to the objectives of the development plan to maintain such landscapes.
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2.	<p>The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the River Boyne and River Blackwater SAC (site code 002299) and River Boyne and River Blackwater SPA (site code 004232) are the European sites for which there is a likelihood of significant effects.</p> <p>The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites in view of the site's Conservation Objectives (site code 002299 and 004232). The Board considered that there was not adequate information before it to allow the carrying out of an Appropriate Assessment. In this regard, the Board noted in particular, the;</p> <ul style="list-style-type: none"><li data-bbox="325 891 1382 1137">i. the extent of excavation works proposed on sloping ground within the SAC and the lack of evidence of site investigations to properly inform the design of such works and any measures required to mitigate potential effects on the integrity of the European Site) in view of the site's Conservation Objectives.<li data-bbox="325 1182 1382 1373">ii. the failure to adequately identify the location, nature and extent of works proposed within the SAC to mitigate the potential effects of the development on the integrity of the European Site) in view of the site's Conservation Objectives. <p>In such circumstances the Board is precluded from granting permission for the proposed development.</p>
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Conor McGrath

Senior Planning Inspector

10/06/2020