



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307349-20

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<b>Development</b>	Demolition of derelict mill building, and construction of a 156 bedroom Care Centre in part 6, part 8 and part 9 storey. A Natura Impact Statement has been provided
<b>Location</b>	Elliot's Mill, Mill Lane, Navan, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	NA200108
<b>Applicant(s)</b>	Elliot's Care Home Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Elliot's Care Home Ltd
<b>Date of Site Inspection</b>	08 <sup>th</sup> September 2020

**Inspector**

Colin McBride

## 1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 2.05 hectares, is located on the northern bank of the River Blackwater and a short distance to the north of Navan town centre. The N51 defines the western boundary of the site. The site is occupied by the ruins of Elliot's Mill (located to the west of the site). The site is heavily vegetated by trees and hedgerow and has access off Mill Lane to the east, which forms a junction with Flower Hill. Levels on the site are significantly well below levels on adjoining lands to the north, which are undeveloped.

## 2.0 Proposed Development

2.1. Permission is sought for the demolition of an existing derelict mill building (in ruins) on site; construction of a 156 bedroom care centre in a part six-storey, part eight-storey and part nine-storey building with ground floor car parking; first floor ancillary uses with balcony; roof terrace to sixth floor; surrounding car parking at ground level; 40 retirement apartments as part of care centre, in part four/five-storey block with basement parking, comprise 32 no. two bed units and 8 no. one bed units; landscape riverside park connecting both buildings; access off Mill Lane, with site works to facilitate the development. The care centre building to be laid out in three wings around a central full height atrium with access to a hard landscape river front plaza which formed the original footprint of Elliot's Mill. A Natura Impact Statement has been provided.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission refused based on three reasons...

1. Based on the details submitted, it is considered that sufficient evidence has not been provided to demonstrate that the proposed development meets the specific requirements of the Meath County Development Plan 2013-2019 with regard to safe access, movement, and the sightlines required in the Design Manual for Urban Roads and Streets and the Meath County Development Plan 2013-2019. The detail

submitted fails to demonstrate the applicant's ability to provide and control the required sightlines and ensure safe access/egress for all users on lands necessary to deliver the proposed development. Thus, the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users and would contravene stated policy within the Meath County Development Plan 2013-2019. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development is located in/adjacent to two European Sites containing natural habitat types in Annex 1 of the Habitats Directive, species in Annex II of the Habitats Directive which the site hosts, and which have been selected by the Minister for Arts, heritage, Gaeltacht and the Islands in accordance with Annex III (Stage 1) of that Directive and/or species of bird or their habitat or other habitat specified in Article 4 of the Birds Directive, which formed the basis of the classification of that site. It is considered based on the information submitted to the Planning Authority, that the applicant has not demonstrated that adverse impact on the integrity of European Sites, habitats and species would be avoided or mitigation measures would be satisfactory.

Therefore, the proposed development would contravene materially the following development objectives of the Meath County Development Plan 2013-2019 for the conservation of European Sites-

- NH OBJ 2 *'To ensure an Appropriate Assessment in accordance with Article 6(3) and Article 6(4) of the Habitats Directive, and in accordance with the Department of Environment, Heritage and Local Government Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities, 2009 and relevant EPA and European Commission guidance documents, is carried out in respect of any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect on a Natura 2000 site(s), either individually or in-combination with other plans or projects, in view of the site's conservation objectives'*

and

- NH OBJ 3 *'To protect and conserve the conservation value of candidate Special Areas of Conservation, Special Protection Areas, National Heritage Areas and proposed Natural Heritage Areas as identified by the Minister for the Department of Arts, Heritage and the Gaeltacht and any other sites that may be proposed for designation during the lifetime of this Plan'.*

Therefore the Planning Authority is not satisfied that the proposed development would not adversely affect one or more specific site natural habitat type in annex 1 of the Habitats Directive, species in Annex II of the Habitats Directive which the site hosts, species of bird or basis of classification of that site, or that the development would not have a significant adverse effect on any other areas prescribed for the purposes of section 10(2)(c) of the Planning and Development Act 2000 as amended. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

3. Based on the details submitted including the Flood Risk Assessment, the Planning Authority is not satisfied that sufficient evidence has been provided to demonstrate that the proposed development meets the specific requirements of the Meath County Development 2013-2019 with regard to flood risk assessment and management, in particular polices WS POL 29, WS POL 32 and WS POL 33 regarding the application of the policy and technical assessment approaches in *'the Planning System and Flood Risk Management Guidelines for Planning Authorities 2009'* Ministerial Guidelines and the provision of an appropriate buffer zone for OPW maintenance. The proposed development is in an area which is at risk of flooding and would contravene stated policy within the Meath County development plan 2013-2019 and would be contrary to Ministerial Guidelines issued to planning authorities under Section 28 of the Planning and Development Act 2000 as amended. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

Planning report (25/03/20): The proposal was considered to constitute a traffic hazard due to inadequate sightlines at the junction of Mill Lane and Flower Hill, the NIS was considered to be deficient with a failure to demonstrate that significant effects on designated European sites are unlikely and the proposal was considered unacceptable in the context of flood risk. Refusal was recommended based on the reason outlined above.

### 3.2.2. Other Technical Reports

Transportation-Public lighting (17/02/20): Further information including details of public lighting.

Water Services (02/03/20): No objection subject to conditions.

Irish Water (05/03/20): No objection subject to conditions.

Architectural Conservation Officer (06/03/20): No objection subject to conditions.

Transportation (10/03/20): Refusal recommended on the basis of the failure to demonstrate adequate sightlines.

Flood Report (06/04/20): Further information required including noting that part of the site is within Flood Zone A and B with a requirement to carry out a development management justification test.

Heritage Officer (06/04/20): It is noted that the NIS is deficient in terms of information on a number of issues including habitat loss, impact on certain species and invasive species.

## 3.3. Prescribed Bodies

Department of Culture, Heritage and the Gaeltacht-DAU (06/03/20): Condition to be attached requiring carrying out of pre-development testing.

OPW (No date): The OPW is responsible for Flood Risk Management on this channel as part of the Boyne Arterial Drainage Maintenance Scheme under the

Arterial Drainage Management Act 1945 (as amended). In order to carry out maintenance the OPW require a maintenance strip and vehicular access point to the channel.

A 10m maintenance strip is required along the edge of the river/channel and there is requirement that such will allow vehicular access.

### **3.4. Third Party Observations**

3.4.1 One submission was received from Navan & District Angling Association. The issues raised can be summarised as follows....

- Ecological impact, built heritage, rights of access to River Blackwater and validity of the application.

### **4.0 Planning History**

4.1 NA181319: Permission refused for construction of a 186 bedroom Care Centre, 40 apartment and associated site works. Reasons for refusal including traffic issues, appropriate assessment and flooding.

4.2 NA170976: Permission refused for the construction of 186 bedroom care centre, 40 apartments and associated site works. Reasons for refusal including traffic issues, appropriate assessment and flooding.

On adjacent sites...

4.3 PL32.240673: Permission refused for the construction of a cinema building. This site is located to the north of appeal site at the junction of the Inner Relief Road (N51) and the Ratholdren Road. Refused for two reason including that proposal would compromise future redevelopment of the area for high quality development including the adjacent site at Elliot's Mill.

4.4 NT/110074 & NA70562 (parallel applications) for a five storey 135 bed hotel, a three storey leisure centre, 4 four storey apartment blocks with a total of 96 apartments, a three storey crèche/apartment block with a total of 8 apartments, a three storey shop/office block with 4 shops and 8 offices, 2 levels of basement/undercroft car parking (908 spaces) and a new access off and a bus lane along Ratholdren Road was permitted on 13th June 2008, but was never implemented. On the site to the north of the appeal site.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant Development Plan is the Meath County Development Plan 2013-2019. Navan Development Plan 2009-2015.

The site is covered by two zonings...

C1 Mixed Use with a stated objective “to provide for and facilitate mixed residential and business uses”.

F1 Open Space with an objective “to provide for and improve open spaces for active and passive recreational amenities”.

WS POL 29 To have regard to the “Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoEHLG/OPW, 2009) through the use of the sequential approach and application of the Justification Tests for Development Management and Development Plans, during the period of this Plan.

WS POL 32 To ensure that a flood risk assessment is carried out for any development proposal, where flood risk may be an issue in accordance with the “Planning System and Flood Risk Management – Guidelines for Planning



Authorities” (DoECLG/OPW, 2009). This assessment shall be appropriate to the scale and nature of risk to the potential development.

WS POL 33 To consult with the Office of Public Works in relation to proposed developments in the vicinity of drainage channels and rivers for which the OPW are responsible, and the Council will, retain a strip of 10 metres on either side of such channel where required, to facilitate access thereto.

NH OBJ 2 To ensure an Appropriate Assessment in accordance with Article 6(3) and Article 6(4) of the Habitats Directive, and in accordance with the Department of Environment, Heritage and Local Government Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities, 2009 and relevant EPA and European Commission guidance documents, is carried out in respect of any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect on a Natura 2000 site(s), either individually or in combination with other plans or projects, in view of the site’s conservation objectives.

NH OBJ 3 To protect and conserve the conservation value of candidate Special Areas of Conservation, Special Protection Areas, National Heritage Areas and proposed Natural Heritage Areas as identified by the Minister for the Department of Arts, Heritage and the Gaeltacht and any other sites that may be proposed for designation during the lifetime of this Plan.

## 5.2 **National Policy**

Sustainable Urban Housing: Design Standards for New Apartments-Guidelines for Planning Authorities (2020).

The Urban Development and Building Height - Guidelines for Planning Authorities (December 2018) build on the wider national policy objective to provide more compact forms of urban development as outlined in the National Planning Framework. It is acknowledged that increasing building heights has a critical role to

play in addressing the delivery of more compact growth in urban areas, particularly cities and large towns.

**SPPR1:**

In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

**SPPR3:**

It is a specific planning policy requirement that where;

(A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and

2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;

then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

(B) In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme

(C) In respect of planning schemes approved after the coming into force of these guidelines these are not required to be reviewed.

## Guidelines on Sustainable Residential Development in Urban Areas 2009

### Appropriate locations for increase densities

#### Public Transport Corridors:

Walking distances from public transport nodes (e.g. stations / halts / bus stops) should be used in defining such corridors. It is recommended that increased densities should be promoted within 500 metres walking distance<sup>18</sup> of a bus stop, or within 1km of a light rail stop or a rail station. The capacity of public transport (e.g. the number of train services during peak hours) should also be taken into consideration in considering appropriate densities. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Minimum densities should be specified in local area plans, and maximum (rather than minimum) parking standards should reflect proximity to public transport facilities.

### 5.3 Natural Heritage Designations

The River Boyne and River Blackwater SAC (site code 002299). The appeal site is partially within the SAC.

The River Boyne and River Blackwater SPA (site code 004232). The appeal site is adjacent to the SPA.

### 5.4 EIA Screening

- 5.4.1 Having regard to nature of the development comprising of the construction of a construction of a 156 bedroom care centre and 40 retirement apartments as part of care centre, and associated site works, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by Hughes Planning & Development Consultants on behalf of the applicants, Elliot's Care Centre Ltd. The grounds of appeal are as follows...

- It is noted that sightlines in compliance with the standards required under the Design Manual for Urban Roads and Streets can be achieved at the junction of Mill Lane and Flower Hill.
- The appellant notes that they have had permission granted for a development off Mill Lane under ref no. NT30035 for a development consisting of 5 no. office units and 35no. apartments with the appellant carrying upgrade works to Mill Lane and development contributions paid in respect of road improvements with no issues raised regarding access or junction layout.
- Mill Lane is a public road and the Local Authority have the authority to carry out works and agree works to be carried out by a third party if necessary.
- The appeal submission includes an ecology report rebutting the issues raised in the reason for refusal regarding designated sites/natural heritage. It is noted that there has been a comprehensive assessment of the ecological impact of the proposal with a detailed set of mitigation measures to ensure no significant effects on designated European Sites.
- In regards to Japanese Knotweed a detailed report has been submitted outlining method statement including survey and eradication plan.
- In relation to flooding it is noted that the levels of the proposed development are acceptable in regards to flood risk. It is noted that the buffer zone for the OPW is increasing as result of the proposed development. A detailed report has been submitted in response to the refusal reason regarding flooding.
- It is noted that in the event of flooding that emergency access to the site is available through a historic roadway along the northern boundary with access available through an existing gate (access off Ratholdren Road) in the event of an emergency.

## 6.2. Planning Authority Response

### 6.2.1 Response by Meath County Council

- The applicant does not have the requisite control or ability to demonstrate adequate sightlines at the junction of Mill lane and Flower Hill.
- The drawings submitted shows development within the 10m buffer zone and will compromise the ability of the OPW to carry out maintenance of the river. The OPW require this buffer zone in their submission on the application. No Flood Management/Emergency Plan was submitted and is necessary and the applicant has not demonstrated right of access to Ratholdren Road.
- The applicant has not addressed the gaps in information in the NIS with no up to date surveys carried out.
- It is considered that the applicant/appellant have not submitted any information that would merit a change in attitude toward the proposed development.

## 7.0 Assessment

7.1. Having inspected the site and the associated documents the main issues can be assessed under the following headings.

Principle of the proposed development/development plan zoning

Traffic

Flood Risk

Design/scale/visual amenity

Development Management Standards

7.2. Principle of the proposed development/development plan zoning:

7.2.1 The appeal site is split over two zonings. The western part of the site is zoned C1 Mixed Use with a stated objective “to provide for and facilitate mixed residential and

business uses” whereas the remainder of the site is zoned F1 Open Space with an objective “to provide for and improve open spaces for active and passive recreational amenities”. The proposal is for the demolition of an existing derelict mill building (in ruins) on site; construction of a 156 bedroom care-centre in a part six-storey, part eight-storey and part nine-storey building with ground floor car parking; first floor ancillary uses with balcony; roof terrace to sixth floor; surrounding car parking at ground level; 40 retirement apartments as part of care centre, in part four/five-storey block with basement parking, comprising of 32 no. two bed units and 8 no. one bed units. The care centre is located on the portion of the site zoned C1 whereas the apartment block is located on the eastern side of the site which is zoned F1. The proposed development is compliant with the permitted uses under the C1 zoning. In relation to the F1 zoning I would note that the proposed residential use regardless of the fact it is for retirement apartments linked to the proposed care centre, is not a permitted use or open for consideration on this zoning objective. The Planning Authority in assessing this aspect of the proposal were off the view that the proposed use is compliant with zoning policy, I would however consider that it is not.

7.2.2 The proposed development based on land use zoning policy would be a material contravention of Development Plan policy. The proposal was refused for three reasons, which does not include material contravention of a zoning objective making this a new issue. I would note that there is provision under the Planning and Development Act for the Board to grant permission that materially contravenes a Development Plan.

Section 37 (2)(a) “Subject to *paragraph (b)*, the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates”.

Under Section 37(2)(b) the following is noted...

“(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28 , policy directives under section 29 , the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan”.

In this case the Planning Authority did not refuse permission on the grounds that a proposed development materially contravenes the development plan so the Board is not precluded in granting permission.

7.2.3 As noted above the proposal is a material contravention of the F1 zoning objective and the Board has the power to grant permission that is a material contravention of the Development Plan. The question is whether the Board should in this case. The appeal site is an underutilised site that is currently is occupied by a derelict mill building. The site is not currently very accessible. Granting the proposed development would be likely to improve accessibility to the land and access to the area adjacent the river. The proposal includes a Boardwalk element at the western side of the site and would improve accessibility and possible integration to facilitate a riverside walk along the Blackwater. In terms of zoning objectives the redevelopment of the site would be more likely to be in keeping with the F1 zoning objective as it would improve accessibility and the proposed development features a high degree of open space areas. I would be off the view that there is justification for

granting permission despite the proposal being a material contravention of the F1 zoning objective. I would note that this is subject to other aspects of the proposal being satisfactory including design/scale, traffic impact, flood impact and natural heritage issues, which are assessed in the following sections of this report.

7.2.4 The proposed development provides for an important housing need and typology, and for which there is a deficit in supply, and as such is considered to be of strategic or national importance complying with the NPF and Rebuilding Ireland: Housing and Homelessness Action Plan. I am satisfied that the proposal provides for and supports the principles of compact growth and increased diversity of housing typologies and tenures within an urban location identified for growth in line with National Policy (NPF) and Regional policy (RSES for Eastern and Midlands Area), therefore satisfying the requirements of section 37(2)(b)(i). I am further satisfied as outlined in the Planning Authority's Report that having regard to the multitude of objectives applicable relating to this development type, that there are conflicting objectives in the Plan insofar as the proposed development is concerned and that as such s.37(2)(b)(ii) also applies. These include SOC POL 30 "to encourage, support and facilitate the provision of a range of services for the aged population. The Council is committed to accommodating the needs of older people in rural areas by the provision, or facilitation of nursing homes and sheltered housing developments. These facilities should be located within settlements in order to enhance overall quality of life, increase their links with, and accessibility to, local amenities, and therefore reduce the likelihood of social isolation" and SOC OBJ 8 in relation to open space which is "to promote the provision of pedestrian and cycle links across rivers to ensure full accessibility, integration and usage of public open space in such a manner so as to not significantly negatively impact on the cSAC or SPA either alone or in combination with other objectives in this plan".

### 7.3 Traffic:

7.3.1 The appeal site is accessed over Mill Lane, which runs on a north eastern/south western axis and forms a junction with Flower Hill to the east of the site. Flower Hill is a one way public road with two carriageways. Permission was refused for traffic



reasons including insufficient evidence to demonstrate that the proposed development meets the specific requirements of the Meath County Development Plan 2013-2019 with regard to safe access, movement, and the sightlines required in the Design Manual for Urban Roads and Streets and the Meath County Development Plan 2013-2019. It was also considered that the applicant had failed to demonstrate the ability to provide and control the required sightlines and ensure safe access/egress for all users on lands necessary to deliver the proposed development. It was considered that the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users and would contravene stated policy within the Meath County Development Plan 2013-2019.

7.3.2 The applicant/appellant has submitted drawings that show a revised junction layout at the junction of Mill Lane and Flower Hill, which requires alterations of existing kerbs and such would provide the required sightlines of 49m setback 2.4m as required under the Design Manual for Urban Streets and Roads (for 50kph speed limit zones). The drawings submitted include a proposal that takes into account the derelict site on the southern side of Mill Lane, which impact on the width of Mill Lane for part its length and a proposal showing Mill Lane a more constant width if the issue on the undeveloped site are resolved. The applicant/appellant also notes that sightlines of 49m setback a reduced amount of 2m are available without alteration and that a reduced standard is permitted under DMURS.

7.3.3 The alterations proposed include a wider footpath along part of Flower Hill and the Council have indicated that the proposal is premature pending implementation of road improvement scheme planning for Flower Hill and also note the applicant's do not have control over the area within the improvements are located as well as noting that the Council do not have control over Mill Lane. The applicant/appellant notes that the improvements proposed have regard to the plans for the Flower Hill road improvement scheme and would not compromise the delivery of such. It is also noted that there is evidence that Mill Lane is a public Road and within the Council's charge and that the improvement proposed could be carried out.

7.3.4 The appeal site is accessed over Mill Lane, which is wide enough for two way traffic and has footpath for most of its length. There is a section adjacent an undeveloped site that narrows the road due to barriers put up to restrict access to the site, however in general the width and alignment of Mill Lane is of a reasonable standard and is already providing access to various developments including residential and commercial either side of Mill Lane. I would consider that the undeveloped site is not a permanent arrangement and should not preclude consideration of further development off Mill Lane.

7.3.5 I would be of the view that Mill Lane is of a reasonable standard in terms of width and alignment and is an urban street providing access to existing development. The junction of Mill Lane and Flower Hill is of a reasonable standard in terms of layout and appears to be an existing functioning junction within the urban road network of the area. I would note traffic movements at the junction are simplified by the fact that Flower Hill is a one way street. I would be of the view that existing junction and road layout at this location is of a satisfactory standard and capable of facilitating the traffic movement likely to be generated by the proposed development. The existing layout of the junction and Mill Lane is of a sufficient standard to cater for the traffic movements likely to be generated. I would recommend a condition be imposed providing for permission based on the existing layout of the junction, but with the option of implementing the revised layout proposed subject to agreement with the Council.

#### 7.4 Flood Risk:

7.4.1 Permission was refused on the basis that insufficient evidence has been provided to demonstrate that the proposed development meets the specific requirements of the Meath County Development 2013-2019 with regard to flood risk assessment and management, in particular polices WS POL 29, WS POL 32 and WS POL 33 regarding the application of the policy and technical assessment approaches in '*the Planning System and Flood Risk Management Guidelines for Planning Authorities 2009*' Ministerial Guidelines and the provision of an appropriate buffer zone for OPW maintenance.

7.4.2 The appeal site is located adjacent the River Blackwater with parts of the site located within Flood Zones A and B. A Flood Risk Assessment was submitted. The Flood Risk Assessment identifies the source of flooding at this location as being fluvial. The Flood Risk Assessment outlines historical flood events and includes hydraulic modelling based on OPW data and CFRAM mapping to outline the level of flood risk in relation to the site. The majority of the site and development is within Flood Zone C. The existing Mill structure on site and the ground floor parking of Block C are located within Flood Zone A and B with it noted that the car parking is at a level (34.2m OD) safe from flooding. It is noted that part of the internal access road is within Flood Zone B and is acceptable and does not require a justification test on the basis that internal roadways and car parking are water compatible uses. It is noted that Mill Lane providing access to the site is within flood zone B and levels of part of the road make it susceptible to flooding and impassable (100 year climate change flood level).

7.4.3 Flood risk reduction measures proposed include the ground floor level of the care centre and apartment being at a level that is safe from flood events. In the case of part of the internal access road and Mill Lane being in Flood Zone B and the possibility of such being impassable in flood event, an emergency access is proposed along a historical access track that has access to a gate to the north of the site and onto Ratholdren Road which is sufficiently elevated from flooding.

7.4.4 It is noted that proposal passes the justification test in that the lands are zoned for development and such a plan is supported by a strategic flood risk assessment carried out in 2014. The proposed use is consistent with the zoning objective and the proposed development is mainly located within Flood Zone C. Part of the internal access road is within Flood Zone B however such development is identified as being acceptable within such. It is note that part of the care centre building is located within Flood A and B. It is noted that this area is currently encroached by the existing Mill building and no impact on flooding will arise for the construction of the building at this location. It is noted that level of the car parking at ground floor level

and first floor residential care units are above the level required to be safe from flooding. It is also noted that proposal would not result in any significant loss of flood storage. It is also noted that the development will not restrict maintenance access to the river or the weir or upstream road bridge.

7.4.5 The applicant has submitted a Flood Risk Assessment, which has been carried out based on the recommendations of the Planning System and Flood Risk Management Guidelines for Planning Authorities. I am satisfied that the scope and methodology of such are satisfactory and demonstrate that the proposed development is satisfactory in terms of flood risk and would not exacerbate such. There are two issues that do arise in relation to flood risk. Both Mill Lane and part of the internal access road are within Flood Zone B with the potential for access to be cut off to the proposed development in the event of flood event. The applicant/appellant has noted that this acceptable basis on the access road being water compatible use and based on the provision of an alternative emergency access. Having inspected Table 3.1 classification of vulnerability of different types of development I would question whether such is the case. I would consider that the access road serving a residential development falls under vulnerable development as the potential for access to be cut off to a residential development due to flooding would seriously compromise such a development. The applicant has proposed an emergency access that would not be impacted by flooding. There is sufficient information provided on file and in Flood Risk Assessment to demonstrate that the proposed development would be satisfactory in the context flood risk. I am satisfied that there is adequate provision for alternative access should part of the access road within Flood Zone B be rendered impassable.

7.4.6 The other issue relates to the provision of a 10m wide buffer zone for the OPW to carry out drainage channel maintenance. It is notable that the Development Policy under WS POL 33 (outlined above) states there is a requirement for a 10m buffer zone on either side of a drainage channel for OPW maintenance. It is notable that during the application the OPW made a submission outlining a requirement for such. Refusal reason no. 3 also included the failure to provide this buffer zone as a reason for refusal. The appellant responded by noting that the current buffer zone provided

on site will be improved and that proposed access road follows the same route as the existing access road. It is also noted that the existing Mill building structure extends to the river boundary and blocks access along its south facing façade. I would note that as things stand the site is not highly accessible due to the site being derelict, vacant and overgrown. I would note the development would be likely to make the site more accessible than it currently is in relation to drainage channel management. In addition I would note that that part of the site including the river bank is within the confines of the River Boyne and River Blackwater SAC and that the carrying out of significant works along the river bank may have implications in terms of appropriate assessment. The works proposed include using the line of the existing access road on site and preserving the area immediately adjacent the river. I am of the view that the proposal does not reduce the accessibility to the river in terms of carrying out maintenance of the river channel and would improve such. I would consider that the requirement for a 10m buffer zone with vehicular access along the river would have the potential to have significant effects on a Natura 2000 site (Appropriate Assessment section is later in this report). I would, therefore, consider that the proposal would be acceptable in the context of flood risk management.

## 7.5 Design/scale/visual amenity:

7.5.1 The proposal on site is broken into two distinct elements, the construction of a 156 bedroom care-centre in a part six-storey, part eight-storey and part nine-storey building with ground floor car parking; first floor ancillary uses with balcony; roof terrace to sixth floor; surrounding car parking at ground level and the construction of 40 retirement apartments as part of the care centre, in part four/five-storey block with basement parking, comprise 32 no. two bed units and 8 no. one bed units; landscape riverside park connecting both buildings; access off Mill Lane, with site works to facilitate the development. The care centre structure is located to the west of the site corresponding with the location of the derelict mill building and in close proximity to the bridge carrying the Inner Relief Road (N51) over the River Blackwater. The five-storey block of apartments is located on the eastern part of the site. The information submitted with the file include photomontages illustrating the visual impact of the proposal from a number of locations in the surrounding area. In

the case of the five-storey block of apartments the changes in levels on site relative to adjoining lands would mean such would be unlikely to be highly visible in the surrounding area and have no significant visual impact. The nature and scale of such development is not out of character or scale with existing apartment development evident along the Mill Lane and the River Blackwater to the east of the site.

7.5.2 The care centre is the larger of the two structures proposed on site and is of significant scale being part nine-storeys in height. The ground floor level of this structure is at the lowest point of the site, which is significantly lower in level compared to the ground level of the Inner Relief Road and the ground levels of the site to the north. The care centre block due to its height and scale will be visible from higher ground including lands to the north and most prominently along the Inner Relief Road (N51). The care centre structure rises to five-storeys above the level of the Inner Relief Road. I would note that the appeal site is within the urban structure of the town, is zoned for development and that the lands to the north are zoned for development. I would note that although the care centre structure is likely to be highly visible and prominent relative to the lands to the north, the Inner Relief Road (N51) and from the core of the town centre to the south, I would be of the view that this level of visual impact would not be detrimental to the visual amenities of the area. I would also note that the existing degree of open space and landscaping to be retained and added to the site would soften the impact of the proposed development.

7.6 Development Management Standards:

7.6.1 The proposal includes two distinct elements, the care centre structure and a block of retirement apartments. The relevant Development Management Standards are contained under the Meath County Development Plan and of particular relevance to the apartments, the Sustainable Urban House: Design Standard for New Apartments (2020). In relation to minimum apartment size the requirement is 45sqm and 73sqm for 1 and 2 bed apartment units respectively (SPPR3). All units proposed are compliant with these standards. It is noted that in order to safeguard higher standards that “the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the

relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%”. This is the case in regards to the proposed development.

7.6.2 The guidelines note that “it is a policy requirement that apartment schemes deliver at least 33% of the units as dual aspect in more central and accessible and some intermediate locations, i.e. on sites near to city or town centres, close to high quality public transport or in SDZ areas, or where it is necessary to ensure good street frontage and subject to high quality design. Where there is a greater freedom in design terms, such as in larger apartment developments on greenfield or standalone brownfield regeneration sites where requirements like street frontage are less onerous, it is an objective that there shall be a minimum of 50% dual aspect apartments. The proposal is compliant with this requirement.

7.6.3 Appendix 1 contains minimum standards for private amenity space with a requirement of 5sqm, 6sqm and 9sqm for 1, 2 and 3 bed apartment respectively. A minimum depth of 1.5 metres is required for balconies, in one useable length to meet the minimum floor area requirement under these guidelines. These standards are met in all cases. The apartments also meet all relevant standards in relation of internal storage space, ceiling heights, room dimensions outlined in Appendix 1 of the guidelines.

7.6.4 In relation to public open space requirement the guidelines note that “communal amenity space may be provided as a garden within the courtyard of a perimeter block or adjoining a linear apartment block. Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year. Roof gardens may also be provided but must be accessible to residents, subject to requirements such as safe access by children. These facilities offer a satisfactory alternative where climatic and safety factors are fully considered, but children’s play is not passively supervised as with courtyards. Regard must also be had to the future maintenance of communal amenity areas in order to ensure that this is commensurate with the scale of the development and does not become a burden on residents”. It is also noted that that

“for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality”. The County Development Plan notes in relation to public open space that that the requirement for public open space is 15% of site area within residential developments. I am satisfied that the proposal meets this requirement.

7.6.5 The parking requirements for development is outlined under Table 11.9 of the County Development Plan. The requirement is 1.25 spaces per one/two bed unit and 2 spaces per 3 bed unit for residential development and 1 space per bed and one space per employees for the care centre use. A total of 113 space is provided on site including 23 spaces in a basement level under the apartment block, 8 set down spaces along the front of the apartment block, 24 surface car parking spaces located between the apartment block and the care centre and 58 no. spaces at ground floor level of the care centre. In addition 28 bicycle parking spaces are provided on site. There is no information regarding staffing level of the proposed development. I would be of the view that the level of parking provided on site is sufficient to serve the proposed development would also note that the appeal site is a town centre location and accessible to such.

7.7 Other Issues:

7.7.1 I note concerns expressed with regard to the adequacy of assessment in respect of potential for bats on site, and that there is the potential impact on bats in terms of loss of their habitat with the removal of trees and demolition of the derelict mill building. I am satisfied that the existence and extent of existence of bats on site has been adequately documented for the purposes of this assessment and that the loss of these habitats (in terms of the demolition of the derelict mill building and loss of some trees) is inevitable if the site within zoned and serviced lands is to be developed to meet the housing and medical/retirement needs of the aging population in Navan and its environs and that avoidance of this impact is not therefore feasible. I am satisfied, as outlined in the NIS submitted, that mitigation measures can be put in place to minimise this impact and that these mitigation



measures would be reasonable, enforceable and effective. A derogation licence would be required from the NPWS, and this matter can be dealt with by condition.

7.7.2 I note concerns expressed, albeit not referenced in the reasons for refusal with respect to asbestos. I am satisfied that this issue can be satisfactorily addressed by condition, and in any event the removal of asbestos in a safe manner that ensures its control is covered under separate regulations.

## **8.0 Appropriate Assessment:**

8.1 A Natura Impact Statement Limited was submitted by the applicant as well as an updated NIS with the appeal submission. In carrying out an appropriate assessment, I note and acknowledge the submissions of the Planning Authority, and its Environmental Consultants Malone O'Regan Environmental (MORE), the Navan & District Angler's Association, the applicant's planning report, associated engineering and environmental reports and NIS as originally submitted with the application to Meath County Council and the clarification and updated NIS provided in the applicant's submission to the Board on the 16th June, 2020.

### **8.2. Screening**

8.2.1 I followed the staged approach to screening for appropriate assessment as recommended in both EU Guidance and by the Department of Environment, Heritage and Local Government:-

1. Description of the plan or project and local site or plan area characteristics.
2. Identification of relevant Natura 2000 sites and compilation of information on their qualifying interests and conservation objectives.
3. Assessment of likely significant effects-direct, indirect and cumulative, undertaken on the basis of available information.

4. Screening statement with conclusions.

8.2.2 Project Description and Site Characteristics

8.2.3 The proposed development is as described in the report above and in the application submissions. I note the concerns of the Planning Authority, MCC and their ecological consultants (MORE) that the potential zone of influence of the project was not adequately considered and identified. I am satisfied that the clarification provided by the applicant on page 6 of their report to the Board on appeal by Whitehall Environmental consultants adequately identifies the Zone of Influence (ZOI), and this is reflected in section 8.2.4 (of this report). The applicants considered all possible European sites within 15km and beyond, and identified two within 10km that had the potential to be effected, and therefore were included in the ZOI. I am satisfied that the potential for impacts on all other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways.

8.2.4. Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives: Two Natura Sites are identified as being within the zone of influence of the site. These sites are:

The River Boyne and River Blackwater SAC (site code 002299), the appeal site is partially within the SAC.

The River Boyne and River Blackwater SPA (site code 004232), the appeal site is adjacent to the SPA.

Site Code, Site Name and Designation	Approx. Distance from Site	Conservation Objectives; Qualifying Habitats and Species	
002299 The River Boyne and River Blackwater SAC	The site is partially within the SAC	To maintain or restore the favourable conservation condition of the Annex I	

		<p>habitat(s) and/or the Annex II species for which the SAC has been selected:</p> <p>7230 Alkaline fens</p> <p>91E0 Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae)*</p> <p>* denotes a priority habitat</p> <p style="text-align: right;">River      <i>Lampetra</i></p> <p>1099    Lamprey    <i>fluviatilis</i></p> <p>1106    Salmon     <i>Salmo salar</i></p> <p>1355    Otter        <i>Lutra lutra</i></p>	
004232 The River Boyne and River Blackwater SPA	The site is adjacent the SPA	<p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservations Interests for this SPA:</p> <p>A229 Kingfisher <i>Alcedo atthis</i></p>	

#### 8.2.5 Assessment of likely Effects:

The applicants Screening Report identifies there are possible effects based on the site being partially within and immediately adjacent the designated European Sites. The potential effects are

- Habitat loss and fragmentation within the SAC;
- Deterioration of water quality from surface water discharge during site preparation and construction;

- Risk to the integrity of the SAC/SPA from potential flood events;
- Risks to integrity of SAC/SPA due to spread of/or treatment of Japanese knotweed;
- Risk to Annex 1 or Annex II species associated with the site;
- Cumulative impacts with other proposed/existing developments.

I am satisfied that all likely effects have been identified and that significant effects associated with these potential impacts cannot be ruled out and that stage 2 appropriate assessment and the submission of a NIS was required. I note the comments of MORE that the likely effects as a result of construction noise and vibration and human disturbance was not adequately addressed by the applicant. I am satisfied that the likely effects resulting from construction and operation, by reason of noise, vibration and human disturbance has been addressed under 'Risk to Annex I and II species associated with the site' and in particular on pages 35 and 37 of the revised NIS submitted to the Board on the 16<sup>th</sup> June.

#### 8.2.6 Screening Statement and Conclusions:

In conclusion having regard to the foregoing, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that significant effects cannot be ruled out and a Stage 2 Appropriate Assessment is therefore required.

### 8.3 Stage 2 Appropriate Assessment

#### 8.3.1 The relevant sites are

The River Boyne and River Blackwater SAC (site code 002299). The appeal site is partially within the SAC.

The River Boyne and River Blackwater SPA (site code 004232). The appeal site is adjacent to the SPA.

Potential direct and indirect effects:

The submitted NIS predicts the following potential effects arising from the proposed development.

#### 8.3.2 The assessment of potentially significant effects include...

In relation to Alkaline Fens it is noted there are none present within the site and those within SAC are sufficient distance from the site so as there are no likely effects. In relation Alluvial Forests it is noted that this habitat is not present within the site boundary and the development would have no effects on such. Both are identified as irrelevant qualifying interests within the SAC.

#### 8.3.3 River lamprey

Potential direct/indirect effects include deterioration of water quality through discharges including increase siltation load form the proposed development, discharge of polluting materials during construction and eutrophication of arising run-off from site preparation and construction.

#### 8.3.4 River salmon

Potential direct/indirect effects include deterioration of water quality through discharges including increase siltation load form the proposed development, discharge of polluting materials during construction and eutrophication of arising run-off from site preparation and construction.

#### 8.3.5 Otter

Potential direct/indirect effects include deterioration of water quality through discharges including increase siltation load form the proposed development, discharge of polluting materials during construction, eutrophication of water arising run-off from site preparation and construction, bank alteration works causing disturbance, disturbance from human activity/traffic during construction and operational phase.

### 8.3.6 Kingfisher

Potential direct/indirect effects discharge of polluting materials during construction, eutrophication of water arising run-off from site preparation and construction, disturbance or loss of bank side perching habitats and disturbance from human activity/traffic during construction and operational phase.

8.3.7 In relation habitat loss and fragmentation it is noted that 2,900sqm of the site is within the SAC. A significant portion of this is located in the west of the appeal site adjacent the bridge with no works proposed in this area. The remaining area of the site within the SAC coincides with the existing access road and existing spoil embankments. The spoil embankments will be included in the 10m flood maintenance buffer zone with no works to be carried out apart from knotweed treatment. The construction of the building is outside the SAC boundary. The widening of the existing access road will result in no loss of habitats to the north outside the SAC.

8.3.8 I note the concerns the concerns of MCC and their consultants MORE, and those of Navan & District Anglers Association, regarding potential impacts and lack of survey information in respect of a number of species and that therefore the potential effect on these species was not adequately considered. MORE noted that additional survey work, beyond the site's boundary, in respect of otters, salmon, kingfisher, crayfish and other aquatic species should have been carried out. Having regard to the nature of the development proposed and the Conservation Objectives and QI's of the European sites identified within the ZOI, that the applicant's methodology was correct and allowed for sufficient consideration of the potential effects on these species beyond the site's boundaries. I note the applicant's submission and AA carried out by the applicant and acknowledge that these species are noted and accepted as being present in the European Sites within the ZOI and are noted as being Qis for these sites, and as such potential effects on these species have been assessed and mitigation proposed to ensure no significant effects arise. I am satisfied that no additional survey work is required. Accepting the existence of these

species, I am satisfied that there will be no direct habitat loss within the SAC or SPA such as would have a direct effect on the QI's referenced.

8.3.9 There is Japanese knotweed on the site and the applicant has submitted an eradication plan. It is noted that treatment of this invasive species may have effects on the integrity of SAC and SPA including excavation of soil to carrying out bunding works in affected areas and possible de-stabilisation and erosion along the river bank to treat an infestation along. It is noted that this is a potential short term adverse effect but is necessary and long term will have a positive effect.

#### 8.4 Mitigation Measures

A number of mitigation measures are proposed including a number of measures to manage construction on site. It is proposed to employ an ecologist to oversee site preparation and construction. It is proposed to avoid construction within the area of the SAC apart from works to eradicate knotweed. A number of measures are proposed to protect water quality including a comprehensive construction management plan including provision to management surface water drainage and polluting materials. Measures are also proposed to minimise dust, noise and vibration. A comprehensive Knotweed eradication plan has been submitted.

8.4.1 In relation of otters it is noted that the river banks are to be re-surveyed prior to the commencement of works for previously unobserved otter holts. The existing riparian vegetation cover is to be maintained to ensure a contiguous natural habitat for this species. In relation to potential disturbance from increased activity within the site the entrance and access road is set back and existing natural vegetation (apart from invasive species) are to be allowed grow and develop undisturbed.

8.4.2 In relation to bird species and in particular the Kingfisher, it is proposed that there is to be no clearance of vegetation suitable for nesting birds between March 1<sup>st</sup> and August 31<sup>st</sup>. In relation to potential disturbance from increased activity within the site

the entrance and access road is set back and existing natural vegetation (apart from invasive species) are be allowed grow and develop undisturbed.

8.4.3 In respect of Invasive Species, I am satisfied that the applicant has adequately identified the quantum and location of Invasive Species on site, and that the appropriate mitigation measures have been identified and proposed. I note that Japanese Knotweed, is a highly invasive species, listed under regulation SI 477 of 2011, and the presence of it has been confirmed on site. A survey, assessment and report for the control of this species have been submitted by Dr Fran Guiquinto (botanist and invasive species specialist) on behalf of the applicant, and that an invasive species specialist contractor, Nicholas Head, has been appointed to carry out the eradication on Japanese Knotweed on site. I am satisfied that as per Dr. Giaquinto's report prepared on the 5<sup>th</sup> May and submitted to the Board on the 16<sup>th</sup> June 2020, has adequately identified the presence of Japanese Knotweed (*Fallopia japonica*) at nine locations on site. Site management objectives are provided as follows in the report, including (i) herbicide treatment in situ (which has already commenced), and excavation of the treated soil in sure course, and (ii) bunding, where the topography and space on site allows for the retention and encapsulation of the invasive species providing for the containment of the infestation. Further invasive species of medium risk (including Buddleia davidii and Petasites fragrans), and which are not regulated have also been identified, and a recommendation to ensure their secure and effective disposal is also proposed. 14 recommended actions are identified by the specialist for invasive species (as per the report submitted 16<sup>th</sup> June, 2020), and I am satisfied that these appear reasonable and implementable, and that conditions can be attached to deal with this matter. I note that MORE consultants have not identified themselves to be specialist in this field. I acknowledge that there may be potential for short term adverse effects in a limited and discrete area on site, but that these are necessary to ensure the long-term positive effect and enhancement of the SAC following the eradication of the invasive species within this protected habitat.

8.4.5 I would draw to the Board's attention that under Regulation 49(2) any person who plants, disperses, allows or causes to disperse, spreads or otherwise causes to grow



Japanese knotweed or any of the other invasive plants listed in the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. No. 477 of 2011) shall be guilty of an offence. Furthermore, Sections 52(7) and (8) of the Wildlife Act, 1976, as amended, make it an offence to plant or otherwise cause to grow in a wild state exotic species of plants. Independent of the site's proximity and in part inclusion of Natura 2000 sites, the requirement to address the issue of invasive species is required under separate EU Regulations, and therefore I am satisfied that this matter should be resolved (and invasive species eradicated to curtail their further infestation) and that the mitigation measures proposed are considered to be clearly outlined and deemed to be effective.

8.4.6 In relation to cumulative impacts with other proposed/existing developments, existing development includes residential and commercial development along Mill Lane with no current proposal for new development at this location. To the north is an undeveloped site zoned for mixed use with no current proposals.

8.4.7 It has been demonstrated based on the information in the submitted Natura Impact Statement that with implementation of mitigation measures including construction management and avoidance of development/activity along the riverbank that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the River Boyne and River Blackwater SAC (site code 00299) and the River Boyne and River Blackwater SPA (Site Code 004232), in view of the sites' conservation objectives.

## 8.5 Appropriate Assessment Conclusions

8.5.1 I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the River Boyne and River Blackwater SAC (site code 002299) and the River Boyne and River Blackwater SPA (site code 004232) The appeal site is adjacent to the SPA, or any other European sites, in view of sites Conservation Objectives.

8.5.2 A Construction Environmental Management Plan, which incorporates all mitigation measures indicated in the Natura Impact Statement should be agreed between the Council and the relevant statutory authorities prior to the commencement of development.

## 9.0 Recommendation

9.1 I recommend a grant of permission subject to the following conditions.

## 10. Reasons and Considerations

Having regard to:

- (a) The provision of the Meath County Council Development Plan 2013-2019,
- (b) Sustainable Urban Housing: Design Standards for New Apartments-Guidelines for Planning Authorities (2020),
- (c) The Urban Development and Building Height - Guidelines for Planning Authorities (December 2018),
- (d) The existing pattern of development at this location,
- (e) The design, scale and layout of the proposed development, and
- (f) The submissions and observations on file,

It is considered that, subject to the compliance with the conditions set out below, the proposed development would be in accordance Development Plan policy, would not detract from the visual amenities of the area, would be acceptable in the context of the amenities of adjoining properties and be satisfactory in the context of traffic safety and convenience. The proposed development would therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment:**

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 00299)

and the River Boyne and River Blackwater SPA (Site Code 004232), are the only European Sites within the Zone of Influence for the proposed development, and in respect of which the proposed development has the potential to have a significant effect.

The Board considered the NIS and associated documentation submitted with the application and on appeal, and the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the River Boyne and River Blackwater SAC (site code 00299) and the River Boyne and River Blackwater SPA (Site Code 004232), in view of the sites' conservation objectives.

The Board considered that the information before it was adequate to allow the carrying out an appropriate assessment. In completing the appropriate assessment the Board considered in particular the following:

The likely direct and indirect impacts arising from the proposed development, both individually and in combination with other plans or projects,

The mitigation measures which are included as part of the current proposal, and

The conservation objectives of the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the screening and appropriate assessment carried out in the Inspector's report in respect of the potential effect of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives, although considered it beneficial to provide clarification and/or elaboration in respect of those areas of concern expressed by the planning authority in respect of the Appropriate Assessment carried out and NIS submitted. Furthermore, the Board satisfied itself that the mitigation measures proposed are in line with best practice and are proven mitigation measures, and as applicable adequate monitoring was proposed to ensure the effectiveness of measures proposed.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely effect the integrity of the European Sites in view of the sites' conservation objectives.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and as amended by the further plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interests of clarity.

2. The design and layout of the junction of Mill Lane and Flower Hill shall be maintained as per the existing layout unless agreement is reached with the Council to carry out the revisions indicated in the drawings submitted with the application.

Reason: In the interests of clarity.

3. Details of materials, colours and textures of all external finishes to the proposed development shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of visual amenity.

4. The streets and footpaths within the development shall comply with the requirement and specifications of the Design Manual for Urban Roads and Streets (DMURS) issued in 2013.

Reason: In order to comply with the guidance give in the Design Manual for Urban Road and Streets.

5. Site development and building works shall be carried out only between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

6. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of permission.

Reason: In the interest of visual amenity.

7.

(a) The applicant is required to engage the services of a suitably qualified industrial archaeologist to make a detailed record of all building fabric and associated machinery at the mill site. A plan for salvage of building fabric and machinery should be drawn up.

(b) The applicant is required to engage the services of a suitably qualified archaeologist (licensed under the National Monuments Act 1903-2004) to carry out pre-development testing at the site where ground disturbance is to take place. No sub-surface work shall be undertaken in absence of the archaeologist without his/or her express consent.

(c) The archaeologist is required to notify the Department of Culture, Heritage and the Gaeltacht in writing at least four weeks prior to the commencement of site preparation. This will allow the archaeologist sufficient time to obtain a license to carry out the work.

(d) The archaeologist shall carry out any relevant documentary research and may excavate test trenches at locations chosen by the archaeologist, having consulted the proposed development plans.

(e) Having completed the work, the archaeologist shall submit a written report to the Planning Authority and to the department of Culture, heritage and the Gaeltacht for consideration.

(f) Where archaeological material is shown to be present, avoidance, preservation in situ, preservation by record (excavation) and/or monitoring may be required and the department of Culture, heritage and the Gaeltacht for consideration.

(g) No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the Planning Authority in consultation with the Department of Culture, Heritage and the Gaeltacht.

Reason: To ensure continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

8. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

9. Drainage requirements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: To ensure adequate servicing of the development and to prevent

pollution.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including traffic management, noise management measures and off-site disposal of construction/demolition waste. The construction management plan shall include the mitigation measures outlined in the Natura Impact Statement submitted with the application.

Reason: In the interest of public safety and the amenities of the area.

11. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

12. A public lighting scheme is to be submitted and agreed in writing prior to the commencement of development. Such shall be designed to minimise light overspill into the natural habitats along the River Blackwater.

Reason: In the interests of natural habitats and to protect the amenities of the area.

13. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development. This scheme shall include the following:-

details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development; proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;

details of proposed street furniture, including bollards, lighting fixtures and seating;

details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

14. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection.

15. The treatment of Japanese Knotweed shall be carried out as per the eradication plan submitted with the appeal submission on the 16<sup>th</sup> day of June 2020.

Reason: In the interests of natural heritage.

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of



the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Colin McBride  
Planning Inspector

21<sup>st</sup> April 2021