



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308079-20

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<b>Development</b>	Demolition of existing structures and construction of 1.5 storey dwelling & associated site works. An NIS was lodged with planning application
<b>Location</b>	Shelton Place, Seaview, Mornington, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	LB191339
<b>Applicant(s)</b>	Patrick and Katja O' Shea.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Colin Blake.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	19 <sup>th</sup> of April 2021.
<b>Inspector</b>	Stephanie Farrington

## 1.0 Site Location and Description

- 1.1. The appeal site is located at Shelton Place, Seaview, Mornington, Co. Meath. The site is currently overgrown and occupied by 3 no. derelict structures. The site has a stated area of 0.175ha and is enclosed by a steel fence. The application documentation outlines that the site was formerly a caravan park.
- 1.2. Access to the site is provided via an existing laneway which forms the eastern boundary of the site. The lane is c1.8m in width and comprises a gravel and sand track. The application boundary extends to include this access lane.
- 1.3. The site is adjoined by existing residential dwellings to the north and south. The western boundary of the site is adjoined by existing properties which front onto Seaview Park.

## 2.0 Proposed Development

- 2.1. The proposed development comprises demolition of 3 no. existing unoccupied structures, construction of a new 1.5 storey detached dwelling, construction of a new garage, new entrance to site and all associated site works.
- 2.2. The proposed dwelling has a maximum height of 7.3 m and a floor area of 260 sq.m. The external finish is render and natural stone.
- 2.3. Access to the site is proposed via the existing cul de sac laneway to the east of the site.

## 3.0 Planning Authority Decision

### 3.1. Decision

By order dated 17<sup>th</sup> of August 2021 Meath County Council issued a notification of decision to grant permission for the proposed development subject to 16 no. conditions. The following conditions are of note:

- Condition no. 6(b) relates to the location of the site directly adjacent to the Boyne Coast and Estuary SAC and outlines that no storage of material or

waste, vehicle parking or manoeuvring, or other activities associated with the development shall occur within the boundary of the SAC.

- Condition no. 6(c) The applicant shall employ all the prevention/mitigation measures as detailed in the Natura Impact Statement submitted to the Planning Authority on the 19/06/2019.
- Condition no. 7: The applicant shall provide and maintain sightlines in compliance with DMURS, at the junction of the private laneway and the public road L-5639.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

##### Initial Planners Report (13/12/2019)

- Having regard to the sites A1 zoning the principle of the proposal is deemed acceptable subject to protection of adjoining residential amenity.
- Design of the dwelling is generally in accordance with Meath Rural Design Guide.
- Cross reference is made to reports from technical departments in Meath County Council and recommendations set out therein.

A request for further information is recommended in relation to the following:

- Item 1: Items raised within the submission on the application from Irish Water.
- Item 2: Requirements of Meath County Council Water Services Section
- Item 3: Access laneway contains a substandard surface and is narrow in width. Applicant is requested to submit proposals to demonstrate how construction vehicles will access the site. Consent of NPWS requested if works are proposed along the access road.
- Item 4: Revised site layout plan demonstrating sightlines in accordance with the requirements of DMURS.
- Item 5: Response to items raised within the submission on the application.
- Item 6: Outlines that revised public notices may be required.

### Planners Report dated 17/08/2020

- The report provides a summary of the response to each of the points raised within the request for further information. Concludes that each of the points raised has been addressed to the satisfaction of the planning authority.
- Outlines that the further information was deemed to be significant and revised public notices have been submitted.
- Cross reference is made to a further submission received in respect of the application. A response to the issues raised is provided.
- The report recommends a grant of permission subject to conditions.

### 3.2.2. Other Technical Reports

#### Transportation Department:

- Report dated 29<sup>th</sup> of November 2019 recommends a request for further information to include a revised site layout demonstrating sightlines in accordance with DMURS at the junction of the access laneway with the L5639.
- Report dated 14<sup>th</sup> of August 2020 outlines no objection to the proposed development subject to the applicant being conditioned to providing and maintaining sightlines in compliance with DMURS, at the junction with the public road.

#### Environment Section Report:

- Report dated 25<sup>th</sup> of November recommended a request for further information in relation to confirmation if any works are required/proposed along the access road to the site. Consultation with the NPWS is recommended in the instance that works are proposed.
- Report dated 14<sup>th</sup> of August 2020 outlines that the applicants confirmed that no works were required along the access route that may negatively impact on the adjacent designated SAC site. No objection is raised to the proposed development subject to condition.

#### Water Services Report

- Report dated 07/11/19 recommends further information in relation to a revised surface water layout, provision of permeable paving and demonstration of capacity of existing surface water drainage network.
- Report dated 22/07/2020 confirms that the development as proposed broadly meets the requirements of Meath County Council's Water Services Division. No objection is raised in relation to the proposal subject to condition.

Public Lighting:

- No comment.

Environment (Flooding):

- Correspondence dated 03/12/2109 provides an assessment of the Flood Risk Assessment submitted in conjunction with the application. No objection is raised subject to condition.

### 3.3. Prescribed Bodies

Irish Water

- Report dated 8<sup>th</sup> of November 2019 outlines that insufficient information is provided within the application to allow Irish Water to make a determination on the application. Further information is recommended in relation to proposals for water supply, waste-water disposal and wayleave agreement in relation to the existing foul sewer along the western boundary of the site.
- Report dated 28<sup>th</sup> of July 2020 – confirms that the applicant has engaged with Irish Water in relation to a pre-connection enquiry. The following is confirmed within the submission:
  - Wastewater Connection – a suitably sized pumping station may be required to be installed on site as a gravity connection is not confirmed.
  - Water connection a 15m watermain extension is required to connect to the applicant's development.
  - In relation to wastewater a 160m foul sewer extension is required to connect the applicant's development to the Irish Water wastewater network.

- The applicant shall agree a 6m wide wayleave to facilitate access to the 150mm foul sewer running along the western boundary of the site.

A grant of permission is recommended subject to condition.

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

One submission from Colin Blake, 19 Seaview, Mornington was received in relation to the proposed within the initial 5 week consultation period. The following provides a summary of the points raised:

- The proposed ridge height at 7.3m is 3m taller than the roof height of adjoining properties.
- Overlooking of adjoining properties.
- Infrastructure Issues: Sewerage infrastructure in Mornington is grossly undersized. Issues of sewerage on adjoining properties.
- Impact of the proposed development on flood risk elsewhere.
- Access road is not adequate for construction vehicles to access the site without causing damage to the dunes and adjoining hedgerows.

The further information submission was deemed by the planning authority to be significant and revised public notices were advertised. A further submission from Colin Blake was received. The following provides a summary of the points raised:

- Risk of increased flood risk elsewhere has not been addressed;
- Concerns relating to the height of the proposal and impact on the skyline;
- Impact of construction vehicles and scrub removal on the SAC;
- Appropriate consent for works within the SAC has not been obtained;

## 4.0 Planning History

None relevant to the appeal site.

## 5.0 Policy Context

### 5.1. Development Plan

#### Meath County Development Plan 2013-2019

The Meath County Development Plan, 2013 to 2019, is the applicable development plan. Mornington is identified as a 'small town' within the County settlement hierarchy.

#### *Development Management*

Development Management objectives are set out within Chapter 11 of the Meath County Development Plan.

- Table 11.1 sets out minimum private open space standards for houses – 3 bedroom 60sq.m., four bedroom or more 75sq.m.
- A minimum of 22m between directly opposing windows shall be observed.

#### East Meath Local Area Plan 2014-2020

The site is located within the East Meath Local Area Plan 2014-2020 boundary.

The site is zoned Objective A1 *"To protect and enhance the amenity of developed residential communities"*. Residential is listed as a permitted use on lands zoned for A1 purposes.

The following guidance for A1 zones is set out within the LAP: *"In A1 zones, the Planning Authority will be primarily concerned with the protection of the amenities of established residents. While infill or redevelopment proposals would be acceptable in principle, careful consideration would have to be given to protecting amenities such as privacy, daylight/sunlight, and aspect in new proposals. In all residentially zoned lands, no residential development shall be permitted on lands that are subject of a deed of dedication or identified in a planning application as open space to ensure the availability of community and recreational facilities for the residents of the area"*.

The key aims for residential development within the LAP boundary include “to promote the consolidation of town and village centres by facilitating high quality appropriate infill development”.

Lands to the east of the site are zoned Objective H1 for high amenity purposes with an objective “To protect and improve areas of high amenity”.

#### *Flood Risk*

Section 4.7 of the LAP relates to water services and utilities. The following flood risk management policies and objectives are set out:

- *WSU POL 20: To have regard to the Planning System and Flood Risk Management - Guidelines for Planning Authorities, 2009 through the use of the sequential approach and application of the Justification Tests for Development Management, during the period of this plan.*
- *WS POL 23: 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*
- *WSU OBJ 8 To seek to ensure that construction works are designed so as not to result in surface water runoff into cSAC or SPAs either directly or indirectly via a watercourse.*

## **5.2. The Planning System and Flood Risk Management Guidelines 2009**

These have been adopted and are the DOEHLG Guidelines for Planning Authorities (November 2009). The key principles are: Avoid the risk, where possible – precautionary approach, substitute less vulnerable uses, where avoidance is not possible, and mitigate and manage the risk, where avoidance and substitution are not possible.

Flood Zone A has the highest probability of flooding, Zone B has a moderate risk of flooding and Zone C (which covers all remaining areas) has a low risk of flooding. The sequential approach should aim to avoid development in areas at risk of flooding



through the development management process. An appropriate flood risk assessment and justification for development in areas subject to flooding and adherence to SUDS is recommended. Dwellings are classified as highly vulnerable developments within Table 3.1 of the Guidelines. Compliance with the Justification Test is required in terms of development of highly vulnerable development within Flood Zones A and B.

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

The appeal site extends to include an access road which is located within the boundary of the Boyne Coast and Estuary SAC. In addition, the following sites are located within 15km of the site.

- The Boyne Estuary SPA (Site Code 004080)
- The River Boyne and River Blackwater SAC (Site Code 002299)
- River Nanny Estuary and Shore SPA (Site Code 004158)
- Clogherhead SAC (Site Code 001459)
- The River Boyne and River Blackwater SPA (Site Code 004232)

### 5.4. **EIA Screening**

Having regard to the nature of the proposed development comprising a single dwelling house and associated 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 third party appeal from Colin Blake with an address at 19 Seaview Mornington Co. Meath was submitted in respect of the decision of Meath County Council to grant permission for the development. The following provides a summary of the grounds of appeal:

- The appellant has no objection to the principle of a dwelling on site. However, development should not be undertaken at the expense of Mornington Special Area of Conservation.
- Concerns in relation to construction traffic associated with the development in light of restricted access to the site via a narrow sand and gravel track which is c 1.8m in width.
- The impact of construction traffic on the dune structure and vegetation of the SAC has not been addressed. Waste removal and wheelie bins are left at the entrance to the laneway for collection as the truck cannot navigate the laneway. There are restrictions on mountain bikes, quad bikes and motor bikes from using the SAC.
- The access laneway is a public right of way and the ownership of the laneway is undefined.
- Conditions applied by Meath County Council do not alleviate the concerns regarding impact on the designated sites.
- No mitigation measures are set out within the NIS in relation to the proposed access lane. These relate exclusively to the proposed dwelling site.
- The point raised within Meath County Council's request for further information in relation to construction vehicle access to the SAC is not addressed. No consultation has been undertaken with the NPWS.
- Insufficient information provided by the applicant in relation to sightlines from the lane to the adjacent public road. A large amount of flora would have to be removed from the SAC to facilitate the sightlines.
- The appellant questions the ownership of the land as the Golf Club from which the letter of consent is provided is leased from the Lyons Estate. The secretary of the golf club does not have the authority to sanction any works related to the SAC/SPA. The hedge referred to is a hawthorn tree.
- Construction works can only take place over the month of September in accordance with the requirements of the planning authority's conditions.

- Design, layout and siting: Concerns are raised in relation to the height of the proposal at 7.3m in the context of existing bungalows and its impact on the skyline. The most recent build of a 1.5 storey property was restricted to 6.6m high (PA Ref LB-160358).
- Questions the FFL of the building at 4.22m. The roof height of existing properties to the west is 4.2m. Reference is made to the provision of properties above the roof line.
- Impact on Residential Amenity - Loss of privacy due to overlooking of properties to the west. Overshadowing of properties to the west.

## 6.2. Applicant Response

- None received.

## 6.3. Planning Authority Response

Meath County Council provided a response to the grounds of appeal. The following provides a summary of the issues raised.

- The planning authority is satisfied that all matters outlined within the appeal were considered in the course of its assessment of the application.
- Cross reference is made to the report received from Irish Water, the Water Services Section and the Environment Section. Conditions recommended in these reports can be attached to the decision.
- In relation to roof height the proposed ridge height of 7.3m is not considered to be excessive. All first floor windows are angled away from adjoining properties to prevent overlooking impacts.
- From a land registry search the lands in question appear to be within the same ownership as Laytown and Bettystown Golf Club and a letter of consent has been submitted.
- The report received from the Roads Section raises no objection to access arrangements to the subject site via the existing laneway. The removal of a section of scrub at the junction of the laneway and the L-5639 will improve

sightlines and as a result traffic safety for all users of the laneway and it is not considered that the minimal removal of scrub would impact on the SAC at this location. The condition recommended by the Environment Section will ensure protection of the SAC and the cut-back of a section of the scrub will be conditioned to be carried out outside of the bird nesting season.

- The proposed development is considered to be consistent with the policies and objectives of the Meath County Development Plan 2013-2019.
- The planning authority requests the Board to uphold the decision to grant permission for the proposed development.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Compliance with Zoning Objectives
- Layout, Height and Visual Impact
- Impact on Residential Amenity
- Access
- Flood Risk
- Appropriate Assessment

### **7.2. Compliance with Zoning Objective**

7.2.1. The site is zoned for A1 residential purposes within the East Meath Local Area Plan. This zoning objective seeks to “To protect and enhance the amenity of developed residential communities”. Residential is listed as a use which is permitted under this zoning objective. I consider that in principle the development of an infill dwelling on a residentially zoned site to be acceptable.

7.2.2. I note the wording of the A1 zoning objective pertaining to the site which seeks to “protect and enhance the amenity of developed residential communities”. The impact

of the proposal on the residential amenities of existing properties in the vicinity of the site is therefore a key consideration in assessing the proposed development. This is considered in further sections of this assessment.

### **7.3. Layout, Height and Visual Impact**

- 7.3.1. The proposed development comprises construction of a part single storey, part 1.5 storey residential dwelling with a maximum height of 7.3 metres. The dwelling is L shaped and has a floor area of 260 sq.m. The design statement submitted in conjunction with the application outlines that the proposal has been designed to integrate with the rural and coastline environment. A series of 3D images of the proposal are included within the design statement. The external finish is render and natural stone. I have no objection to the overall layout and finish of the dwelling.
- 7.3.2. Concerns in relation to the height and visual impact of the proposed dwelling are raised within the third party appeal. Reference is made to the established pattern of residential development adjoining the site which is characterised by single storey properties and a case is made that the proposal would not reflect the established pattern of development in the area.
- 7.3.3. The height of properties in the vicinity of the site is illustrated within Drawing no. PP-02 Proposed Site Layout Plan. The property to the north "Shandon Place" has a ridge height of 105m, and properties to the south have height of 104.75m (Meadowville) and 107.67m (Lands End). Properties to the east of the site at Seaview Park have a ridge height of 104m.
- 7.3.4. The proposed dwelling is L shaped and part single storey, part 1.5 storey and increases to a maximum ridge height of 7.3m. I do not consider the overall ridge height of the property to be excessive or of a height which would render the proposal visually intrusive in the surrounding site context.
- 7.3.5. I note the reference within the appeal to the restriction of the ridge height of a dwelling to the west of Seaview to 6.6m under PA Ref: LB160358. However, I note the ridge height as proposed by the applicant in this regard was 6.6m and no restrictions on height were imposed by the planning authority.
- 7.3.6. The third party appeal furthermore raises concern in relation to the level of fill on site and the provision of the proposed dwelling at an elevated level, above the roof line of

existing properties. In this regard I note that site levels are proposed to be raised by c.1m within the site in order to mitigate potential flood risk. I do not consider that the proposed increase in levels would be excessive to the extent that would render the development incongruous within the surrounding streetscape nor would it result in a situation where the proposed dwelling would be provided above the roof line existing dwellings.

- 7.3.7. Having regard to the above reasons and considerations I have no objection to the overall layout and height of the proposal and do not consider that it would be visually intrusive in the surrounding site context.

#### **7.4. Impact on Residential Amenity**

- 7.4.1. The appeal site is adjoined by existing residential development to the north, south and west. The A1 zoning objective pertaining to the site seeks to “protect and enhance the amenity of developed residential communities”. The impact of the proposal on the residential amenities of existing properties in the vicinity of the site is therefore a key consideration in assessing the proposed development.

- 7.4.2. I note the guidance for A1 zones as set out within the LAP which outlines that: *“In A1 zones, the Planning Authority will be primarily concerned with the protection of the amenities of established residents. While infill or redevelopment proposals would be acceptable in principle, careful consideration would have to be given to protecting amenities such as privacy, daylight/sunlight, and aspect in new proposals. In all residentially zoned lands, no residential development shall be permitted on lands that are subject of a deed of dedication or identified in a planning application as open space to ensure the availability of community and recreational facilities for the residents of the area”.*

- 7.4.3. Concerns in relation to the impact of the proposal on the residential amenity of adjoining properties are raised within the third party appeal. Such concerns relate to overlooking of adjacent properties including properties at Seaview to the west of the site. While not raised within the grounds of appeal, concerns relating to overshadowing impacts associated with the proposal were also raised within the submission on the application.

- 7.4.4. The appeal site is adjoined to the north, south and west by existing single storey residential properties. Separation distances as illustrated on the proposed site layout

plan include 17.6m from the closest property to the west at Seaview Park, 12.5m from the residential property to the north and 11.3m from the dwelling to the south. The proposed boundary treatment includes an existing boundary wall and planting to the north, south and west.

7.4.5. On review of the layout, I note that the proposed first floor windows are positioned and angled to negate against overlooking on adjoining properties. Having regard to the siting and height of the proposed dwelling, existing boundary treatment and distance to existing residential properties I consider that impacts of overshadowing do not arise in the context of the proposed development.

7.4.6. On an overall basis, having regard to existing and proposed boundary treatment, separation distances between existing dwellings and the proposed dwelling I conclude that no issues of overlooking or overshadowing arise which would negatively impact on the residential amenity of adjoining residential properties. On this basis I consider that the proposed dwelling has been designed in accordance with the A1 zoning objective pertaining to the site which seeks to *“protect and enhance the amenity of developed residential communities”*.

#### 7.5. Access

7.5.1. Access to the site is proposed via the existing access laneway from the L-5639. The access lane comprises a sand and gravel track which is c1.8m in width. The laneway currently provides access to existing residential properties in the vicinity of the site.

7.5.2. Concerns in relation to the proposed access arrangements are raised within the third party appeal. Such concerns relate to sightlines at the junction of the lane and the L-5639, appropriate consent to achieve same, and the capacity of the lane to accommodate construction related vehicles. These points are addressed in turn as follows.

#### Access and Sightlines

7.5.3. The issue of visibility at the junction of the site with the public road was raised within Meath County Council's request for further information. A revised site layout plan was submitted in response to Meath County Council's request for further information illustrating that sightlines of 59m to the west and 59 m to the east can be achieved at the junction of the private lane and the L-5639 in accordance with the requirements

of DMURS. A section of the scrub and hedgerow is proposed to be cut back to the east to facilitate sightlines. The applicant has submitted a letter of consent from Laytown and Bettystown Golf Club to carry out such works.

- 7.5.4. The ownership of this portion of land is questioned within the third party appeal. A case is made that consent is required from the NPWS to carry out such works as they relate to works within a designated SAC. In responding to the grounds of appeal, Meath County Council outline that land registry records determine that the golf course and access road are in the same ownership and appropriate consent to carry out the works has been provided in this regard.
- 7.5.5. On an overall basis, I have no objection to the proposed operational access arrangements. The principle of access to the site from the access laneway and adjacent properties is established and I note the previous use of the site of as a caravan park.
- 7.5.6. The proposal will result in enhanced visibility at the junction of the laneway and L-5639 which would enhance traffic safety for all users of the laneway. Having regard to the small scale nature of the proposal construction would be short term in duration. I furthermore note that no objection to the principle of the proposal is raised within the Meath County Council Transport Report. I consider that the issue of ownership has been sufficiently established in this regard for the purposes of the application.

#### Construction Access

- 7.5.7. Concerns relating to the capacity of the proposed access road to accommodate construction related vehicles are raised within the third party appeal. The issue of construction related access was raised within Meath County Council's request for further information.
- 7.5.8. In responding to the FI request the applicant confirmed that the existing laneway is the only access to the site and is proposed to be used for construction related access. A case was made that having regard to the small scale nature of the proposal that the number of construction vehicles will be minimal and can be coordinated to ensure that only one construction vehicle arrives at any particular time. It is furthermore stated that all unloading and loading of deliveries will be done on site. No works to the existing lane are proposed as part of the subject application.



- 7.5.9. On an overall basis I have no objection to the proposed access arrangements. The principle of access to the site from the access laneway and adjacent properties is established and I note the previous use of the site of as a caravan park. The proposal will result in enhanced visibility at the junction of the laneway and L-5639 which would enhance traffic safety for all users of the laneway. Having regard to the small scale nature of the proposal construction would be short term in duration. I furthermore note that no objection to the principle of the proposal is raised within the Meath County Council Transport Report.
- 7.5.10. I note the requirements of Condition no. 8 of Meath County Council's notification of decision to grant permission for the development which stipulates that the construction of the proposal shall be managed in accordance with the requirements of a Construction and Environmental Management Plan to shall be submitted to and agreed with the planning authority prior to commencement of development.
- 7.5.11. While I consider the requirements of this condition to be appropriate in normal instances, I note the location of the access lane within a designated SAC and do not consider that the application has sufficiently addressed the potential impacts of construction related vehicles on the lane. No autotrack details for construction vehicles have been submitted in conjunction with the application. The lane is narrow in width and there are obstructions to the west including ESB poles and cables which would displace construction related vehicles further within the SAC boundary.
- 7.5.12. Having regard to the location of the access road within a designated Boyne Coast and Estuary SAC and the restricted nature of the access road, I consider that further details regarding construction related access to the site would be required in terms of potential impacts on the SAC. This point is further addressed within the Appropriate Assessment section of this report.

## 7.6. **Flood Risk (New Issue)**

- 7.6.1. The East Meath LAP includes policies relative to Flood Risk Management including in the Mornington area. Volume 3 contains a Strategic Flood Risk Assessment. Section 6.5 refers to Development Zoning and the Justification Test relative to the Mornington East area. The site is partially located in Flood Zone A and Zone B as illustrated within the extract from the SFRA in the attached presentation document.

The portion of the site which is identified as Flood Zone A is identified within a defended area.

- 7.6.2. A Flood Risk Assessment prepared by Hydrocare Environmental Limited was submitted in conjunction with the subject application. This identifies that the site is located 550m west from the coast and c. 300m south west from the estuary of the River Boyne. The Mornington river is located 70m west and 50m north of the site.
- 7.6.3. A topographical survey was undertaken to inform the Flood Risk Assessment. This identifies that levels on the site range from 3.17 mAOD at the north west corner of the site to 3.86mAOD along the south eastern site boundary. The site is described as being relatively flat with a slight gradual fall from south east to north west. The proposed finish floor level of the property is 4.22mAOD.
- 7.6.4. Section 2 of the report sets out a Level 1 Screening Assessment of flood risk. Flood risk on the site is identified as follows:
- Pluvial Flooding: OPW PFRA maps illustrate that the site is not at risk from pluvial flooding.
  - Coastal Flooding: The CFRAM Mornington Flood Extent Map illustrates that in the case of coastal flooding there will be a backflow of water on the River Boyne which in turn will have an effect on the Mornington River which will lead to flooding in the vicinity of the appeal site. While not located within the coastal flood extents, the site is partially located inside a defended area. The flood risk assessment outlines that this means that the site is located within an area where flood defence measures have been installed and offer a level of protection up to and including the 0.5% AEP (1 in 200 year) tidal flood event. However, for the purposes of the Flood Risk Assessment it is assumed that the flood defence measures are not in place. The site is therefore identified as being within Flood Zones A and B for tidal flooding.
  - Fluvial Flooding: The CFRAM Mornington Fluvial Flood Extent Map illustrates that the site is not located inside the fluvial flood extents. The site is partially located inside a defended area which is protected up to and including the 1% Fluvial AEP (1 in 100 year) event. As the site is defended for the purposes of the flood risk assessment assumes that the site is partially located within Flood Zones A and B for fluvial flooding.

- 7.6.5. The Flood Risk Assessment refers to the Strategic Flood Risk Assessment prepared by JBA Consulting to inform the 2012-2019 Meath County Development. The results of flood modelling carried out as part of the Strategic Flood Risk Assessment are consistent with the CFAMS maps.
- 7.6.6. The OPW flood maps identify flooding in the area to the west of the site in 2002 which was centred along the length of the Mornington River. A copy of the report from the event is attached as Appendix B of the applicant's flood risk assessment. The photographic evidence submitted outlines that the flooding did not extend up to the applicant's proposed site.
- 7.6.7. Having regard to the partial location of the site within Flood Zones A and B and in accordance with the requirements of the Flood Risk Management Guidelines, Section 6 of the Flood Risk Assessment sets out a Justification Test. In addressing the requirements of Box 5.1 of the Guidelines the following is noted:
- The site is located within zoned land for residential development within the East Meath Local Area Plan.
  - While part of the site is located on lands designated as Flood Zone A the development relates to an infill site at the limits of the flood extents and risk to other properties is considered low and justified considering the urban location of the appeal site.
  - The FFL of the dwelling is set at 4.22AOD, this is 1.05m above the predicted 0.5% AEP tidal flood water level and 1m above the 0.1%AEP tidal flood water level. Risk to people, property and the environment are reduced by the adoption of flood risk mitigation measures such as the proposed FFL of the dwelling, stormwater and foul water drainage
  - The access laneway to the site is located in Flood Zone C. Access and egress via the lane can be maintained in the event of a flood event.
  - The proposed FFL will not have a negative impact on the streetscape. The setting of the FFL of the property at 4.22m AOD is 150mm above the road level, 370mm above the FFL of the dwelling house to the south and 5900mm of the dwelling house to the north.

7.6.8. I note the concerns raised within the observations on the application in relation to flooding in the area. Section 4.5 of the report relates to Exacerbation of Flooding in this regard it is stated that the location of the site in the extremities of the flood zone indicate that the site is not within a direct path of flow. On this basis it is concluded that the site development of the site will not block flow paths or divert flood waters elsewhere or exacerbate flooding elsewhere or cause flooding in areas that may not have been otherwise flooded.

7.6.9. The potential impacts associated with raising ground levels are considered within the FRA. In this regard compensatory storage is proposed. It is proposed to lower 220m area to the rear of the dwelling to the west of the site by 1700mm to a depth of 3.17m AO providing a maximum flood water storage of 37.4m<sup>3</sup>.

7.6.10. Recommended mitigation measures include the following:

- A FFL of 4.22AOD is proposed for the dwelling providing 1m freeboard to the 0.1% AEP flood water level;
- Stormwater run-off from the roof and structures will discharge to the public storm drain in the area;
- Sealed manholes to avoid flood water ingress;
- Non return valve on foul sewer to prevent back flow surcharging;
- Water compatible materials for flooring and walls;
- A 200sq.m. area will be lowered by a maximum of 0.17m in the garden which will provide on-site storage for any displaced flood waters;

7.6.11. The assessment concludes that the implementation of the above flood risk measures will ensure that the proposal is considered suitable with regard to flood risk management.

7.6.12. Correspondence on file from the Environment Section (Flooding) in Meath County Council raises no objection to the proposal subject compliance with the mitigation measures set out within the FRA and ensuring that all foul sewer chambers and surface water chambers within the development shall be sealed.

7.6.13. On review of the flood risk assessment, I consider that the applicant has sufficiently addressed each of the requirements of the Justification Test. I consider that the

applicant has demonstrated that the risk of flooding to the proposed development is low and will not exacerbate flood levels within the site or surrounding area.

Appropriate mitigation measures have been incorporated within the development including appropriate floor levels and provision of compensatory storage. In this regard I have no objection to the proposed development on grounds of flood risk subject to compliance with the identified mitigation measures.

## **7.7. Other Issues**

### *Construction Timeframe*

- 7.7.1. The third party appeal outlines that the cumulative impact of the requirements of Condition no.5 (c) and 5 (d) of Meath County Council's notification of decision to grant permission for the proposal restrict construction related activities associated with the proposal to the month of September.
- 7.7.2. Condition 5 (c) outlines that the developer shall employ the mitigation measures set out within the Natura Impact Statement. In this regard I note that the NIS sets out a recommendation that construction works should be avoided from October to March in order to minimise disruption to the over wintering birds.
- 7.7.3. Condition 5(d) of Meath County Council's notification of decision to grant permission for the development outlines that any scrub/hedgerow/ tree removal shall be carried out outside of the main bird nesting season (1<sup>st</sup> of March to 31<sup>st</sup> of August inclusive).
- 7.7.4. In assessing the grounds of appeal, I do not consider that the net result of the requirements of Conditions no. 5(c) and 5(d) would restrict construction related activities to the month of September. In my view, the removal of scrub/hedgerow/tress does not constitute construction related activities.

## **7.8. Appropriate Assessment**

- 7.8.1. A Natura Impact Assessment prepared by Whitehall Environmental is submitted in support of the application.

### *Site Description*

- 7.8.2. The site location is identified in Figure 2 and Figure 4 of the report. The report outlines that biodiversity on the site is relatively low and there are no habitats of ecological value. There are furthermore no habitats within the application site that are suitable for the bird species of the Boyne Estuary SPA. There are no drains or

streams within the immediate vicinity of the site. The closest watercourse to the site is identified as the Mornington stream which at its closest point is 47m north of the appeal site. I note that the site boundary does not extend to include the access lane to the east of the site. There are anomalies between the application drawings and the NIS in this regard.

#### *Proposed Development*

7.8.3. Section 3.1 of the report provides an overview of the proposed development. This outlines that proposal comprises the construction of a dwelling and garage. Upon completion, waste-water associated with the proposal will be directed to the main sewer and surface water will be directed to the local storm water network.

7.8.4. Section 3.3 of the report identifies that there are 6 Natura 2000 designated sites within 15km of the application site. These sites and their distance to the appeal site are identified as follows within the report:

- Boyne Coast and Estuary SAC (Site Code 001957) – 9.6km east;
- The Boyne Estuary SPA (Site Code 004080) – 229m east;
- The River Boyne and River Blackwater SAC (Site Code 002299) – 3.5km west;
- River Nanny Estuary and Shore SPA (Site Code 004158) – 3.7km south;
- Clogherhead SAC (Site Code 001459) – 7.6km north;
- The River Boyne and River Blackwater SPA (Site Code 004232) – 9.5km west;

7.8.5. I note the distances from designated sites cited within Section 3.3 are underestimated, particularly in respect of the Boyne Coast and Estuary SAC which, while stated as 9.6km to the east, is partially included within the site boundary. I note further references within the report to the location of the site adjacent to the SAC.

7.8.6. Table 1 of the study identifies the qualifying interests of each of the designated sites and provides an overview of potential impacts. It is concluded that potential impacts on The River Boyne and River Blackwater SPA and SAC can be ruled out due to fact that the application site is in a separate catchment. Potential impacts on the

Clogherhead SAC are also ruled out due to distance and lack of connectivity. In terms of The Boyne Estuary SPA and the River Nanny and Shore SPA it is noted that potential impacts are unlikely but will be assessed further.

- 7.8.7. Section 3.6 of the study concludes that all sites, with the exception of the Boyne Coast and Estuary SAC and Boyne Estuary SPA can be excluded from the remainder of the appropriate assessment process primarily on the basis of their distance from the proposed development site.
- 7.8.8. Having regard to the characteristics of the development, the location of the appeal site and the separation distance to the aforementioned sites, I am satisfied that these sites can be screened out of any further assessment.
- 7.8.9. The Screening conclusion set out within section 3.7 of the NIS this outlines that the proposed development is not directly connected with or necessary to the nature conservation management of any designated site. However, as previously noted this is based on a site boundary which is inconsistent with that set out within the architectural drawings. The application drawings illustrate that the application boundary extends to include the access laneway located to the east of the site which is located within the SAC.
- 7.8.10. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in-combination with other plans or projects could have a significant effect on European Site No. 001957 or 004080, in view of the site's Conservation Objectives, and Appropriate Assessment and submission of a NIS is, therefore, required.

#### Natura Impact Statement

- 7.8.11. A Natura Impact Statement is prepared having regard to the proximity of the site to the Boyne Estuary and Coast SAC and Boyne Estuary SPA. A brief description of the European sites and their conservation objectives and qualifying interests are set out as follows:

#### Boyne Coast and Estuary SAC (001957)

#### Qualifying Interests

- Estuaries, Mudflats and sandflats not covered by seawater at low tide, Salicornia and other annuals colonising mud and sand (1310), Atlantic salt

meadows (*Glauco-Puccinellietalia maritimae*) (ASM) (1330), Mediterranean salt meadows (*Juncetalia maritimi*) (MSM) (1410), Embryonic shifting dunes (2110), Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) (2120), Fixed coastal dunes with herbaceous vegetation (grey dunes) (2130)\*

7.8.12. The Boyne Coast and Estuary SAC encompasses the tidal sections of the River Boyne as far upriver as Drogheda. The following conservation objective applies to Boyne Coast and Estuary SAC (from NPWS Boyne Coast and Estuary SAC Conservation Objectives Supporting Document 2012):

- Objective: To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in the Boyne Coast and Estuary SAC, which is defined by the following list of attributes and targets.
- Target 1 The permanent habitat area is stable or increasing, subject to natural processes.
- Target 2 Conserve the following community types in a natural condition: Intertidal estuarine mud and fine sand with *Hediste diversicolor* and *Corophium volutator* community; and Fine sand dominated by bivalves community complex.

Objective: To maintain the favourable conservation condition of Estuaries in the Boyne Coast and Estuary SAC, which is defined by the following list of attributes and targets.

- Target 1: The permanent habitat area is stable or increasing, subject to natural processes.
- Target 2: Conserve the following community types in a natural condition: Intertidal estuarine mud and fine sand with *Hediste diversicolor* and *Corophium volutator* community; and Subtidal fine sand dominated by polychaetes community.



Boyne Estuary SPA (004080)

Qualifying Interests

- Shelduck (*Tadorna tadorna*) [A048], Oystercatcher (*Haematopus ostralegus*) [A130], Golden Plover (*Pluvialis apricaria*) [A140], Grey Plover (*Pluvialis squatarola*) [A141], Lapwing (*Vanellus vanellus*) [A142], Knot (*Calidris canutus*) [A143], Sanderling (*Calidris alba*) [A144], Black-tailed Godwit (*Limosa limosa*) [A156], Redshank (*Tringa totanus*) [A162], Turnstone (*Arenaria interpres*) [A169], Little Tern (*Sterna albifrons*) [A195], Wetland and Waterbirds [A999].

7.8.13. This moderately-sized coastal site is situated east of Drogheda Town on the border of Counties Louth and Meath. The site comprises the estuary of the Boyne River, from downstream of the town of Drogheda, flowing eastwards towards Baltray where it narrows behind a sand and shingle spit bounded by sand dunes, before entering the sea. A stretch of sandy coastline north and south of the estuary mouth is included in the designated site. Apart from one section which is over 1 km wide, the estuary width is mostly less than 500 m.

7.8.14. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for a number of species, which are listed in the table above.

7.8.15. The following are the conservation objectives listed for Boyne Estuary Special Protection Area, the overarching objective being to ensure that the winter bird populations and their wetland habitats are maintained at, or restored to, favourable conservation condition:

- Objective 1: To maintain the favourable conservation condition of the non-breeding waterbird Special Conservation Interest species listed for Boyne Estuary SPA.
- Objective 2: To maintain the favourable conservation condition of the wetland habitat at Boyne Estuary SPA as a resource for the regularly occurring migratory waterbirds that utilise it.

7.8.16. The NIS identifies that the dominant habitat within the SAC/SPA in the area closest to the application site is mapped by the NPWS as “field coastal dunes with herbaceous vegetation” and “fine sand dominated by bivalves community complex”.

Shifting dunes and humid dune slacks are also identified as being present. The closest mapped estuarine habitat to the application site is approximately 245m to the north east.

7.8.17. Table 2 of the NIS outlines that the impact of the proposal on the following qualifying interest of the SAC/SPA can be excluded due to distance involved:

- Mediterranean salt meadows, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows;

7.8.18. Table 3 describes the qualifying interest of the Boyne Coast and Estuary SAC/SPA that have the potential to be impacted upon from the proposed development:

- Estuaries: The estuary habitat is the main habitat within the zone of influence of the application site and any deterioration of water quality of the estuary arising from the construction or operation of the proposed development would be a negative impact on this habitat. Impacts from the construction and operational phase of the development are identified as being possible and mitigation measures will be required to remove these potential impacts. Potential impacts are identified as pollution or run off from the site leading to eutrophication or a deterioration in water quality in the estuary.
- Mudflats and Seafats not covered by Seawater at low tide: Potential impacts on this habitat are identified as arising from loss or decrease in the quality or area of this habitat and its associated species due to pollution or a decrease in water quality, loss or decrease in this habitat arising from disposal of construction waste.
- Embryonic Shifting Dunes, Shifting dunes along the Shorelines with Ammophila arenaria and Fixed coastal dunes with herbaceous vegetation: Potential impacts on these habitats are identified as arising from increased human disturbance and inappropriate disposal of construction waste.
- All features of interest of the Boyne Estuary SPA: Table 3 outlines that all overwintering bird species have the potential to be impacted upon due to the potential loss of habitat and disturbance. Potential impacts are identified as impacts on the species due to eutrophication, changes in water quality leading

to impacts upon the diet of these species and possible impacts due to an increase in human noise and disturbance.

### ***Identification of Potential Impacts***

7.8.19. Section 4.3 of the report outlines that the following areas were examined in relation to potential impacts from the proposed development:

- Deterioration of water quality in designated sites arising from pollution from surface water run-off during site preparation and construction; direct and indirect impacts are identified.
- Deterioration in water quality in designated areas arising from pollution during the operation of the proposed development- In this regard the most likely source of pollution is silt – oil contaminated surface water run off leading to a deterioration in water quality and pollution of sand/mud sediments in the SAC/SPA.
- Loss of habitat in designated sites arising from disposal of construction waste or soil- The NIS outlines that the application is located adjacent to the Boyne Coast and Estuary SAC site boundary. A risk to the site is identified from inappropriate disposal of construction waste and excavated soil.
- Risk to Annex I or Annex II species associated with the site- In this regard it is stated that potential impacts arise from human disturbance and changes and deteriorations in water quality and habitat structure. However, the NIS outlines that there are no habitats within the application site that are suitable as feeding grounds for these bird species.
- Cumulative impacts with other proposed/ existing developments: in this regard it is stated that the majority of houses in the Mornington area are served by the Drogheda agglomeration. This treatment plant was subject to AA in 2011 and it was concluded that there will be no impact on Natura 2000 sites arising from the Drogheda WWTP discharge. It is concluded that the proposed development will not lead to any cumulative impacts on the SAC/SPA when considered in combination with other plans or projects.

## ***Mitigation Measures***

7.8.20. The following mitigation measures are identified within Section 5 of the NIS in order to avoid any reductions in water quality in the area surrounding the proposed development and in order to protect designated sites and species.

- Prior to the commencement of development, the site contractor will be made aware of the sensitivities of the site and its surrounding habitats;
- In order to minimise disturbance to over wintering birds of the SPA, site construction works should preferably be avoided from October to March;
- Strict controls of erosion, sediment generation and other pollutants associated with site preparation and construction process shall be implemented including provision of attenuation measures, silt traps or geotextile curtains to reduce and intercept sediment release into any local watercourse;
- Any existing natural, vegetated buffer zones between the site works and the SAC/SPA boundary should be retained.
- During the operation of the development, only clean surface water should be allowed into any drain or soakaway. It should be treated via serviced sediment and oil interceptor traps, prior to discharge into any local drainage channel or soak-away. The principals of SUDS should be incorporated into development.
- Fuels, oils, grease and hydraulic fluids must be stored in bunded compounds well away from watercourses. Refuelling of machinery etc shall be carried out in bunded areas.
- Any bulk fuel storage tank should be properly bunded with a bund capacity of at least 110% of that of the fuel tank.
- Stockpile areas shall be kept away from drains and watercourses and the SAC/SPA.
- All works shall be confined to the proposed development site and site development works shall adhere to best practice.
- All waste associated with the development should be disposed of in an environmentally friendly manner.

- During operation only low intensive lighting should be used on the development.
- Bare soil should be seeded as much as possible with grass seed to minimise erosion into local drains and watercourses.
- Any landscaping should involve the planting of native Irish species that are indigenous to the site.

7.8.21. Section 6 of the NIS concludes the following:

*“It is considered that with the implementation of the mitigation measures, that the proposed works do not have the potential to significantly affect the conservation objectives or qualifying interests of the Boyne Coast and Estuary SAC/SPA. The integrity of the site will not be adversely affected”.*

#### **Assessment**

7.8.22. Notwithstanding the above conclusions of the NIS, I have concerns in relation to the scope and content of the study. The onus is on the applicant to ensure that adequate and relevant information is submitted to enable an Appropriate Assessment to be carried out. Such an assessment should be based on the best scientific knowledge in the field, of all aspects of the development project which can, by itself or in combination with other plans and projects, adversely affect the European site in light of its Conservation Objectives.

7.8.23. Concerns relating to the impact of the proposal on the Boyne Coast and Estuary SAC are raised within the third party appeal. A case is made that the NIS does not address the impact of construction activities associated with the development on the existing access route which is located within the SAC. The third party appeal questions whether appropriate consent has been obtained to carry out works within the SAC to achieve sightlines at the junction of the private lane and the L-5639. In this regard a case is made that no consultation has been undertaken with the NPWS in respect of the proposed works.

7.8.24. The limitations of the NIS were raised by the Environment Section of Meath County Council within the report dated 25/11/2019. The following is noted in this regard:

*“A Natura Impact Statement was submitted with regard to the proposed development; however, this assessment was carried out only with regard to the*

*proposal to demolish the buildings on site and build the new house. Connection of the services via the existing access road and the possible need to improve this access road was not assessed. It appears from the NPWS map viewer that this access road is located to the immediate west, and not within the adjacent SAC however consultation with the NPWS is recommended if any works are proposed along the access road”.*

- 7.8.25. While the above concerns were raised within Meath County Council’s request for further information, I do not consider that the response which indicates that no works are proposed to the access lane and minimal construction vehicles will access the site sufficiently addresses the issues raised.
- 7.8.26. As detailed above, the application site boundary as illustrated within the NIS does not align with the architectural drawings. While the NIS outlines that the site is located adjacent to the SAC, based on the information set out within the NPWS map viewer I note that the access road lies within the SAC as illustrated on the attached presentation document.
- 7.8.27. On review of the mitigation measures set out within the NIS I do not consider that these sufficiently address construction relation impacts associated with the development in particular in relation to construction methodology including construction access through the SAC together with proposed works to achieve sightlines at the junction of the access road and the L5639. The access lane is narrow in width and I note that there are obstructions along the extent of the road including ESB posts and cables on the area to the west of the road which would direct construction vehicles further within the SAC boundary.
- 7.8.28. Map 7 of the NPWS Conservation Objectives Series for the SAC illustrates that the boundary for “fixed coastal dunes with herbaceous vegetation” extends to include the access road. I do not consider that the impact of the proposal on this qualifying interest has been sufficiently addressed.
- 7.8.29. I note the requirements of Condition no. 8 of Meath County Council’s notification of decision to grant permission for the development which relates to submission of a Construction and Environmental Management Plan for construction related practices but consider that such details are necessary to allow a full assessment of the impact of the proposal.

### *Conclusion*

7.8.30. On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European site(s) No. 001957 and 004080, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

## **8.0 Recommendation**

8.1. I recommend that permission is refused for the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

1. On the basis of the information provided with the planning application and appeal and in the Natura Impact Statement and in light of the assessment carried out above, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant effect on the integrity of the Boyne Estuary SPA (004080) and the Boyne Coast and Estuary SAC (001957), or any other European site, in view of the sites Conservation Objectives. In such circumstances the Board is precluded from granting permission.

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Stephanie Farrington  
Senior Planning Inspector

6<sup>th</sup> of May 2021