



An
Bord
Pleanála

Inspector's Report

ABP-308901-20

Development	16 apartments
Location	Drybridge, Drogheda, Co Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	20/478
Applicant	Rolando Cedero
Type of Application	Permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	Third parties vs. grant
Appellants	<ol style="list-style-type: none">1. Colm Reilly and Maria Irwin2. Bernadette Marry and Damien Clarke3. Gillian & Kieran Pentony and Tony Halton4. Boyne Meadow Residents' Association5. Boyne Meadow Management Company Ltd.

Observer

Fergus O'Dowd TD

Date of Site Inspection

4th June 2021

Inspector

Stephen J. O'Sullivan

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	5
3.0 Planning Authority Decision	6
3.1. Decision	6
3.2. Planning Authority Reports	6
3.3. Prescribed bodies	8
3.4. Third Party Observations	8
4.0 Planning History.....	8
5.0 Policy Context.....	8
5.1. National Policy	8
5.3. Development Plan.....	10
5.4. Natural Heritage Designations	12
6.0 The Appeals	12
6.5. The appeal from the Boyne Meadow Management Company Ltd. can be summarised as follows-	18
6.6. Applicant Response	19
6.7. Planning Authority Response	20
6.8. Observations.....	20
6.9. Further Responses.....	20
7.0 Screening	21
7.1. Appropriate Assessment	21
7.2. Environment Impact Assessment.....	25
8.0 Assessment.....	26
8.2. Ownership of property	27

8.3. Policy	28
8.4. Impact on the character of the area	30
8.5. Impact on the amenities of adjacent properties.....	31
8.6. Standard of amenity for the occupants of the proposed development	33
8.7. Access and parking.....	34
8.8. Water Supply and Drainage	36
9.0 Recommendation.....	37
10.0 Reasons and Considerations	37
11.0 Conditions	38

1.0 Site Location and Description

1.1. The site is in a suburban area c3km west of the centre of Drogheda. It has a stated area of 0.225ha. It is currently under grass. The northern end of the site (as defined by the red boundary line on the site layout plan) adjoins the curtilages of two houses at the head of a narrow lane that joins the Slane Road c130m further north. There is a gate from the curtilage of one of those houses that opens onto the site. The western site boundary is marked by a hedgerow on the other side of which is a yard to the rear of another house at the head of that lane. The eastern site boundary adjoins the modern residential development at Boyne Meadow. The northern part of the eastern boundary adjoins the curtilages of 2-storey terraced houses in that estate. The southern part adjoins the curtilage of a 3-storey apartment building there. The middle part of the eastern boundary is along a boundary wall at the head of the cul-de-sac in the Boyne Meadow estate. The southern boundary of the site is marked by a hedgerow, on the other side of which is grassland that runs down to the Boyne c270m further south. The ground slopes down from north to south across the site.

2.0 Proposed Development

2.1. The proposed development would provide 16 apartments over 5 floors in a single building on the southern part of the site. The building would be generally aligned with the existing 3 storey apartment building to the east in Boyne Meadow. 10 of the proposed apartments would be two-bedroom units with a floor area of 75m². There would also be 4 one-bedroom apartments of 69m² and 2 three-bedroom apartments of 100m². Access would be from the end of the cul-de-sac serving the Boyne Meadow estate on the eastern site boundary. The northern elevation of the proposed building would have 4 storeys. Its flat roof would be 12m high, as measured from the proposed ground level in front of it. The southern elevation would have an additional lower ground floor level that reflects the fall in the level of the ground towards the Boyne. 21 car parking spaces and 37 bike parking spaces would be provided at surface level on the northern part of the site. Communal open spaces would be laid out between the apartment building and the southern site boundary, with another space to the north of the proposed car park.

3.0 Planning Authority Decision

3.1. Decision

The council decided to grant permission subject to 14 conditions. Condition no. 1 referred to the amended plans and specifications submitted to the council as further information on 30th October 2020. None of the other conditions substantially altered the proposed development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The second planner's report dated 16th November 2020 reviews the further information submitted by the applicant on topics including: access for bin lorries; the tie-in to the road at the Boyne Meadow estate; the capacity for an additional surface water discharge of 2l/s in the drain in that estate from the proposed development; the diversion of runoff from the proposed road to permeable pavements away from the gullies in the existing road; the percolation and water table in the soil beneath the proposed permeable pavement; public lighting; bin storage; bike storage; car parking; the absence of any area to be taken in charge by the council; a building life cycle report; and notices of the submission of the further information. It noted the further submissions objecting to the proposed development.

The report from the Infrastructure Section dated 10th November 2020 was noted, as was the fact that it raised no objection to the development while seeking a upgraded surface water pipe in the Boyne Meadow estate outside the site. However the planner accepted that the existing pipe there can cater for the additional runoff from the proposed development so a condition seeking those works would be neither necessary for the proposed development nor enforceable against the developer.

The report notes that the proposed residential development is an acceptable use under the residential zoning of the site. It refers to NPO 3 of the National Planning Framework and the 2018 Building Height Guidelines. The proposed development would meet the standards set out in the 2018 apartment design guidelines, including the additional floor area requirement set out in SPPR3.

Access would be from the street in the Boyne Meadow estate that has been taken in charge by the council and is a public road. The density of the development would be equivalent to 73 dph which is higher than that in the surrounding area. However the height and scale of the development is not disproportionate to the duplex units at Boyne Meadow and the apartments comply with guidance standards. The density is not unreasonable at this location. The windows on the gable end of the proposed building would face windows on the gable end of an apartment building at Boyne Meadow that serve bathrooms and have translucent glazing. It is not considered that they would give rise to undue overlooking, therefore. The windows to the southern end of the gable end of the proposed building would be high level 'portholes' that would not allow outward views. The proposed development would not have any unreasonable impact on adjoining property in terms of overlooking, overshadowing, overbearing or loss of natural light.

The site is in a peripheral or less accessible urban location under the 2018 apartment design guidelines where a default car parking level of 1 space per apartment with another visitor space for every 3 or 4 of them is recommended. The proposed 21 car parking spaces would meet that standard.

The proposed development is not likely to have a significant effect on any Natura 2000 site, notwithstanding the proximity of the SAC and SPA at the Boyne, as there is no apparent source/pathway/receptor routes between those sites and the appeal site and due to the nature, scale and location of the proposed development. There is no real likelihood of significant effects on the environment and as such EIA is not required.

Irish Water have confirmed that the proposed development can connect to its networks. The site is not at risk of flooding from fluvial or coastal sources. Pluvial flooding is addressed by a SUDS design that can cater for a 0.01% AEP event, as set out in the submitted flood risk assessment report.

A grant of permission was recommended.

3.2.2. Other Technical Reports

An Infrastructure Planning Report from a Senior Executive Engineer dated 10th November 2020 stated that the roads in the Boyne Meadow estate had been taken in charge but it was not clear that the applicant had consent to remove the boundary

wall to link to that road. The proposed development would use all of the existing capacity on the surface water drainage system in the existing estate between two manholes and this presents a flooding risk should the design flow be exceeded for any reason. This section of pipe needs to be replaced. There is no objection to the proposed development subject to the necessary consents and pipe upgrade being completed.

3.3. **Prescribed bodies**

Irish Water stated that they had no objection to the proposed development.

3.4. **Third Party Observations**

Several submissions were received that objected to the proposed development on grounds similar to those raised in the subsequent appeals.

4.0 **Planning History**

PL54. 232728, Reg. Ref. 08/115 – On 11th September 2009 the board refused permission for the construction of 10 houses and to replace an existing cottage on a site that includes the current appeal site. The reason for refusal stated that this would be overdevelopment of the site and would be visually obtrusive to the south and west having regard to the car park dominated forecourt, the poor disposition of open space, the extent of fill and the retaining wall required.

5.0 **Policy Context**

5.1. **National Policy**

The government's housing policy is set out Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016. The overarching aim of this Action Plan is to ramp up delivery of housing from its current under-supply across all tenures to help individuals and families meet their housing needs.

The government published the National Planning Framework in February 2018. Objective 3a is to deliver at least 40% of all new homes nationally within the built-up

footprint of existing settlements. Objective 3c to deliver at least 30% of new houses in settlements other than the cities. Objective 11 is to favour development that can encourage more people to live or work in existing settlements. Objective 13 is that planning standards in urban areas, in particular building height and car parking, will be based on performance criteria. Objective 35 is to increase residential density in settlements.

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

The Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments were issued in December 2020, replacing guidelines on that topic issued in 2018. Section 2.4 states that peripheral urban locations are generally suitable for development at densities of less than 45 dph that includes a minority of apartments. It contains several specific requirements with which compliance is mandatory. The minimum floor area for one-bedroom apartments is 45m², for two-bedroom apartments it is 73m² and for three-bedrooms it is 90m². Most of proposed apartments in schemes of more than 10 must exceed the minimum by at least 10%. Requirements for individual rooms, for storage and for private amenities space are set out in the appendix to the plan, including a requirement for 3m² storage for one-bedroom apartments, 6m² for two bedroom apartments and 9m² for three-bedroom apartments,. In suburban locations a minimum of 50% of apartments should be dual aspect. However there is flexibility on this matter for urban infill schemes on sites below 0.25ha.

The minister issued Guidelines for Planning Authorities on Urban Development and Building Heights in December 2018. Section 3.6 states that development in suburban locations should include an effective mix of 2, 3 and 4 storey development. SPPR 4 is that planning authority must secure a mix of building heights and types

and the minimum densities required under the 2009 guidelines in the future development of greenfield and edge of city sites

The minister and the minister for transport issued the Design Manual for Urban Roads and Streets (DMURS) in 2013. Section 3.2 identifies types of streets. Arterial streets are major routes, link streets provide links to arterial streets or between neighbourhoods, while local streets provide access within communities. Section 4.4.1 states that the carriageway width on local streets should be 5-5.5m or 4.8m where a shared surface is proposed. Section 4.3.3 warns against relying on swept path analysis for larger vehicles when designing corners without balancing this against the need to restrict vehicles speed to protect pedestrian safety. It states maximum corner radii of 1-3m should be applied on local streets.

The minister issued Guidelines for Planning Authorities on the Regulation of Commercial Institutional Investment in Housing in May 2021. They set out conditions to be applied to permissions for houses and duplexes, but not for apartments that do not have their own individual access to a street. They would not apply to the currently proposed development, therefore.

5.2. Regional Policy

- 5.2.1. The Regional Social and Economic Strategy for the Eastern and Midlands Region 2019-2031 identifies Drogheda as a regional growth centre. The strategy states that key priorities are to promote the continued sustainable and compact growth of Drogheda as a regional driver of city scale with a target population of 50,000 by 2031. The objective is to provide for the regeneration of the town centre, the compact planned and co-ordinated growth of the town's hinterland along with enhancing Drogheda's role as a self-sustaining strategic employment centre on the Dublin-Belfast Economic Corridor. Objective RPO4.11 is that a cross boundary statutory Joint Urban Area Plan (UAP) for the Regional Growth Centre of Drogheda shall be jointly prepared by Louth and Meath County Councils in collaboration with regional authority.

5.3. Development Plan

Section 1.1 of the Louth County Development Plan 2015-2021 states that it is the framework document for the entire functional area of county Louth. Section 2.16.4 of

the plan states that the statutory development plan for Drogheda is the Borough Council Development Plan 2011-2017, but that the council intends to replace it with a local area plan. No such local area plan has been made. The written statement of the county development plan is therefore ambiguous as to whether it is the development plan for the current site or not. Both plans are cited here, therefore. Policy RES 18 adopts the density standards in table 4.3 which apply to towns and village below a population of 5,000. For edge of town sites the standard is between 15 and 20 dph. Policy RES 19 in section 4.9.2 of the county development plan states that residential buildings shall not exceed 3 storeys in height except in exceptional circumstances. Policy RES 34 is to require a design statement for locations where there are specific issues to address including, inter alia, village expansion and brownfield/infill site. Policy HER 10 is to afford protection to the landscapes and natural environments of the County, by permitting only those forms of development that are considered sustainable and do not unduly damage or take from the character of the landscape or natural environment. Map 5.5 of the plan shows the current site in the landscape character area of the Boyne and Mattock Valley and in the area of Drogheda town.

Under the Drogheda Borough Development Plan 2011-2017 the site is zoned under objective RE Residential Existing: 'to protect and/or improve the amenity of developed residential communities'. Residential use is acceptable in principle in this zone. The land immediately to the south of the site is zoned under objective RN – Residential New, which adjoins lands further south along the riverbank that are zoned OS – Open Space. Section 2.2 of the plan sets out Neighbourhood Character Areas. The current site is in the Mell/North Road area, where there is an objective to reinforce the residential character of long standing residential neighbourhoods. Policy DS 4 is to require applicants for large scale residential development to demonstrate, through the use of design statements and briefs, how the proposed development will provide for connectivity and integration within and between existing and proposed communities. Table 6.2 of the varied plan applies a density standard of 25-50 dph in both inner suburban infill and outer suburban greenfield sites.

5.4. **Natural Heritage Designations**

The southern site boundary is c114m from the River Boyne and River Blackwater SAC (002299). The site is c700m north-east of the SPA at the River Boyne and River Blackwater (004232). The SAC (001957) and SPA (004080) at the Boyne estuary are 5km and 4km east of the appeal site respectively

6.0 **The Appeals**

6.1. **Grounds of appeal -**

6.2. The grounds of the appeal from Colm Reilly and Maria Irwin can be summarised as follows –

- The appellants are residents of the Boyne Meadow estate near the site where they are raising three children. They object to the proposed development
- The applicant does not have the consent of the residents to open a new access into the Boyne Meadow estate. While the roads in the estate have been taken in charge by the council, the boundary walls and verges have not. The council failed to consider this issue even though it was pointed out by the report from the Senior Executive Engineer for Infrastructure.
- The proposed development would contravene the zoning objective to protect and improve residential amenity of the area because it would seriously injure the residential amenity of the established community in the Boyne Meadow estate. It is currently a rural residential estate finished for over 15 years. The proposed high density urban development would change a cul-de-sac into a highly trafficked thoroughfare and would not be fitting. The board previously refused permission for 8 terraced houses on the same site under PL54.232728, Reg. Ref. 08/115. If 8 houses would have been injurious to the amenities of the area and property in the vicinity a 5 storey apartment block would be even more so.
- The proposed development would be visually obtrusive, especially from the Boyne valley. It would be an eyesore from the Drogheda to Oldbridge Greenway along the opposite bank of the river undermining the investment

allocated to its construction. It would intrude on views from the homes at Boyne Meadow.

- The proposed development would seriously injure the appellants' privacy.
- The environmental impact assessment is not adequate given the site's proximity to the Boyne River and four other Natura 2000 sites. Permission for 660 dwellings granted by the board under ABP-305552-19 was quashed by the High Court under Highlands Residents Association vs. ABP 2020 238 JR as this site is near to the Battle of the Boyne and the EIA was not completed prior to permission being granted by the board. The proposed site is only 200m and 770m from the River Boyne and River Blackwater SAC and SPA respectively and 4km from the Boyne Estuary SPA. The council planner's unawareness of any source/pathway/receptor routes between the appeal site and the Natura 2000 sites is not evidence that the development would not affect those sites. There is other land within 4km of the Boyne Estuary which could be developed. The applicant and the council failed to complete an environmental impact assessment as required by European law specifically article 2(1). They failed to consider the cumulative effects of development in the area near the Boyne Estuary SPA contrary to EU guidance which seeks to prevent project splitting where a series of projects taken together are likely to have significant effects on the environment within the meaning of article 2(1) of the EIA Directive. This is a greenfield site and EU guidance regarding urban development projects outside urban area is relevant. The applicant and the council have failed to consider the cumulative nature of effects; special nature characteristics or cultural characteristics or cultural heritage (proposed greenway and Battle of the Boyne site); the effects on areas or landscapes which have a recognised national community or international protection status. The EU guidance on all criteria in Annex II must be considered. The requirements regarding plans or projects likely to have significant effects on the environment stemming from directive 2001/42 must also be considered. As the appeal site is near the Rathmullan Road site and is a greenfield site with an abundance of wildlife in the area such as a family of buzzards which are spotted almost daily and a family of Long Eared Owls nesting to the west of the Boyne Meadow estate any development

could impact on these species which are protected under Irish and European legislation. The board should consider all of this carefully.

- The common area in front of the boundary wall is planted with mature trees and is maintained by the residents of Boyne Meadow and the management company of the apartments. The applicant has no permission from the appellants to disturb or remove those features. A better access to the site for construction and thereafter could be provided from the west and the Tullybrook estate. Construction access from Boyne Meadow would have a terrible impact on the safety of the children who play in that estate who could no longer access their green area. Who would be responsible if a person was hurt by construction traffic?
- The proposed development would require the upgrading of sewers in the Boyne Meadow and so dust and disruption cannot be confined to the appeal site. The proposed construction period of 18 months will severely disrupt the residents of the estate. There are several health care workers in the estate who need to sleep during the day. This would be disrupted by the proposed development.
- Traffic in the area is congested. The proposed development will only add to this. The Old Slane Road is not served by cycle lanes or public transport. there is no space for private buses to turn and the exit road to the N51 is dangerously narrow at under 2.5m. There are no pedestrian crossing on the Old Slane Road. The roads in Boyne Meadow could not safely cope with construction traffic because they are too narrow. There are no traffic calming measures or road markings in the estate. Their layout is far from best practice with the car parking between the carriageway and the footpath.
- To grant permission would be to go against government policy to prioritise sustainable modes of transport and safeguard vulnerable road users and the guidance in DMURS. Residents in the area do not have access to public transport or suitable pedestrian or cycle facilities. This is a rural estate 40 minutes' walk from the centre of Drogheda where most access is by car. The path to the Oldbridge Estate does not have street lighting. 21 car parking spaces would not be adequate for the proposed development and it would

lead to more double parking the Boyne Meadow estate which could block access by emergency vehicles. There is only one primary school within walking distance and no secondary schools. The area cannot be served by buses due to the deficiencies in the road network.

- The proposed high density urban development does not align with the zoning of the area as existing residential and would be completely at odds with its surroundings. It would be more suitable in a town centre. The site is greenfield and not a derelict brownfield site. Access should be from the Tullybrook estate to the west.

6.3. The grounds of the appeal from Bernadette Marry and Damien Clarke can be summarised as follows-

- The appellants live in the house adjoining the site to the west.
- The development raises great visual concerns similar to those of previous developments along the Boyne, of which photos are attached.
- The proposed development will have a detrimental impact on neighbouring properties due to its size, including overlooking of the appellants' house to the west of the appeal site. The balconies would overlook private amenity spaces at distances of 4m to 5m. Not all windows on the gable end would be port holes. Diagrams are submitted to illustrate this issue. There would be overshadowing of adjoining properties by a 5 storey building only 26m away. The council should have sought further assessments on these issues.
- The site is too small for the proposed development. This is an outer suburban site where the 2009 sustainable urban residential guidelines state that densities should be between 35dph and 50 dph. According to this standard only 8 or 9 dwellings should be provided on the site and not the 16 proposed.
- The height contravenes section 4.9.2 of the development plan which stipulates a height of maximum height of 3 storeys and should be in keeping with the character of the area.
- The proposed access has not been shown to be achievable or that legal consent has been granted for it. It would interfere with 3rd party parking and

access. There is no turning area for large vehicles. No permission has been given for the demolition of the boundary wall.

- The floor to ceiling heights are not accurately shown and the proposed building may be 1.3m higher than indicated.

6.4. The appeal from Gillian & Kieron Pentony and Tony Halton can be summarised as follows-

- The proposed development would have a negative visual impact on the character of the area similar to previous apartment buildings overlooking the Boyne.
- The proposed development would overlook the private properties including the amenity space of the appellants' home to the east of the site. Not all the proposed kitchen windows are portholes. The windows would overlook other properties' private amenity spaces at a distance of as little as 4m or 5m. Balconies would cause overlooking as they are not provided with wrap-around opaque screens.
- The proposed development is too big for the site. Its development in line with the 2009 sustainable urban residential development guidelines on outer suburban sites and the NPF would be at a density of 35-50 dph.
- The height of the development contravenes section 4.9.2 of the development plan that requires it to respect the established character of the area and not exceed 3 storeys.
- It has not been shown that the proposed access would be safe or that the necessary legal consent has been granted for it. The access would interfere with existing parking spaces. No turning area has been provided for large vehicles such as refuse trucks.
- The floor to ceiling heights and floor slabs are not accurately shown on the submitted drawings and the proposed building may be 1.3m higher than claimed.

6.5. The appeal from the Boyne Meadow Residents' Association can be summarised as follows-

- The site is in the North Road character area as defined under the applicable development plans.
- The application does not comply with policy DS4 of the development plan to provide a design statement and brief to show how the proposed development would provide for connectivity and integration and that would address the poor public transport in the area, the paucity of pedestrian and cycle links and the significant distance to the town centre.
- The proposed development does not comply with policy RES 18 on density. The site is inner suburban infill under section 5.5 of the 2009 guidelines on sustainable urban residential development, but there is no local area plan and the development plan does not provide a specific range of densities.
- The proposed development would not meet the criteria set out in section 6.6.8 of the development plan because it does not have regard to the character and scale of the surrounding area and the higher density has not been justified.
- There is inadequate capacity in the surface water sewer serving the area which would be exhausted by the proposed development, as set out in the report from the council's Senior Executive Engineer. No proposals have been submitted to upgrade the sewer. The existing sewer is in lands owned by the Boyne Meadows management company who have not given their permission for a connection to it. A full SuDS design has not been submitted and it is not proposed to connect to existing road gullies. .
- The height of the proposed development is not properly shown on the submitted drawings. The southern elevation does not specify the overall height. A shadow analysis should have been submitted. A 5 storey building would be seriously detrimental to the visual and residential amenities of the area due to overlooking and overbearing. Nos 32-36 Boyne Meadows would be overlooked by the opening from 6 apartments and numerous common areas.
- Only 10 of the proposed 16 apartments would be dual aspect which would fail to comply with requirements for a suburban site. The quality of the communal open

space is inadequate with issues of accessibility and maintenance. It also lacks an area for children to play. .

- There is inadequate access for large vehicles including bin trucks, wider turning radii are needed.

6.6. The appeal from the Boyne Meadow Management Company Ltd. can be summarised as follows-

- The site is c200m from the SAC at the River Boyne and Blackwater, c770m from the SPA there and 4km from the SAC and SPA at the Boyne Estuary. The application did not contain an NIS or an AA screening report. No information has been presented on the use of the site by overwintering birds as would be required to comply with the High Court judgment in the Highlands Residents case. Mitigation measures are proposed to avoid impacts on the quality of water in the river. The screening carried out the council planner is not based on objective information. A lack of evidence cannot be used to conclude that a stage 2 appropriate assessment is not necessary.
- The screening for EIA carried out by the council was deficient due to the lack of evidence to support its conclusion.
- The development plan is invalid because its period was extended without further Strategic Environmental Assessment.
- The site is not an infill site under section 5.9 of the sustainable urban residential development guidelines. It is more like the subdivision of the plot of a single house. The proposed density is excessive as the site is not well served by public transport. It is an outer suburban site under section 5.11 of the guidelines where the density of development should not exceed 50dph. Higher density on this site is not supported by section 2.4 of the apartment design guidelines. Nor it is supported by SPPR 1 of the building height guidelines which is addressed to councils while making their plans under part 2 of the planning act, as opposed to development control by the board under part 3 of the act.
- The proposed access is not appropriate. No consent has been given for the removal of the wall. The appellant is informed by that common area at Boyne

Meadow are in the control of the appellant (ie the management company) and that the estate has not been taken in charge by the council. The development would also need consent to connect to the piped services in the estate road at Boyne Meadow. The requirement for landowner consents to be submitted with planning applications is to prevent vexatious planning applications for developments that cannot be built. The absence of landowner consent is fatal to this application. The board should not entertain applications for permissions that cannot be implemented.

6.7. Applicant Response

The applicant submitted a single response to the appeals that can be summarised as follows-

- The roads in the Boyne Meadow estate have been taken in charge. The response includes a copy of the minutes of a meeting of the area committee of the council in which the taking in charge was reported to the elected members by council staff. No alternative access to the site is available.
- The current application should be considered on the merits of the proposed development rather than on assertions about other developments.
- The site is zoned for residential development, with which the proposal complies. It would also be in keeping with the provisions of the NPF and the RSES to provide more housing in towns at higher densities.
- The proposed development would not result in any loss of views along the river. The photomontages submitted with the appeals do not accurately illustrate the impact of the proposed development.
- The proposed development is far below the relevant threshold for EIA. The current proposal does not represent project splitting. A screening report was submitted which demonstrated that the proposed development would not be likely to have significant effects on the environment.
- The assertions in the appeal regarding disruption during construction are not well founded. The development of this site would not give rise to a greater degree of disruption than any other suburban location.

- All planning and environmental issues arising from the proposed development have been properly addressed in the documentation submitted in the course of the application and appeal.

6.8. Planning Authority Response

The council's response to the appeal by Colm and Maria Irwin states that it has no further observations

6.9. Observations

The observation from Fergus O'Dowd TD states that very serious health and safety concerns would arise from construction vehicles on the access road in the Boyne Meadow estate and further traffic on such a tight road would exacerbate an already dangerous situation. Residents have expressed concern about overlooking post-construction. The council established a precedent in relation to the proposed demolition on the wall by objecting in the Beaubec estate. The observer hopes that a resolution can be found but only if appropriate change can be agreed by the developer.

6.10. Further Responses

The Boyne Meadow Management Company responded to the other appeals. It supports the grounds of the other appeals. It states that table 5.5 of the Louth County Development Plan 2015-2021 identifies the Boyne and Mattock Valleys as landscape character areas of national importance where policy HER 10 states that only those forms of development that do not unduly damage or take from the character of the landscape will be permitted. The Boyne Valley is also protected under appendix 7 of the Meath County Development Plan 2013-2019 where it is stated to have low potential to accommodate residential development. The EIS screening report contains no information or analysis of landscape impact. Its conclusions are not supported by any information on the file and it is clear that its conclusion on landscape are incorrect.

7.0 Screening

7.1. Appropriate Assessment

The appeal site is not in a Natura 2000 site, nor does it adjoin one.

The Special Area of Conservation (SAC) for the River Boyne And River Blackwater sitecode 002299 lies along the river and is c114m south of the appeal site at its closest point. The conservation objectives for that site is to maintain or restore the favourable conservation condition of the Annex I habitats and the Annex II species for which the SAC has been selected. The habitats are –

7230 Alkaline fens

91E0 Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, Alnion incanae, Salicion albae)*. * denotes a priority habitat

And the species are -

1099 River Lamprey *Lampetra fluviatilis*

1106 Salmon *Salmo salar*

1355 Otter *Lutra lutra*

The Special Protection Area (SPA) for the River Boyne and River Blackwater sitecode 004232 extends along the river westwards from the motorway bridge c700m to the west of the current site. The conservation objective for the proposed development is to maintain or restore the favourable conservation condition of the bird species A229 Kingfisher *Alcedo atthis* here

The SAC for the Boyne Coast and Estuary sitecode 001957 lies c5km east of the appeal site. Its conservation objectives are to maintain the favourable conservation condition of the following habitats –

1130 Estuaries

1140 Mudflats and sandflats not covered by seawater at low tide

1310 *Salicornia* and other annuals colonizing mud and sand,

1330 Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)

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

2110 Embryonic shifting dunes

2120 Shifting dunes along the shoreline with *Ammophila arenaria* ('white dunes')

2130 *Fixed coastal dunes with herbaceous vegetation ('grey dunes')

The status of 1410 Mediterranean salt meadows (*Juncetalia maritimi*) as a qualifying habitat is under review.

The SPA for the Boyne Estuary sitecode 004080 lies c4km east of the appeal site. Its conservation objectives are to maintain the favourable conservation condition of the following species

A048 Shelduck *Tadorna tadorna*

A130 Oystercatcher *Haematopus ostralegus*

A140 Golden Plover *Pluvialis apricaria*

A141 Grey Plover *Pluvialis squatarola*

A142 Lapwing *Vanellus vanellus*

A143 Knot *Calidris canutus*

A144 Sanderling *Calidris alba*

A156 Black-tailed Godwit *Limosa limosa*

A162 Redshank *Tringa totanus*

A169 Turnstone *Arenaria interpres*

A195 Little Tern *Sterna albifrons*, and the following habitat –

A999 Wetlands.

There are no other Natura 2000 sites that could conceivably be affected by development on the appeal site, having regard to their relative location.

The habitat on the site is currently pastoral grassland with hedgerows. This is clear from an inspection of the site. This is the predominant habitat in the vicinity of Drogheda apart from those lands actually designated as Natura 2000 sites. The site does not contain habitats set out in Annex I of the Habitats Directive. It does not contain habitats that sustain feeding or reproduction by species set out in Annex II of the directive. There are references in the submitted appeals to the decision of the

High Court in *Highland Residents vs. An Bord Pleanála*, raising the issue of the use of agricultural grassland as a refuge for birds of species to which the conservation objectives in the Boyne Estuary SPA. The size of the appeal site relative to the extent of such agricultural grassland that would be closer to the SPA is miniscule. Its development could not, therefore, have an effect on the use of agricultural grassland as an occasional refuge for the birds that are the subject of the conservation objectives of that SPA or any other Natura 2000 site that could have the potential to have a significant effect on the achievement of the conservation objectives of that or any other Natura 2000 site. The appeal site is zoned for residential use, unlike the larger part of the agricultural grassland in the area, so its development in compliance with its zoning would not have a significant effect on the use of agricultural grassland as an occasional refuge for the birds that are the subject of the conservation objectives of that SPA or any other Natura 2000 site that could have the potential to have a significant effect on the achievement of the conservation objectives of that or any other Natura 2000 site in combination with any other plan or project. It is therefore evident from the location and scale of the proposed development that it would not be likely to have any significant direct effect on the achievement of the conservation objectives of any Natura 2000 site.

The appeals raise the issue of indirect effect from the proposed development on Natura 2000 sites due to a potential impact on water quality. Foul drainage from the proposed development would be to the municipal system serving Drogheda as a whole which is subject to a discharge licence issued by the EPA. Irish Water have reported that they can facilitate this connection. The scale of the proposed development means that the foul effluent from its occupation would not be capable of having an impact on the operation and outfall from the town's wastewater system that could have an effect on water quality that could give rise to a significant effect on the conservation objective of the SAC and SPA in the Boyne Estuary, or any other Natura 2000 site.

The surface water runoff from the proposed development would be drained in two ways. The runoff from the building would be diverted to the surface water drain in the adjoining Boyne Meadow estate, with an attenuation system limiting the flow to 2l/sec. The further information submitted to the planning authority demonstrated that the drain in the adjoining estate had the capacity to accommodate this discharge.

The runoff from roads and parking areas would drain to the ground via permeable paving. The further information submitted to the planning authority included percolation test results that demonstrated that the ground had the capacity to cater for this discharge. The ways in which surface water would be drained from the proposed development is normal for housing developments of the proposed type and would be expected regardless of the proximity or any connection to Natura 2000 site, and do not constitute mitigation measures in the context of appropriate assessment. It is therefore unlikely that surface water runoff from the proposed development would have any effect on the Natura 2000 sites downstream or elsewhere. The distance to the various Natura 2000 site and the nature of the intervening landcover, which is also grassland and hedgerows, means that, in the unlikely circumstance that the drainage of the proposed development failed to perform satisfactorily, then the unlikely effect of the surface water runoff from the proposed development would not have a significant effect on water quality in the Natura 2000 sites and would not have a significant effect on the achievement of their conservation objectives.

The carrying out of the proposed development would require groundworks and building operations on the site. The slope across the site means that the quantity of groundworks would be larger than that required to build on a perfectly flat slope, but the nature, extent and complexity of the works required to build the proposed development are commonplace. It would therefore be unlikely that there would be emissions of dust, sediment, hydrocarbons or other pollutants from the appeal site during construction. The distance to the various Natura 2000 site and the nature of the intervening landcover, which is also grassland and hedgerows, means that, in the unlikely circumstance that emissions of dust, sediment, hydrocarbons or other pollutants from the appeal site during construction of the proposed development occurred, whether through incompetence of the part of those carrying out the development or a very unfortunate combination of unforeseeable circumstances, then the unlikely effect of such emissions from the proposed development would not have a significant effect on air or water quality in the Natura 2000 sites and would not have a significant effect on the achievement of their conservation objectives.

It is therefore evident from the location and condition of the site, and of the surrounding lands, and from the nature and scale of the proposed development as

described on the submitted plans and particulars, that the proposed development is not likely to have a significant effect on any Natura 2000, either directly or indirectly or in combination with any other plan or project. The submissions from the third parties do not provide grounds that would support an alternative conclusion.

It is therefore concluded that, on the basis of the information on the file, which is adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect the Special Area of Conservation at the River Boyne and River Blackwater 002299, the Special Protection Area at the River Boyne and River Blackwater 004232, the Special Area of Conservation at the Boyne Coast and Estuary 001957, the Special Protection Area at the Boyne Estuary 004080 or and other European site.

7.2. Environment Impact Assessment

The current proposal is an urban development project. It is therefore within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations. Most of the site boundaries adjoin land that has been developed for residential use as part of the continuous built up area of Drogheda. The proposed development would therefore be in the built-up area of a town but not in a business district. The submission of an environmental impact assessment report is mandatory for this class of project if it exceeds 500 dwellings or the site is bigger than 10 hectares. The proposed development would consist of 16 dwellings on a site of 0.225ha and so would be less than 4% of either threshold. The classes of development set out in schedule 5 of the regulations clearly describe the thresholds that apply to particular developments that would be part of a town. They would not support an interpretation that an EIAR would be required on the basis of the amount of development in the town as a whole, as appears to be implied by arguments in the third party appeals. If the site were considered to be a greenfield one outside the built-up area of the town than the threshold for site area would be even higher and the extent to which the proposed development fell below it would be even greater.

The site adjoins the built up area of the town and is under pasture, so the proposed development would not be likely to have a significant effects on biodiversity or any

Natura 2000 site (see section 7.1 of this report above). The site is not designated for the retention of its existing state in order to protect the landscape or natural or cultural heritage under any statutory plan made under the planning act or under any scheme for geographic designations under other legislation. It would appear as part of the existing town in views from the Boyne Valley without increasing the extent of the town. Therefore the proposed development would not be likely to have significant effects on the landscape or the setting of the sites of cultural heritage there including the site of the battle. The existing landcover and habitats on the site, being pasture and hedgerows, are relatively common and their proposed alteration on a site of this size would not reduce biodiversity to any appreciable extent. The assertion in the appeals that bird species have been observed in the area that are subject to protection under the Wildlife Act 1976 (rather than under the Bird Directive) would not alter this conclusion. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Louth County Council, upon which its effects would be marginal.

It is therefore concluded that the proposed development, by reason of its nature, scale and location would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case.

8.0 **Assessment**

8.1. The planning issues arising from the proposed development can be addressed under the following heading –

- Ownership of property
- Policy
- Impact on the character of the area
- Impact on the amenities of adjacent properties
- Standard of amenity for the occupants of the proposed development

- Access and parking
- Drainage and water supply

8.2. Ownership of property

- 8.2.1. The applicant asserts that he has sufficient legal interest in land to carry out the proposed development, including ownership of the site and the right to create a new access from it to the public road in Boyne Meadow and to connect to the council's surface water sewer in that road. He submitted copies of a map from the council showing the extent of the public road and open spaces that it has taken in charge in Boyne Meadow. Several of the appellants assert that, while the road in Boyne Meadow has been taken in charge, the boundary wall and landscaped verge between that wall and the end of the carriageway are privately owned and that the applicant does not have the consent of the owner to make the current application or carry out the development. So there is a dispute as to land ownership and whether the applicant could carry out the development and whether the application for permission is valid.
- 8.2.2. The board cannot resolve such a property dispute. The map prepared by the planning authority could be interpreted as omitting the verge and boundary wall from the area taken in charge by the council, implying that the boundary wall and verge between the carriageway in Boyne Meadow are private property associated with the dwellings there. The planting and maintenance of the verge by residents would be consistent with this conclusion. On the other hand, it would be somewhat remiss of a planning authority to allow a narrow piece of land between a public road and land that it had zoned for residential development to remain in private ownership when that land could not support any independent use and could amount to a ransom strip. It is also noted that, while several of the appellants contradicted the applicant's position on the ownership of that land, they did not submit evidence to support a claim establishing the ownership of that land by an identifiable persons. The appeal from the management company at Boyne Meadow used the passive voice to say that its agent was 'informed' that the council's planner was incorrect on this issue, rather than directly claiming that it did.

8.2.3. So either position on this question could be supported. In this situation I would advise the board that the application is valid and should be considered in the normal manner. Section 34(13) of the planning act means that a grant of permission would not entitle the applicant to carry out a development that he is not otherwise entitled to and so would not prejudice any person from taking a claim regarding the disputed land in the appropriate forum. On the other hand, if the applicant's position on the matter is correct, then invalidating or refusing the application would deprive him of the ability to carry out a development that would in keeping with the proper planning and sustainable development of the area (if the board decides that the proposal would be) or finding out the reasons why it was not so in keeping.

8.3. Policy

Development Plan

8.3.1. Both the 2015 county development plan and the 2011 borough development plan are quoted in the submissions from the parties. Developments plans are one level on the hierarchy of guidance and plans set out in part 2 of the planning act. So a development plan for the town would not be subordinate to one for the county or vice versa. In this report the borough development plan is regarded as the applicable statutory plan for the area that contains the current site, following the statement to that effect at section 2.16.4 of the county plan. However due regard is also given to the fact that, as submitted by the appellants, the town's development plan is out of date, as well as to the context for the planning of the area around the town set out in the more recent county development plan.

The proposed use

8.3.2. The site is zoned for residential use under the town's development plan. The proposed development would be acceptable under that zoning. The appellants' contention regarding the impact of the proposed development on the residential amenities of the area are considered below. A serious threat to those amenities would, in itself, provide a reason to refuse an application. But it would not render the proposed residential use contrary to the residential zoning of the site.

8.3.3. The site adjoins the residential suburban parts of Drogheda which extend further out from the town centre along the Old Slane Road past the site. The basis for its

zoning for residential use is clear, therefore, notwithstanding the age of the town's development plan. This situation of the site also means that this its development for housing would be in keeping with objective 3a of the NPF to deliver 40% of new homes within the footprint of existing settlements, objective 3c to deliver at least 30% of new houses in settlements other than cities, and objective 11 to favour development to encourage more people to live in existing settlements. It would also be in keeping with the regional policy in the RSES to promote the compact growth of Drogheda with a target population of 50,000 by 2031.

- 8.3.4. The principle of the site's development for residential use is therefore supported by local, regional and national planning policy.

The amount of housing proposed

- 8.3.5. While it is contained within the built up area of Drogheda, the site is not particularly close to the town centre nor is it served by public transport of high frequency or capacity. It is therefore an outer suburban site under the 2009 sustainable urban residential guidelines where densities of 35-50dph are encouraged, and in a peripheral urban location under the 2018 apartment design guidelines which state that they are generally suitable for developments up to 45 dph with a minority of apartments. The town's development plan has a standard of 25-50dph for this area. The proposed development of 16 apartments on 0.225ha is at a density equivalent to 71dph which is well above the range set out in local and national policy. It is not considered that this exceedance would *ipso facto* justify a refusal of the present application, given the overarching national policy to increase the provision of housing set out in Rebuilding Ireland, the objective to increase the population of Drogheda in the RSES, and the requirement to apply performance rather than numerical standards to housing under objective NPO 13 of the NPF. However if the board concluded that the amount of housing proposed would give rise to specific effects that were undesirable, then the fact that the proposed density is above the recommended range would support refusing permission for the apartments, rather than balancing those effects against the benefit that the proposed housing would confer on its occupants.
- 8.3.6. Policy RES 18 and table 4.3 of the county development plan refer to settlements with populations up to 5,000 and do not apply to the current site.

8.3.7. There have been significant changing in planning policy about housing and regional and national development since the board refused permission in 2009 for 10 houses on the site under PL54. 232728, reg. ref. 08/115, so the reference to over-development in that decision would not provide any compelling precedent for the present case.

8.4. **Impact on the character of the area**

- 8.4.1. The proposed apartment building would occupy a prominent position overlooking the Boyne Valley. It would be visible from a wide area along and across the valley. The visual impact of the proposed development is therefore a more significant issue than would normally be the case for a suburban site. The appellants assert that this impact would be adverse, especially when considered in conjunction with other apartment and residential buildings facing the valley. This position is reasonable, but is not accepted. The appeal site is already within the visual envelope of the built-up area of Drogheda as viewed from the south. The proposed development would not extend suburban development along this side of the valley further out from the historic town. Its detailed design achieves an acceptable standard of architectural design, and it would present an appropriately designed façade towards the Boyne whose appearance would be more attractive than adjacent industrial type buildings. The overall height of the building would not be significantly greater than the higher buildings in its immediate vicinity. While the proposed apartment building would be plainly visible from the south and west over the river, it would present an appropriate aspect towards the valley for a suburban development. It would not, therefore, detract from the character of the Boyne Valley or contravene any of the planning policies to protect that character set out in the development plans for Drogheda, Louth or Meath, including section policy HER 10 of the county development plan
- 8.4.2. The northern elevation of the proposed building would harmonise with the building line, height and design of the neighbouring apartment building at Boyne Meadow to an acceptable degree, notwithstanding the fact that it would contain four storeys of accommodation and flat roof. It would impinge upon the views available from various private properties over the Boyne Valley. However the proper planning and sustainable development is not normally concerned with the loss of private views. The amount of housing proposed and the scale of the building are not considered to

be excessive or out of keeping with the established character of the area. It is therefore considered that the proposed development would not detract from the character of the residential areas to the north and east of the site and it would not contravene section 6.6.8 or policy DS4 of the town's development plan.

8.4.3. The sectional drawings of the proposed development show a floor to ceiling height in the apartments of 2.7m and a difference in level between each storey of 3m, leaving a depth of 300mm for the floorplate. The latter figure is standard and it is not considered that the heights shown on the submitted drawings are misleading.

8.4.4. The submitted appeals stated that the proposed development would contravene policy RES 19 in section 4.9.2 of the Louth County Development Plan 2015-2021 which states that residential buildings should not exceed three storeys in height unless in exceptional circumstances. As stated above, the statutory development plan that applies to the site is the one for Drogheda rather than county Louth so the proposed development would not contravene the said policy of the latter plan. County Louth includes the two largest towns in the country at Drogheda and Dundalk both of which have developed cores with many contemporary and historic buildings that are higher than four storeys. It would have been egregious to apply a general height restriction of 3 storeys across those towns, so the better interpretation is that section 4.9.2 of the county development plan was not intended to apply to them. Section 3.6 of the 2018 building height guidelines envisage buildings between 2 and 4 storeys high in suburban locations. The northern part of the proposed building would be in this range. The southern part is no higher overall, but has an additional storey at lower ground floor level and so is five storeys high. This reflects the topography of the area and the presence south of the site of an expansive open area along a river valley. Section 3.6 recognises that additional height could be appropriate such a circumstance. It is therefore concluded that the height of the proposed development is in keeping with local and national planning policy and is appropriate for its location.

8.5. **Impact on the amenities of adjacent properties**

8.5.1. The proposed building would be more than 26m from the houses to the north of the site and the windows upon them, including those occupied by appellants at Boyne

Meadow and the other houses on adjoining sites. The proposed building would reach a height of 12m over the street level on its front façade rising to 15m set back by another 4m. The proposed street level is similar the floor level of the houses at Boyne Meadow and the other houses on adjoining sites. It is evident from these dimensions that none of the existing or proposed buildings would intrude on a plane extending from the centre of any of the windows on those buildings at an angle of 25° from the horizontal.

- 8.5.2. The southern elevation of the proposed building would follow a line generally parallel to the southern elevation of the apartment building to the east at Boyne Meadow which includes the windows and balconies of numerous dwellings, including those occupied by some of the appellants. The wall on the southern elevation of the proposed building would be 3.8m further south than that of the neighbouring building, with the balconies attached to it extending another 1.7m. The lateral separation between the buildings would be 6.3m. It is evident from those dimensions that the proposed development would not impinge of a plane emanating from the centre of the nearest windows and balconies on the existing building at an angle of 45° from the perpendicular.
- 8.5.3. The position of the proposed building more than 26m from the back of the house on the neighbouring site to the west, along with the length of the private open space behind the neighbouring house and its orientation on a north-south axis means that the proposed development would cast a shadow on the adjoining property for a minority of the time in which sunlight could be available and that shadow would only fall on a smaller part of the neighbouring space. Therefore, despite the height of the proposed building, it would not unduly overshadow the adjoining property in a manner that seriously injured its residential amenity.
- 8.5.4. It can be concluded from the foregoing characteristics of the existing homes around the site and of the proposed development that the latter would not reduce the natural light or sunlight available to the rooms or private open spaces of residential properties in its vicinity to an extent to an extent that seriously injured their residential amenity.
- 8.5.5. The separation distances and orientation of the proposed development relative to the existing houses and apartments around the site mean that it would not overbear of

those properties in a manner that significantly injured their residential amenity. It would impinge on views from some of them along the Boyne valley but, as stated above, the planning system does not normally seek to preserve views from private property.

8.5.6. The separation distance between the proposed apartments and the houses to the north-west, north and north-east would be sufficient to mitigate overlooking and ensure a reasonable standard of privacy for all. Most of the windows on the side elevation of the proposed buildings would not face windows onto habitable rooms, while others would be at a high level relative to the floors in the rooms that they would serve so that they did not allow direct views out of those rooms. The windows in the proposed development would not, therefore, injure the privacy of neighbouring properties. Some of the windows on the western gable of the proposed building would allow views toward private space behind one of the appellants' houses at a separation distance of less than 3m. The overlooked part of the adjoining space would be a significant distance from the back of the house, so it is not considered that this would seriously injure the amenity of the adjoining property. However if the board disagree with this conclusion, the matter could be resolved by a condition requiring frosted glass in the relevant windows (i.e. the non high level ones) without unduly diminishing the outlook available from the proposed apartments. Concerns regarding overlooking from the sides of balconies on the proposed development can be addressed by the erection of screens, which is common practice and can be specified by condition.

8.5.7. The works required to carry out of the proposed development would not give rise to any extraordinary risk of disruption or nuisance compared to any other residential development beside existing housing that would justify refusing permission for it. The position of the applicant on this matter is correct and is accepted.

8.5.8. Having regard to the foregoing, it is concluded that the proposed development would not seriously injure the amenities of property in the vicinity of the site.

8.6. **Standard of amenity for the occupants of the proposed development**

8.6.1. The mix of apartment types would meet the requirements of SPPR1 of the 2020 guidelines on apartment design, with 25% of them being one-bedroom units. Their

floor area would exceed the minimum levels set out in SPPR3 by more than the additional amount required under section 3.8. All apartments would be at the corners of the proposed building and those above the lower ground floor level would have windows with a restricted outlook on the side wall of the buildings, as well as high level windows that you could not see out of. The value of the secondary aspect would therefore be limited. However the site is within the built up area of Drogheda and is less than 0.25ha, so there is flexibility is regarding the share of dual aspect apartments required under SPPR4. The 2 apartments on the top floor would have aspects to both the north and south, while 8 other apartments would have an aspect over open space and falling land to the south. The overall level of amenity provided by the aspects of the apartments would therefore be of an acceptable standard and would comply with SPPR4. The floor to ceiling heights would comply with SPPR 5, while the number of units per core would comply with SPPR 6. The size of individual rooms, balconies and terraces comply with the standards set out in appendix 1 of the guidelines, as demonstrated on the plan drawings submitted with the application. The proposed communal open space in the southern part of the site would be three times larger than the 98m² required under that standards. As assessed above, the separation distance and relative orientation of the proposed buildings to those around it mean that the access to daylight and/or sunlight from windows on its northern and southern elevations would not be impeded and so adequate natural light would be available to the rooms in the proposed apartments from those windows. Having regard to the foregoing, it is concluded that the proposed development would provide an acceptable standard of amenity to its occupants in keeping with the applicable standards set out in the 2020 guidelines.

8.7. Access and parking

- 8.7.1. The revised plans submitted to the council as further information show 21 car parking spaces to serve 16 apartments. This meets the benchmark guidelines of 1 space per apartment with a visitor space for every 3 to 4 apartments set out section 4.22 of the 2020 guidelines for peripheral locations. It would also comply with the standard of 1.3 spaces per apartment set for areas outside the town centre in table 5.4 of the town's development plan. 37 cycle parking places would also be provided which is in line with the guidance the 2020 guidelines and above that required under

the development plan standards. The amount of proposed parking is therefore acceptable.

- 8.7.2. The width of the carriage way at the access at the entrance to the proposed development would be 6.8m wide. This would be considerably wider than the 5-5.5m recommended for local streets by the applicable standards set out in DMURS. The carriageway through the Boyne Meadow estate maintains a width that is somewhat wider than the current standard for local streets. The proposed development would increase the number of home served by that road by 16 to 64. It would not change the function of the street from a local street. Its current width and specifications are therefore adequate to cater for the traffic that would be generated by the proposed development including any requirement for access by emergency vehicles. It would also be adequate to accommodate the traffic that would be generated by the construction of the development without causing a threat to public safety, provided such construction was properly managed. There is no extraordinary element required to construct the proposed development or deficiency in the road leading to the site that would render the construction of the development with normal precautions a threat to public safety.
- 8.7.3. There is no other road access to the proposed site that would be preferable to that proposed. The lane serving the existing house to the north-west of the site is much narrower than the road serving the Boyne Meadow estate. It lacks footpaths, is, poorly surfaced and is not capable of adequate upgrades within the extent of the public road between private properties. The appeal site does not adjoin the Tullybrook development further west. Even if access were available from that direction, it would result in longer travel distances towards the town centre and would not be preferable.
- 8.7.4. The condition of the Slane Road from Boyne Meadow towards the town centre, including its width, alignment; lighting and pedestrian facilities and the junction between it and Boyne Meadow, is adequate to provide access to residential development on the site without giving rise to traffic hazard, notwithstanding the location of street lights along parts of it.
- 8.7.5. The revised site layout plan submitted to the council as further information demonstrated how a refuse truck could access the proposed development. The

proposed roads could safely accommodate the same size of truck as the existing roads in the Boyne Meadow estate. Access to the proposed development would not require vehicles to impinge on the privately owned parking spaces in Boyne Meadow. The dimensions and layout of the parking spaces in the proposed development follow accepted standards and would not constitute a traffic hazard.

- 8.7.6. It is therefore concluded that the proposed development would have adequate parking and access and that it would not give rise to traffic hazard.

8.8. **Water Supply and Drainage**

- 8.8.1. Irish Water have reported that it can facilitate the proposed connection to its networks for water supply and foul drainage.
- 8.8.2. The site is in an area where the probability of flooding from rivers and the sea is low. It therefore falls within flood zone C as set out in the 2009 guidelines for planning authorities on flood risk management where residential development is acceptable in principle.
- 8.8.3. The further information submitted by the applicant to the council provided calculations to demonstrate that the additional surface runoff from the proposed building could be limited by attenuation to 2l/sec and that this additional inflow could be accommodated in the council's surface water sewer in Boyne Meadow. These calculations are based on verifiable information about the size of the area to be drained, the extent of the area already drained by that sewer, the size of the sewer and rainfall patterns. As such the results of the modelling carried out by the applicant's engineers are accepted as reliable. It is noted that the council's Senior Executive Engineer reported that there was a risk of flooding if the design flows were exceeded. This is, of course, true as there would also be a risk if design flows are exceeded for any reason. However the calculations submitted by the applicant were based on the 1 in 100 year return rainfall event, so the residual risk of the design flows being exceeded is acceptable. However I would not agree with the advice of the council's planner that the SEE's recommendation that part of the sewer in Boyne Meadow be upgraded could not be required by condition because it is outside the land in the control of the applicant. The roads and sewers in Boyne Meadow are in the control of the council, so the council can give consent for works to upgrade them.

It is common practice for conditions to require limited works to improve public infrastructure that are directly connected to and necessary for a permitted development or to require special financial contributions for such works. Therefore, if the board consider the upgrade of the sewer to be necessary to facilitate the proposed development, then it can impose a condition requiring such works or a special financial contribution towards them.

- 8.8.4. Empirical information was also submitted about the capacity of the soil underneath to cater for the runoff from the permeable paved areas in the proposed development.

9.0 Recommendation

- 9.1. I recommend that permission be granted subject to the conditions set out below.

10.0 Reasons and Considerations

Having regard to the site's location in the built up area of Drogheda on lands with a zoning objective for residential development in the Drogheda Borough Development Plan 2011-2017, to the nature, scale and design of the proposed development, to the pattern of existing and permitted development in the area, and to the provisions of the Guidelines on Sustainable Residential Development in Urban Areas, issued by the Department of the Environment, Heritage and Local Government in May, 2009, the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Housing, Planning and Local Government in December 2020, the Guidelines on Urban Development and Building Heights issued by the Department of Housing Planning and Local Government in December 2018, and the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013, it is considered that, subject to compliance with the conditions set out below, the proposed development:

- would not injure the cultural or natural heritage of the area, its landscape or character,
- would not seriously injure the amenities of property in the vicinity of the site;
- would provide an acceptable level of residential amenity for its occupants;

- would have the benefit of an adequate water supply and drainage facilities and would not be at undue risk of flooding; and
- would be acceptable in terms of traffic and pedestrian safety and convenience and would not give rise to traffic hazard.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information submitted to the planning authority on the 30th day of October 2020, 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. In default of agreement, such issues may be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of clarity</p>
2.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity</p>
3.	<p>The communal open space shall be laid out and landscaped prior to the occupation of the permitted apartments. The planting, boundary and surface treatments shall generally be in accordance with the proposals submitted to the planning authority as further information on 30th October</p>

	<p>2020, with the additional of a play space for young children with suitable play equipment that can be properly supervised by parents/guardians. Revised plans showing this play area shall be submitted for the written agreement of the planning authority prior to the commencement of development.</p> <p>Reason: To provide proper recreational amenities for the residents of proposed development.</p>
4.	<p>The materials, colours and finishes of the authorised buildings, shall generally be in accordance with the details submitted with the application, unless the prior written agreement of the planning authority is obtained to minor departures from those details.</p> <p>Reason: In the interests of visual amenity</p>
5.	<p>Screens at least 1.8m high shall be erected and maintained on the eastern side of the balconies on the south-eastern part of the permitted building serving apartments numbered 5, 9, 13 and 16 on the submitted floor plans that shall be sufficient to prevent overlooking of the private open spaces behind the apartment building on the adjoining land to the east in Boyne Meadow. Details of these screens shall be submitted for the written agreement of the planning authority prior to the commencement of development.</p> <p>Reason: To protect the amenities of neighbouring property.</p>
6.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity</p>
7.	<p>A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging</p>

	<p>stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.</p> <p>Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles</p>
8.	<p>Proposals for street names, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas</p>
9.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interests of public health</p>
10.	<p>The applicant or developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health</p>
11.	<p>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 hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>

12.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
13.	<p>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.</p> <p>Reason: In the interest of sustainable waste management</p>
14.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area</p>

15.	<p>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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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</p>

Stephen J. O'Sullivan
 Planning Inspector

28th July 2021