



An  
Bord  
Pleanála

## **S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016**

### **Inspector's Report ABP-309503-21**

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#### **Strategic Housing Development**

117 no. residential units (9 no. apartments, 9 no. duplexes and 99 no. houses), creche and associated site works.

#### **Location**

Ballinalea, Ashford, Co. Wicklow.  
([www.ashfordshd.ie](http://www.ashfordshd.ie))

#### **Planning Authority**

Wicklow County Council

#### **Applicant**

Knightsbridge Design & Consultancy

#### **Prescribed Bodies**

Irish Water  
Inland Fisheries Ireland  
Department of Culture, Heritage and  
the Gaeltacht  
National Parks and Wildlife Service  
Department of Education and Skills

Wicklow County Childcare Committee

**Observer(s)**

- 1) BPS Planning Consultants on behalf of Andrew and Lisa Lundberg, John Sinnott, Eugene and Margaret Stephens, John and Ann Hughes
- 2) Anna Kavanagh
- 3) Ashford Tidy Towns
- 4) Ellen and Francis Crean
- 5) Jennifer Coughlan
- 6) Karen Byrne
- 7) Nuala Rigney
- 8) William O'Brien

**Date of Site Inspection**

14<sup>th</sup> May 2021

**Inspector**

Rachel Gleave O'Connor

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## **1.0 Introduction**

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## **2.0 Site Location and Description**

- 2.1. The subject site is located approximately 900m south of Ashford town centre on the edge of existing residential neighbourhoods and approximately 850m east of the M11 interchange. The site itself is situated to the south east of Rossana Close, bounding rear garden areas and dwelling plots on these existing streets.
- 2.2. To the north, east and south of the site are agricultural fields. A number of holiday cottages are situated close to the south east boundary of the subject site, with associated farmhouse and buildings situated alongside the cottages. Self-contained stand alone houses also feature to the north east of the site but do not directly abut site boundaries.
- 2.3. The site itself is also currently formed of two divided agricultural fields separated by a hedgerow. The perimeter of the site is also marked by hedgerow and treelines. Mature trees and a stream mark the south west and south east boundaries. The site slopes gently from north west to south east. The red line boundary for the site extends up Rossana Close, Woodview, Ashleigh estate roads to facilitate connections to services.

## **3.0 Proposed Strategic Housing Development**

- 3.1. The proposed development will consist of:
- A total of 117 no. residential units;
  - 3 storey block with 9 no. 2 bed apartments and 9 no. 3 bed duplexes;
  - 99 no. 1-2 storey houses formed of 11 no. 2 bed, 80 no. 3 bed and 8 no. 4 bed houses;
  - 2 storey creche at 223.5sqm;

- 218 surface car parking spaces;
- 54 covered cycle parking spaces;
- Open spaces, bin stores, pump station; and
- All associated site development works, landscaping, boundary treatments and services connections.

The development includes for connection to the public road and footpath network, and services via the adjoining Rossana Close / Woodview / Aisleigh estate road.

### 3.2. Key Figures

<b>Site Area</b>	3.8ha
<b>No. of units</b>	117
<b>Density</b>	32 units/ha
<b>Plot Ratio</b>	0.38
<b>Site Coverage</b>	18.5%
<b>Height</b>	Between 1 and 3 storeys
<b>Dual Aspect</b>	100%
<b>Commercial Floorspace</b>	n/a
<b>Open Space</b>	Communal Open Space 271.8sqm Public Open Space 5522.4sqm (15%)
<b>Part V</b>	12 no. units (10%)
<b>Vehicular Access</b>	Vehicular access from Rossana Close / Woodview / Aisleigh estate road
<b>Car Parking</b>	218 no. spaces at surface level (1.86 per unit)
<b>Bicycle Parking</b>	54 no. cycle spaces
<b>Creche</b>	223.5sqm

Unit Mix					
Housing Type	1 bed	2 bed	3 bed	4 bed	Total
No. of Apartments	-	9	-	-	9
No. of Duplexes	-	9	-	-	9
No. of Houses	-	11	80	8	99
As % of Total	0%	25%	68%	7%	117 units / 100%

## 4.0 Planning History

### 4.1. Subject site:

4.2. PL27.224630 / Reg. Ref. 07/391: Permission granted in 2008 for 143 no. houses and a creche on a larger site, incorporating the subject site and lands to the north of the subject site. An Extension of Duration of permission was granted under Reg. Ref: 13/8001 and expired in 2018.

4.3. Reg. Ref. 10/2996: Permission was granted in 2010 for minor amendments to the previously approved PL27.224630 including the provision of a gravity sewer and a temporary water connection to serve houses 1-28 on the northern portion of the site (located outside of the current red line boundary).

### 4.4. Other relevant applications:

4.5. Strategic Housing Development ABP-307230-20: - Permission was granted in August 2020 for 133 no. residential units (117 no. houses, 16 no. duplex apartments) on a site located approx. 1.5km north west of the subject site.

- 4.6. PL27.246799, Reg. Ref. 15/524: Permission was granted in 2016 for a residential development comprising 169 no. houses and a creche on a site located approx. 2km north west of the subject site.

## **5.0 Section 5 Pre Application Consultation**

- 5.1. A pre-application consultation with the applicants and the planning authority took place virtually via video call, with An Bord Pleanála on 1<sup>st</sup> December 2020 in respect of a proposed development of 122 no. units.
- 5.2. Copies of the record of the meeting and the Inspector's report are on file. In the Notice of Pre-Application Consultation Opinion dated 7<sup>th</sup> December 2020 (ABP Ref. 308275-20) the Board stated that it was of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act requires further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála. It was noted that further consideration/amendment of documentation as it related to the proposed site access and social infrastructure was required, including a rationale for the absence of a childcare facility. Specific information was also requested.
- 5.3. **Applicant's Statement**
- 5.4. The application includes a statement of response to the pre-application consultation (Statement of Response to An Bord Pleanála's Opinion), as provided for under section 8(1)(iv) of the Act of 2016, which may be summarised as follows:

- **Access**

A series of assessments / documents are submitted to inform the proposed access including a Traffic and Transport Assessment, Quality Audit, DMURS Compliance Statement and Mobility Management Plan.

- **Social Infrastructure**

Following closer examination of the number, location and capacity of existing childcare facilities in the village, the proposed development submitted under this application for permission, includes a creche with 33 childcare spaces.

In relation to social infrastructure and objective AA1 under the Development Plan, further explanation / justification is set out in the statement of response and a Social and Community Infrastructure Audit which accompanies the application.

In relation to specific information requested:

- Item 1:

The submitted Architectural Design Statement addresses the density, design and character of the proposed development. A Building Lifecycle Report also supports this.

- Item 2:

The proposed number of units and mix has been examined following the pre-application consultation. Explanation / justification for the proposed unit number and mix is described in the statement of response.

- Item 3:

A Schools Demand Assessment is submitted with the application.

- Item 4:

Engineering Services information is submitted, alongside a Statement of Design Acceptance from Irish Water for the proposed development.

- Item 5:

A phasing plan is submitted (drawing no.PL07) describing the delivery of public open space and Part V provision.

- Item 6:

A Statement of Material Contravention is submitted.

## **6.0 Relevant Planning Policy**

### **6.1. National Policy**

6.2. The National Planning Framework 'Project Ireland 2040' addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential



densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.
- National Policy Objective 57: Enhance water quality and resource management by ... ensuring flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities...

6.3. Having considered the nature of the proposal, the receiving environment, the documentation on file, including submission from the planning authority, I am of the opinion, that the directly relevant Section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) (the 'Sustainable Residential Development Guidelines').
- Design Manual for Urban Roads and Streets (DMURS) (2019).

- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (the 'Apartment Guidelines').
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Childcare Facilities – Guidelines for Planning Authorities (2001).

#### 6.4. **Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES-EMR)**

The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

#### 6.5. **Local Policy**

#### 6.6. Wicklow County Development Plan 2016 - 2022

- 6.7. Ashford is identified as a Level 5 settlement. These are the smaller towns of the County that provide important economic and social services to their populations and immediate hinterland. Such towns normally have a good range of infrastructural services and are suited to accommodating urban generated housing demand. These towns generally have a population between 1,500 and 5,000 persons.
- 6.8. As set out in Appendix 3 the town had a population of 1,484 in 2011. It is envisioned that the population would grow to 2,575 within the lifetime of the plan (2022) and to 3,250 by 2028. This population increase would require an additional 508 no. residential units by 2022 and an additional 842 no. units by 2028.
- 6.9. Section 4.3.2 – Zoning sets out guiding principles for the zoning / designation of greenfield land for new housing. Section 4.3.4 – Densities notes that it is an objective of the Council to encourage higher residential densities at suitable locations, particularly close to existing or proposed major public transport corridors and nodes,

and in proximity to major centres of activity such as town and neighbourhood centres.

- Objective HD13: Apartments generally will only be permitted within the designated centres in settlements (i.e. designated town, village or neighbourhood centres), on mixed use designated lands (that are suitable for residential uses as part of the mix component) or within 10 minutes walking distance of a train or light rail station.
- Objective HD15: Within medium to large scale housing developments, a range of unit types / sizes shall be provided, including bungalows (this requirement does not apply to apartment only developments).
- Objective NH 1: To ensure that the impact of new developments on biodiversity is minimised and to require measure for the protection and enhancement of biodiversity in all proposals for large developments.

6.10. The following are also considered relevant, Settlement Strategy Objectives SS1, SS4 and SS5, Housing Objectives HD1, HD2, HD3 and HD5. Chapters 9: Infrastructure, 10: Heritage and Appendix 1: Development Design Standards are also considered relevant.

6.11. Ashford Town Plan 2016 - 2022

6.12. The Ashford Town Plan forms part of the County Development Plan. Ashford is a designated Level 5 Small Growth Town settlement. The plan aims to consolidate the existing built pattern in Ashford by maximising the potential of large sites within the town core in order to create a distinct streetscape capable of meeting Ashford's function as a town serving its immediate and wider hinterland population

6.13. The subject site is zoned R20 – Residential with the associated land use objective outlined in the Wicklow County Development Plan (Level 5 Town Plans) 2016 – 2022 'to protect, provide and improve residential amenities at a density up to 20 units/ha'.

6.14. The vision for these lands is 'to facilitate for the provision of high quality new residential developments at appropriate densities with excellent layout and design, well linked to the town centre and community facilities. To provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities'.

- 6.15. The subject site also forms part of a larger area which has the objective AA1. The plan states that Action Area 1 'is situated at Ballinalea and comprises of c. 11.5ha of lands, zoned for residential development (c. 7.7ha) and Active Open Space (c. 3.8ha) as shown on Figure 2. Access to the AOS lands shall be provided through the residential land from the R772. Only 50% of the proposed residential element may be developed prior to the AOS lands being levelled and drained suitable for sports use and devoted to an agreed sports body'.
- 6.16. Table 1.1 Residential Zoning Provisions states that 'lands at Ballinalea AA1' have the potential to deliver 142 no. units.
- 6.17. It is noted that there is capacity within both the public wastewater system and the public water supply.
- 6.18. The following policies are also considered relevant:
- ASH11: To improve / provide new footpaths, cycleways and traffic calming on existing roads where required and to require the provision of new link roads, footpaths and cycleways as specified in this plan in 'Action Areas' and 'Specific Local Objective' areas.
  - ASH14: To safeguard the integrity of streams and rivers in the plan area, in particular all watercourses that are hydrologically linked to The Murrough Natura 2000 site, including the use of adequate buffer zones between watercourses and proposed developments.

## **7.0 Statement of Consistency**

- 7.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of National Planning Framework, Section 28 Guidelines and the Development Plan and I have had regard to same. A Statement of Material Contravention also accompanies the application with respect to the proposed residential density and access to the site, which are contrary to the Development Plan.

## 8.0 Third Party Submissions

- 8.1. 8 no. submissions on the application have been received from the parties detailed at the front of this report. The issues are summarised below.

### General / Principle / Nature of Development

- Development on the site is premature.
- Developer should submit a co-ordinated application in conjunction with the other landowners within the AA1 Action Area Lands.
- Masterplan submitted with the application suggests a significantly higher number of units than the Local Area Plan and County Development Plan allows.
- No consultation with existing residents prior to submission of SHD application.
- Concern with pre-application report and opinion.

### Infrastructure

- No provision of community facilities, the area does not have a playground and the LAP provides for drainage and development of a second pitch for Ashford Rovers Soccer Club which the application does not include.
- The School Demand Report shows rising school numbers in Ashford.
- Local school is already overcapacity.
- Ashford is a small rural village that cannot cope with the scale of development proposed.
- The development would double-pump sewage. Permission should not be granted for development that cannot connect to Local Treatment Plant or Pumping Station. Concerns regarding the condition of the gravity sewer as it crosses the River Vartry to the Pump Station.
- Not sustainable to provide residential development without social infrastructure. Not realistic that remaining AA1 Action Area Lands will deliver sports pitch after, and in the absence of, profitable housing delivery, that is proposed first on this site.

### Amenity

- The application does not include a Daylight, Sunlight & Overshadowing Assessment for either the proposed dwellings or the neighbouring properties to the north.
- Overlooking into the rear gardens and windows of adjacent properties.
- Proposed open space / future pedestrian link could be an area for anti-social behaviour and is situated close to existing properties.
- Loss of privacy, noise and light pollution currently for residents adjacent to queuing traffic and the development will exacerbate this.
- Scheme does not integrate with adjoining working farm. Concern regarding dog walkers
- Proposed pumping station is situated adjacent to existing farmhouse, holiday cottages, sheds and yards.
- Object to light spill from proposed development into adjacent working farm.

### Transport

- Object to access route through Aishleigh, Woodview and Rossana Close Estates as these roads are used by children for street games, cycling, scooters and for resident parking.
- Access route relies on convoluted, excessively circuitous, inefficient roads.
- Insufficient capacity in the surrounding highway network to serve the development.
- Insufficient and poor sightlines on junctions and existing roads to be relied upon for access to the proposed development.
- Additional pressure on roads from creche proposed.
- Additional traffic volume will have consequential impact upon health and safety of children in the area.
- Extension of Rossana Close to create access to the proposed development will increase traffic speed on the road, due to change to the c-shape that calms traffic.

- There is no cycling network on the roads that link the development to the village and no cycle paths in the village, contrary to suggestions in the DMURS Report.
- Contest the data in the traffic assessment as currently under restrictions due to the pandemic.
- Lack of cycle infrastructure.
- No electric vehicle charging points shown.
- Existing parking issues in the area which cause health and safety issues, including accidents with children in the past, concern that additional traffic on these roads would exacerbate these issues.
- Existing roads congested, so any increase in traffic will adversely affect residents.

#### Height / Density / Design

- Not an appropriate density for the location and contrary to Area Action Plan.
- The site is not edge of centre within Ashford and is bounded by low density development.
- Scale of 3 storey blocks not in keeping with existing 1-2 storey dwellings.
- Object to the locating of the pumping station adjacent to family farmhouse, holiday cottages, sheds and yard with adverse impact on visual amenity, putting off potential tourists. Highly visible structure that is not residential.

#### Open Space

- Communal public open space is being provided in perimeter areas which are flood zones.

#### Material Contravention

- The submitted Material Contravention Statement makes inaccurate consultation claims. The neighbouring landowner has not been consulted and is in favour of the entirety of the lands being developed.
- No adequate justification is provided for proposing to materially contravene the Town Plan and there is also no justification for the Board to do so either.

- Reliance on Building Height Guidelines for contravention, which are irrelevant as 3 storey is not unusual in Ashford.
- Proposal is contrary to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) and Quality Housing for Sustainable Communities. The guidelines do not offer any justification for disregarding Action Area 1 of the Ashford town Plan and is contrary to the Urban Design Guide Manual. A financial contribution in lieu of sports facilities will not benefit future residents.
- No justification in the RSES for undermining policies and objectives contained in an existing statutory Town Plan.
- Proposal is contrary to the following objectives in the Development Plan: HD1, HD2, HD6, HD7, HD8, CD1, CD2, Section 8.3, Section 8.3.3, CD26, CD30, DC33, CD34 and CD35 (with respect to housing, community development, social infrastructure, leisure and recreation).
- Proposal is contrary to Section 9.2.5 Flooding of the Development Plan, the Ashford Town Plan and the objectives for the AA1 Lands.

#### Mix

- The predominate terrace blocks and duplex units proposed are not in keeping with the character of the area.

#### Construction

- Outline Construction Management Plan does not mention the existing stream, mitigation measures are required.
- Query how appropriate mitigation can be implemented and who would oversee this on the site to ensure pollution of the stream does not occur.
- Working hours should be fixed and not subject to revision for any reason and construction vehicle movements should only take place within these hours.
- A complaints procedure and independent process required as part of construction management.



- Construction noise and vibration levels should be monitored. Noise mitigation described in the submitted report is insufficient, 3m high acoustic and visual barriers are required. Negative visual impact during construction.
- Construction phase lighting should not be left to condition.
- Dust mitigation and limitation strategy required with monitoring.

#### Property Values

- Location of the pumping station will adversely impact the value of adjacent property.
- Development will depreciate the value of lands and properties in the vicinity.

#### Biodiversity

- The NIS identifies risk of pollution, no mitigating factors are proposed or an AA attached to the Application. The Board refused Retention Permission at Mount Usher View ABP Ref.303081 on these grounds.
- Concern regarding impact upon wildlife animals, rabbits, hares, foxes, bees, butterfly's, frogs (frog spawn) and other biodiversity issues.
- Instances of Japanese knotweed in the area in recent times at Aisleigh and on the Glenaly Road near Bel Air. Site should be examined in light of this.
- Proposing to remove almost the entirety of the existing hedgerow on the northeast boundary of the site.
- Concern regarding removal of trees on shared boundaries which require agreement from adjacent landowner. Ordnance Survey Maps can vary up to 3m in rural areas. Existing hedgerow is at least 50% on adjacent land.
- Object to replacement of hedgerow with fencing instead of planting, despite statements to the contrary in the application, and 1.2m high fencing inadequate to boundary with working farm, should be 1.8m/2m wall.
- Tree no.'s 236, 237, 242, 238, 239, 240, 241, 245, 247, 248, 252, 255 to 284 and all trees on south eastern boundary should be retained.
- Reliance on an array of mitigation measures to ensure no downstream flooding and/or loss of water quality, which is not credible.

- Concern regarding the pumping station and potential for water quality impacts that may reach The Murrough SPA and SAC if not properly maintained.
- Inadequate consideration of impact upon water quality during construction from possible discharge of hydrocarbons, aggregates, polluting chemicals, sediment and silt and contaminated waters, e.g. discharge water from laying concrete, into the existing stream.
- Proposal contrary to the following Development Plan objectives: NH1, NH8, NH12, with respect to protection and enhancement of biodiversity and assessment of ecological impact, as a result of water quality impact during both construction and operation phases due to discharges into the stream.
- Cumulative impact of this development alongside planning application WCC reg. ref. 20/876 and Masterplan proposals not considered in NIS or Ecological Assessment.
- Removal of boundary tree and hedgerow is contrary to the following objectives of the Development Plan: NH13, NH17, NH18 and CD29, concerning protection of trees, hedgerows and natural features.

#### Drainage, Flooding and Climatic

- The subject site acts as a flood plain currently.
- The submitted FRA does not reflect localised knowledge of flooding in the area, the lands and the Cronroe Stream. Engineers visited the site during dry weather in July.
- Consideration required of impact upon surface water drainage of adjacent lands including adjoining working farm.
- Severe flooding from surface waters flow directly from the application site through the farmland and onto Rossana Cottage property and grounds.
- Flooding concerns have previously been raised in planning application WCC reg. ref. 20/876.
- Contrary to the Flood Risk Management Guidelines.
- The existing stream does not only experience flooding during fluvial flooding for the 10% and 1% AEP event (photos submitted to demonstrate this).

- Subject site has poor drainage and the application does not address this or flood impacts appropriately.
- Proposal is to use the Cronroe Stream as a surface water and storm water drainage channel during construction and operational phases which will exacerbate downstream flooding.
- Inadequate consideration of existing carrying capacity of the stream, the amount of surface water discharge from the proposed development and impact upon flooding downstream.
- Inadequate consideration of flood risk during construction when mitigation measures will not be complete.
- Object to use of Cronroe Stream for stormwater discharge as it already floods.
- No survey of the Cronroe Stream to check suitability as a drainage channel for the scheme and no proposed upgrade works.
- There is a risk that flooding caused by the Cronroe Stream may be exacerbated by surface water flows from the Applicant scheme into it. Any increase in flow increases the likelihood of downstream flooding. Downstream flooding raises the prospect of flood waters effectively washing out existing septic tanks by way of overflow. Precautionary principle should be applied.
- Concern regarding the cumulative impact of this development alongside application ref. 20/876 upon flooding of adjacent lands.
- Pre-application feedback on this SHD proposal did not adequately address flood risk.
- Application documents do not adequately take into account or make reference to the Cronroe Stream.
- Concern regarding the reliance on a pumping station for a scheme of the size proposed and query the relationship to wider AA1 Action Area Lands.
- Contrary to National Policy Objective 57 with regard to ensuring water quality.
- Submitted Masterplan does not take adequate account of the flood zone running through the AA1 Action Area Lands.

- Concern that documents refer to the stream as a drainage ditch, as this does not recognise the existing flooding that occurs.

### EIA

- The pre-application process may be incompatible with Article 6(4) of the EIA Directive. There is flooding of the Cronroe Stream at the site and the stream travels to Natura sites and The Murrough SPA and SAC (photographs provided), there is a strong Judicial Review case that the pre-application consultation process provided for in section 5 of the 2016 Act is incompatible in this case with Article 6(4) of Directive 2014/52/EU (the EIA Directive). In *An Taisce v An Bord Pleanála* [2020] IESC 39 it was noted that public participation is required to occur before development consent for a project be granted. (Article 2 of the EIA Directive 2011/92/EU).
- The Development Plan and Town Plan were assessed at the time they were adopted for the purposes of the Habitats and Strategic Environmental Assessment Directive. Section 5(6) of the 2016 Act (which makes no provision for new or updated environmental assessments, for possible modifications to, or grants of permission in material contravention of) is inconsistent and incompatible with the requirements of the two Directives by allowing for the granting of permission in contravention of the CDP and Town Plan without any new assessment for the purposes of the Directives or any opportunity for public participation.
- Inadequate consideration in EIA document of cumulative impacts alongside planning application WCC reg. ref. 20/876 and the Masterplan.

### Other

- No compliance demonstrated with nZEB criteria, Energy Performance Co-efficients or Carbon Performance Co-efficients as required under Part L 2020 of Building Regulations.
- Former planning consent on the site was prior to flood management guidelines and the Ashford Town Plan.

Enclosures: Photos of site showing water logged character and flooding, photos of flooding of adjacent lands, photos illustrating the condition of the stream and letter

from Wicklow County Tourism Department expressing concern regarding the development as a result of negative impact upon adjacent cottage holiday home business.

## **9.0 Planning Authority Submission**

9.1. Wicklow County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summaries observer comments as per section 8(5)(a)(i). The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) may be summarised as follows.

### **9.2. Principle of Development**

9.3. Number of units is acceptable with regard to the Development Plan and Ashford as a Level 5 Small Growth Town.

### **9.4. Zoning**

9.5. The proposal is in accordance with land use zoning objective R20 Residential 'To protect, provide and improve residential amenities at a density of up to 40 units / ha' with the description 'To facilitate the provision of high quality new residential development at appropriate densities with excellent layout and design, well linked to the town centre and community facilities. To provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities.'

### **9.6. Density**

9.7. The site is zoned for 20 units per hectare. The proposal results in an overall density of 32 units per hectare, and a development intensity of 28 units per hectare (based on the CDP development management standard). It is considered that the proposed density materially contravenes the density objectives of the Wicklow County Development Plan 2016-2022. However, the proposed density is in accordance with National Planning Framework Objective 35, and the provisions of Section 28 Ministerial Guidelines – Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities 2009, and SPPR4 of the Urban Development and Building Heights Guidelines for Planning Authorities.

### **9.8. Action Area Plan**

- 9.9. In relation to Objective 1 concerning access, it is considered that the Action Area lands should be sequentially developed from the north east and accessed from the R772 as per the Action Area Plan. The proposal to serve a large scale housing development via a long cul-de-sac from the public road through an established housing area would undermine the achievement of the overall objectives for the Action Area, would be contravention of the Ashford Town Plan, would impact on the safe operation of the local roads and junction network and would give rise to a traffic hazard.
- 9.10. It is considered that the proposed development is compliant with Objective 2.
- 9.11. Phasing
- 9.12. The phasing is considered to be acceptable.
- 9.13. Mix
- 9.14. The proposed mix of apartments and houses will provide for a range of housing types within the area and offer a choice to residents in the area which will meet the forecast needs for smaller to mid-sized housing stock as set out in the Development Plan. The mix of housing size is considered to be reflective of the forecast household sizes for Wicklow and provides a balanced development to the Ashford area as a whole. The tenure mix is justified by the applicant and is considered to be acceptable. The inclusion of the single storey dwellings within the development is welcomed and are to be utilised to fulfil the Part V requirement for the development.
- 9.15. Apartments
- 9.16. The apartments meet the development standards in the Apartment Guidelines. It is considered that the proposed development does not comply with Objective HD13 of the Development Plan. However, the density is in accordance with NPF Objective 13, and the Sustainable Residential Development in Urban Areas Guidelines, and SPPR4 of the Building height Guidelines. The location and overall design of the apartments within the development is considered to be acceptable.
- 9.17. General Design / Layout
- 9.18. There may be intervisibility between the bedroom windows in units 40 and 41. No significant objection to the overall layout and design of the proposed development.
- 9.19. Access

- 9.20. Proposal is considered to undermine the objectives for the Action Area Plan as described above in relation to Action Area Plan Objective 1 on access. Should permission be granted, it is recommended that the recommendations of the Road Quality Audit including those recommendations relating to the surrounding junctions and road network are carried out to the satisfaction of the Wicklow MD Engineers Office prior to the first occupation of any dwellings on site.
- 9.21. Car-parking
- 9.22. An additional 10 car-spaces should be provided to serve the apartments in order to comply with the requirements of the Development Management Standards of the Development Plan. Remaining car parking provision is acceptable.
- 9.23. Open Space
- 9.24. Consideration should be given to the inclusion of tunnelled rooflights to the rear elevations of unit type C to avoid perceived overlooking. Private open spaces, open space and communal open space is acceptable in terms of design, location and surveillance. The Planning Authority has concerns in relation to the siting of the pumping station in close proximity to the proposed playground in the southern corner of the site in terms of visual amenity and security.
- 9.25. Boundary Treatment / Tree Survey
- 9.26. The overall boundary treatment proposals submitted are acceptable.
- 9.27. Childcare Facilities
- 9.28. The general location and design of the creche is acceptable. Note the lack of dedicated sleeping area. The facility should be fully designed in accordance with Universal Design Guidelines for Early Learning and Care Settings 2019. The input and recommendations of the Wicklow Childcare Committee should be incorporated into the final design.
- 9.29. Services
- 9.30. The pumping station should be capable of serving all the development lands as multiple pumping stations/rising mains and associated need for multiple road opening licences would not be acceptable. It should be noted that Wicklow County Council does not take pumping stations in charge and hence confirmation from Irish

Water as to the taking in charge of the pumping station should be sought, as pumping stations serving multiple houses cannot remain in private control.

9.31. Part V

9.32. The submitted Part V proposal is deemed to be acceptable to the Housing Authority.

9.33. Archaeology

9.34. An Archaeology Monitoring condition should be incorporated given the site area involved.

9.35. Impact on Bats

9.36. A bat survey has been submitted, subject to satisfactory mitigation measures, bats should be adequately protected.

9.37. Flooding

9.38. The issues identified in the report of the Ex Engineer Water & Environmental Services should be addressed as part of any consent.

9.39. Appropriate Assessment and EIA

9.40. An Bord Pleanála is the competent authority in relation to Appropriate Assessment and Environmental Impact Assessment.

9.41. Conclusion

9.42. The planning authority recommends that permission should be REFUSED for the following reasons:

1. Having regard to the location of the site, the number of dwelling units proposed and the Objectives for the development of the Action Area 1 lands contained in the Ashford Town Plan, it is considered that the Action Area lands which the site forms part of, should be sequentially developed from the north east and accessed from the Regional Road Network (R772) and not via a long cul-de-sac from the public road through an established housing area as proposed. The proposed development would undermine the achievement of the overall objectives for the Action Area, would be in contravention of the Ashford Town Plan and the Wicklow County Development Plan 2016-2022, would impact on the safe operation of the local roads and junctions network in the surrounding area and would give rise to a traffic hazard. The proposed



development would therefore be contrary to the proper planning and sustainable development of the area.

2. The density of the proposed development is 32 units per hectare on lands where the zoning objective is R20 New Residential: To protective, provide and improve residential amenities at a density up to 20 units/ha. The density of the scheme significantly exceeds the development plan objective and therefore the proposal would materially contravene the zoning objective set out in the Ashford Town Plan in the Wicklow County Development Plan 2016-2022 and would be contrary to the proper planning and sustainable development of the area.

9.43. Recommended planning conditions should the Board decides to grant permission

- 9.44. 19 no. specific conditions are noted relating to phasing, permeability and connectivity to adjoining lands, car-parking increase, roads, road safety audit, Irish water requirements, creche design, public lighting, construction management plan, maintenance of watercourse in natural state, details of surface water outfall and storm water collection, inclusion of 10% EV parking, archaeology monitoring, and taking in charge requirements.

9.45. **Planning Authority Internal Departmental Reports**

9.46. WCC Housing and Corporate Estate

- 9.47. Indicative costs have been included. There is a significant need in the Ashford area for 2 and 3 bed units. The Authorities preference is for houses and not apartments. The design of selected units should exclude en-suites, walk-in wardrobes etc. as this will not be funded. Kitchens should be robust. Construction should be phased to require a Part V unit for every 10 units. Part V should be pepper potted throughout the site. Concern regarding the oversize of some units and query labelling. The applicant should consider Wicklow County Council's Part V Policy, the Department's Quality Housing for Sustainable Communities Guidelines and the relevant legislation when making their Part V proposals.

9.48. Senior Executive Engineer, Wicklow Municipal District

- All surface water from the site must be attenuated in accordance with SUDS and details agreed in advance.

- The traffic route from the development and onto local roads L50701 and L5070 will increase traffic volumes. The junction of the L5070 and R772 is sub-standard and may require works to improve it. The developer shall agree traffic management proposals in advance.
- A construction management plan must be agreed in advance and implemented prior to commencement.

9.49. Executive Engineer, WCC Roads Authority

- The submitted quality audit only proposes recommendations for the development itself. The audit identifies a large number of issues on the approaches to the development, which should be rectified prior to any occupation on site, particularly where the R772 connection is not being provided.
- A connection, be it vehicular or pedestrian/cyclist, with the R772 should be created.
- Turning areas within the development should be constructed of Grasscrete or similar to deter parking. Road markings in residential estates do not provide a great enough deterrent.
- Shared surface roads should not be constructed where a connection to future development would be proposed in the AAP.
- Public lighting will need to be provided in accordance with Wicklow County Council Public lighting guidelines.
- Parking should be provided as per the County Development Plan, particularly for the proposed duplex units.

9.50. Executive Engineer, WCC Water and Environmental Services

- The applicant should show how it is proposed to protect and enhance the natural watercourse running along the south west and south east boundaries of the site and confirm that no private property abuts the watercourse. It is unclear whether private or public space abuts the property at the west corner.
- The applicant should provide details of the proposed outfall to the watercourse on the south east boundary of the site.

- The applicant must show how it has included exceedance design and allowed for a scenario where, if the storm water collection into the attenuation storage is overwhelmed, there is a safe means of dealing with rainfall runoff without adverse effect on either the development or neighbouring properties.

#### 9.51. **Elected Members**

9.52. A summary of the views of elected members as expressed in the Committee Meeting at the meeting on 13<sup>th</sup> April 2021 is included in the Chief Executive's Report and summarised below:

#### 9.53. Traffic / Road Infrastructure

- Concerns regarding access;
- Concern about traffic and increased congestion;
- Considered site land locked, access should be from Rathnew Road;
- Purchasers in surrounding area did not envisage access through their cul-de-sac.

#### 9.54. Social / Infrastructure

- Provision for amenities questioned;
- Shortage of school places in the area;
- Concern regarding providing housing and no schools;
- Schools, doctor surgeries, sports clubs etc. all under pressure already, exacerbated by this development;
- Recreational land should be central to the development;
- Area expanding too quickly in absence of social infrastructure.

#### 9.55. Pumping Station

- Concern regarding smells odours etc;
- Concern regarding responsibility for maintenance;
- Concern it is situated too close to holiday accommodation and odours;
- Location beside children's playground is inappropriate;

- Surrounded by secure fencing which won't look good;
- Query if it will be taken in charge by Irish Water;
- Note 4 no. houses recently refused permission in the area due to provision of pumping station for this development being unacceptable.

#### 9.56. Flooding

- Concern re. flooding, there is an issue with surface water, lands prone to flooding;
- Cllr has been shown photos of the Fire Service pumping out the area after flooding.

#### 9.57. Miscellaneous

- Concern about effect on Draft County Development Plan population numbers;
- Development doesn't comply with Local Area Plan Objectives;
- Concern 'playing catch up' for services in the area;
- Small village services not there to support such a large development;
- Not against housing, understand there is a shortage of houses, welcome Part V however if the overall development is not good, can't support it.

### 10.0 **Prescribed Bodies**

#### 10.1. Irish Water

The development has been issued a confirmation of feasibility for connection(s) to the Irish Water network(s) subject to the following:-

- In respect of water: Irish Water records indicate an existing 200mm cast iron which will have to be diverted as part of this proposed development. Further engagement between the applicant and IW is required in order to complete the diversion feasibility assessment and agree any diversion(s) ahead of any Connection Application.
- In respect of wastewater: Irish Water wastewater network will have to be extended by approximately 320m depending on the point of connection. Irish

Water currently does not have any plans to extend its network in this area. Should the applicant wish to progress with the connection they will be required to fund this network extension and obtain any consents or permissions for works not in the public domain. The applicant has been advised an alternative option for connection which involves extending their private water infrastructure to a point to connect to the Irish Water network. Further assessment of this option would be required ahead of connection application. Connection to the existing 150mm diameter wastewater network will not be permitted.

- The applicant has engaged with Irish Water in respect of the design proposal and has been issued a Statement of Design Acceptance for the development.
- Conditions requested with respect to connection agreement, that works are carried out in compliance with IW standards and that IW does not permit the building over of its assets.

#### 10.2. Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media

- Archaeology: Taking into consideration the location, scale and nature of the proposed development within the landscape and the potential for previously unidentified archaeological remains to survive below ground, it is recommended that an archaeological impact assessment involving geophysical survey, followed by a programme of targeted archaeological testing (licensed under the National Monuments Acts 1930-1994) be undertaken in advance of any site preparation and/or construction works and a report submitted to the relevant authorities.
- Conditions recommended concerning archaeological investigations, testing, submission of report, preservation and final reporting and/or post excavation work and monitoring.

#### 10.3. Inland Fisheries Ireland

- Comprehensive surface water management measures must be implemented at the construction and operational stage to prevent any pollution of local surface waters. While policies and recommendations made under the Greater Dublin Strategic Drainage Study have been applied in the development of a

drainage strategy for this site a maintenance policy to include regular inspection and maintenance of the SUDS infrastructure throughout the operational stage should be a condition of any permission.

- All construction should be in line with a detailed site specific Construction Environmental Management Plan (CEMP). Detailed requirements of the CEMP are noted. A Pre-Construction Invasive Species Management Plan should be completed and following from this an Invasive Species Management Plan if required.
- In an effort to protect and enhance biodiversity tree stands, woodland, and hedgerows should be retained. Filling of old field boundaries must be avoided. Surface water drains and ditches should be retained with adequate buffer zones in order to protect surface water drainage systems.
- IFI recommends the retention of a natural riparian vegetation zone (10m minimum) free from development each side of the stream which may be enhanced through appropriate bankside planting with native species.

## **11.0 Assessment**

11.1. The planning issues arising from the proposed development can be addressed under the following headings-

- Principle of Development
- Density, Height and Design
- Neighbouring Amenity
- Proposed Residential Standards
- Traffic and Transport
- Flood Risk and Water Infrastructure
- Material Contravention
- Screening for EIA
- Planning Authority Reasons for Refusal
- Other Issues

### **11.2. Principle of Development**

11.2.1. Provision of Housing on the Site

11.2.2. I note third party concern that the application relates to only part of the AA1 lands as designated under the Ashford Town Plan. Concern is also expressed regarding the number of units proposed and that the application is premature.

11.2.3. National policy as expressed within Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 supports the delivery of new housing on appropriate sites.

11.2.4. The subject site is zoned R20 New Residential, with the objective ‘To protect, provide and improve residential amenities at a density up to 20 units/ha’ under the Wicklow County Development Plan 2016-2022. Houses, apartments and childcare are uses identified to be generally appropriate for residential zoned areas under the Development Plan. Ashford Town Plan forms part of the Development Plan and identifies the subject site as forming part of Action Area 1 (AA1) lands with potential for 142 units (table 1.1 Residential zoning provisions). The subject site forms the central parcel of land within the AA1 zoning. The AA1 lands are identified under an Action Area Plan Boundary in the town plan.

11.2.5. The town plan objective for the AA1 lands is for 7.7ha of residential development and 3.8ha of Active Open Space (AOS), with access to the AOS lands provided through the residential land from the R772. The objective includes that only 50% of the proposed residential element may be developed prior to the AOS lands being levelled and drained suitable for sports use and devoted to an agreed sports body.

11.2.6. The principle of residential development and provision of a creche on the site is therefore acceptable and in accordance with the County Development Plan and Ashford Town Plan. A previous planning approval on the site for residential development also supports this position. In relation to the objective under the town plan for open space, phasing and in relation to access, I address these matters below in this section 11.2 of my report and section 11.6. In relation to the Action Area Plan, this has not been developed for the AA1 lands, however such action plans are non-statutory in any case. The applicant has submitted an indicative Masterplan for the entire AA1 lands, which is also non-statutory.

11.2.7. In relation to the duplex and apartment development on the site. I note the recent s.28 Guidelines for Planning Authorities on the Regulation of Commercial

Institutional Investment in Housing May 2021. This includes requirements in relation to duplex and stand alone housing units, to restrict occupation of these units under section 47 of the Planning and Development Act 2000 (as amended). The current application has been described by the applicant as incorporating 9 apartment units and 9 duplex units, alongside stand along housing. However, the definition of a duplex unit is stated in the guidance to be ‘a dwelling within a building designed for use as two individual dwellings and/or on one shared plot, with separate entrances.’ In my opinion, all 18 units within the proposed block fall under this definition and are therefore duplex units for the purposes of this guidance. Therefore, the conditions described under the guidance apply to the development in its entirety and should the Board determine to grant planning permission, I have incorporated these in my recommended order below.

11.2.8. However, National Planning Policy/Guidance and objectives under the County Development Plan relating to apartments still require assessment in my opinion, as they logically apply to the type of block included in the current application. As such, I note Objective HD13 in the County Development Plan which states that apartments generally will only be permitted within the designated centres in settlements (i.e. designated town, village or neighbourhood centres), on mixed use designated lands (that are suitable for residential uses as part of the mix component) or within 10 minutes walking distance of a train or light rail station. This requirement is specified as a *general* provision and does not expressly preclude the locating of apartment development in areas that do not conform to those locations described under the objective.

11.2.9. National planning policy supports the provision of new housing as a priority on appropriate sites, and recognises the importance of apartment development as part of the efficient delivery of much needed housing in the State. The proposed development is primarily a self contained housing scheme, with the addition of an apartment/duplex block with 18 number units. I consider in detail the location of the site and suitability for the density of development proposed in section 11.3 below. Overall, I do not consider there to be any in principle objection to the provision of apartment/duplex development as part of a wider housing scheme on the subject site. I address Objective HD14 in relation to apartment development and access in



section 11.6 as part of transport considerations and 11.8 as part of my consideration of material contraventions in the application proposal.

11.2.10. In relation to the number of units proposed on the subject site, this is within the identified quantum described under the town plan. While I note third party concern that the submitted Masterplan for the entire AA1 lands exceeds the town plan unit figure, this is not a document for approval under the application and is for illustrative purposes only. I note that the proposal for 117 units on the subject site would comprise a significant quantum of the overall AA1 potential for 142 units identified under the town plan, however the figure set out in the town plan is not expressed as a cap or maximum. Delivery of housing should therefore be considered in light of the County Development Plan Core Strategy housing stock targets. The Planning Authority have confirmed a housing unit growth requirement of 858 units in Ashford and that it considers the number of units proposed to be acceptable with regard to targets in the Development Plan. Therefore, I do not consider that approval of this application would prevent further housing delivery on the remainder of the AA1 lands in exceedance of the town plan figure, where housing targets for Ashford overall indicated further housing delivery was required, and where there was an assessment for such a proposition concluding the same at that point in time. As such, I am satisfied that the quantum of development proposed on the site is acceptable in principle, however a qualitative assessment is still required, and I address the proposed density in relation to the site characteristics in section 11.3 below.

11.2.11. I note that the Planning Authority consider that the application should be refused, in part due to the need to sequentially develop the AA1 lands from the north east. There is an objective under the town plan for access to the AOS lands to be provided on the AA1 lands, through residential land from the R772. The objective also directs that only 50% of the proposed residential should be developed prior to delivery of the AOS lands. The applicant has submitted a material contravention statement in relation to these matters which I address in section 11.8 below. While a previous planning application on the site incorporated the subject site area and the lands to the north, the planning consent for that application has now expired and I must assess the proposition currently submitted in this application, which does not incorporate the lands to the north of the site.

11.2.12. In my opinion, there is no explicit requirement under the Development Plan or objectives under Ashford Town Plan to sequentially develop the AA1 lands from the north east. I note objectives HD7 and HD8 in relation to sequential development and phasing under the County Development Plan, however the proposed development can be considered to comply with the sequential approach outlined in the plan in my view and has been zoned for residential development as a result. I also note that the site is a reasonable walking distance (10 mins approx.) from the centre of Ashford and contiguous to the existing built-up part of the settlement. Potential for connection to existing water supply infrastructure is also demonstrated, with provision for a pumping station to facilitate connection to the wastewater network. I address social infrastructure provision in more detail in section 11.11 below.

#### 11.2.13. Active Open Space

11.2.14. Ashford Town Plan requires the provision of 3.8ha of Active Open Space (AOS) on the AA1 lands as part of provision of sports use. Within the AA1 lands, parcels to the north east and south west of the subject site are zoned AOS Active Open Space in the town plan. These areas are outside the redline boundary for the current application. As such, there is no zoning requirement for AOS land on the subject site itself.

11.2.15. I note concern raised by third parties that the provision of a significant quantum of housing on the subject site will prejudice future delivery of AOS elsewhere in the AA1 lands, as profitable housing is needed to incentivise developer provision of public infrastructure such as sports use. In my opinion, the land use zoning for the AA1 lands clearly expresses the intended location for the sports use to be provided and to form AOS in the AA1 lands. The location of the AOS zoning is outside of the application boundary. There is nothing intrinsic to the proposal details that would hinder provision of sports use on AOS lands elsewhere, and outside the application redline boundary, in appropriately zoned locations as required for the AA1 lands. Provision for housing is also identified under the land use zoning for parcels to the north and south of the subject site, and therefore could form part of future proposals for those areas. As described above, the quantum of housing proposed in this application is acceptable and does not prevent delivery of additional housing elsewhere in the AA1 lands. I consider the objective concerning AOS lands further in sections 11.4 and 11.8 below.

### 11.3. Density, Height and Design

#### 11.3.1. Density

11.3.2. The subject site is zoned new residential, with an objective to protect, provide and improve residential amenities at a density up to 20 units/ha. I also note that the Ashford Town Plan identifies potential for 142 units on the AA1 lands as a whole, which would equate to 18.4 units/ha across the extent of the lands.

11.3.3. The proposed development comprises 117 units on a 3.6ha (net) site, equating to a density of 32 units/ha. The proposed density is therefore a material contravention of the Development Plan and the Planning Authority recommend that the proposed development be refused, in part, on this basis. I address material contraventions in the application further in section 11.8 below, while in this section of my report I address the suitability of the subject site for the proposed density.

11.3.4. Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures. In relation to Section 28 Guidelines, the 'Urban Development and Building Height, Guidelines for Planning Authorities' 2018, 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018) and Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) all support increases in density, at appropriate locations, in order to ensure the efficient use of zoned and serviced land.

11.3.5. The subject site is zoned for residential development and located on the periphery of existing residential estates on the edge of Ashford, an area categorised as a level 5 small growth town under the County Development Plan. The subject site is approximately a 10 minute walk into the centre of Ashford and there are footpaths to facilitate pedestrian access. The subject site is also served by public transport, with bus routes and stops in close proximity to the site along the R772 road. While the site is approximately a 20 minute cycle to Wicklow Train Station, I note a lack of existing cycle infrastructure along routes between Ashford and the station.

11.3.6. Having regard to the Sustainable Residential Development in Urban Areas Planning Guidelines, Ashford can be considered a small town. The guidelines state that for

edge of centre sites in small towns, which in my opinion would include the subject site, densities to a range of 20-35 dwellings per hectare will be appropriate.

11.3.7. In light of the foregoing, the characteristics of the site, including the short walking distance to the centre of Ashford, and the guidance contained in the Sustainable Residential Development Guidelines as referenced above, I consider the proposed density of 32 units per hectare to be appropriate on the site.

11.3.8. Height and Design

11.3.9. The proposed development comprises single and 2 storey self-contained houses and a 3 storey duplex/apartment block. The predominate existing built character of the area surrounding the site is 2 storeys in height, however I note the existence of at least two 3 storey buildings in the centre of Ashford. The site is also situated adjacent to existing agricultural fields and greenfield areas. As such, the proposed 3 storey height will be a departure from the existing visual character of the immediate area, and I note third party concerns in relation to this. The County Development Plan states that residential amenity in transitional areas should be protected, through the avoidance of abrupt transitions in scale and use at the boundary of adjoining land use zones.

11.3.10. The 'Urban Development and Building Heights Guidelines for Planning Authorities' (the Building Height Guidelines) describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. I note SPPR 4 in the guidelines in relation to greenfield or edge of city/town locations, which states that a greater mix of building height and typologies should be sought, and avoidance of mono-type building typologies. Paragraph 1.9 states that *'these guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels.'* I also note national policy in Project Ireland 2040 National Planning Framework, and particularly objective 35 concerning increased residential density in settlements.

11.3.11. In my opinion, the proposed 3 storey block is a modest increase in scale compared to the established prevailing heights in the area. The block is positioned within the

site and away from the boundaries with existing dwellings on Rossana Close and one off housing to the east and north east. The proposed development is largely formed of 2 storey dwellings with a range of housing types, and with both semi-detached and terrace forms. The proposed 3 storey duplex block contributes to the variety in housing types and is appropriate in my view, given the specific characteristics of this site and the surrounding area. While I note that the site may be considered 'transitional' as it is situated between greenfield/agricultural areas and established residential estates, I consider the proposed scale and mix of heights between 1 and 3 storeys, to be appropriate for the site.

11.3.12. The proposed layout responds to the future development potential of lands to the north and south within the AA1 designation, with streets located to boundary edge to facilitate future connection. An open space area is situated centrally within the site, bounded by roads and houses, while also being overlooked by the duplex block. A further area of open space is situated to the eastern edge of the site, adjacent to the existing watercourse. Within this area a pumping station is proposed and I note third party concerns relating to the visual impact of this upon the self catering holiday homes to the south east.

11.3.13. The proposed drawings do not provide extensive detail on the proposed appearance of the pumping station, however it is included on the submitted section DD drawing (elevations sheet 2) and will be formed of a single storey enclosed brick structure. The proposed pumping station is situated over 14m away from the boundaries of the site. Landscaping is proposed to the edges of the pumping station. Whilst not visually attractive as such, the proposed pumping station is not overly prominent in my view, and its appearance will be softened by the proposed landscape treatment both around its edges and to the boundaries of the site. The proposed pumping station serves a practical purpose and has an appearance that reflects this. I do not consider the location of the pumping station to be particularly sensitive in terms of visual amenity and note that it is inset significantly from the boundary edge. As a result, I consider the proposed pumping station to be acceptable in this regard.

11.3.14. The proposed houses and duplex block are finished in buff brick and light-coloured render, and will in my opinion appear distinct, yet complementary, to existing residential dwellings in the area. The proposal will be visible across surrounding greenfield areas, some of which are zoned for residential development. This visibility

is in keeping with the existing character of residential estates here, situated on the edge of greenfield areas. As a result, I consider that the proposed design and material finish will assist legibility through the area and provide definition of character to this part of Ballinalea.

11.3.15. Overall, and following the above assessment, I consider that the proposed height and design of the development is acceptable.

#### 11.4. Neighbouring Amenity

11.4.1. A number of third party objections have been received relating to the impact of the proposed development upon surrounding residential amenities and neighbouring agricultural use, and I address these matters below.

##### 11.4.2. Daylight, Sunlight and Overshadowing

11.4.3. Third parties have queried the lack of a daylight, sunlight and overshadowing assessment with the application. The Wicklow County Development Plan 2016-2022 states in its design quality standards, that the layout of new development should be in accordance with BRE guidelines. The Building Height Guidelines also seeks compliance with the requirements of the BRE standards and associated British Standard (note that BS 8206-2:2008 is withdrawn and superseded by BS EN 17037:2018), and that where compliance with requirements is not met that this would be clearly articulated and justified.

11.4.4. The Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' describe recommended values (eg. ADF, VSC, APSH, etc) to measure daylight, sunlight and overshadowing impact, however it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria (para.1.6). The BRE guidelines also state in paragraph 1.6 that:

11.4.5. *"Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design."*

11.4.6. The BRE note that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. in Section 5 of the standards. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and

arrangement of open space, and these factors will vary from urban locations to more suburban ones. The BRE guidelines state that in relation to daylight to existing buildings:

*“Loss of light to existing windows need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window. In these cases the loss of light will be small...”* (para. 2.2.4)

- 11.4.7. The proposed 3 storey block is not situated close enough to existing dwellings to perceptibly impact daylight or sunlight levels. Therefore, no analysis of the impact of these proposed buildings on any existing properties is required, as the potential is negligible and can be ruled out without further testing as per para.2.2.4 of the BRE guidelines.
- 11.4.8. Existing properties closest to the north west boundary of the subject site on Rossanna Close, are considered by third parties to be situated close enough to proposed 2 storey dwellings on the application site to warrant consideration of daylight and sunlight impact. To this end, while I note that some may fall into the exception described above, others may not. This is considered in section 11.4.10 below.
- 11.4.9. All other neighbouring properties are situated a sufficient distance away from the development and would not experience any, or significant, loss of light / increased overshadowing.
- 11.4.10. Therefore, noting the above and the relevant requirements of the BRE/BS, further consideration is required only in respect of Rossana Close. Although some properties on Rossana Close (approx. 4 in number) are situated proximate to the development to require consideration, I do not consider the omission of a specific daylight, sunlight and overshadowing assessment to be significant given the specific characteristics of the proposed development. The proposed development is 2 storeys in height where it is situated closest to existing residents, reflecting the established scale of the area. Distances between the rear of the proposed houses on this north west edge, to the rear of existing properties, is no less than 23m in all cases. Typically (as per BRE guidance), the requirement is that a new development will not significantly impact on existing residential units where the distance of the new development is three times

greater than its height above the centre point of the impacted window. To this end, a two storey house (being c.8.5m) will measure c.7-7.5m above the mid point of a window potentially impacted. Therefore, the required separation distance between the rear of opposing two storey houses is typically noted as 21-22m in a development (to protect against undue overlooking or sunlight/daylight impact). The proposed development complies with this standard. As a result, any impact upon daylight and sunlight would be within the normal range for a residential estate in my view, and not so detrimental to be considered significantly harmful impact. As the standard separation distance, as per Development Plan standards has been applied, it is considered adequate regard has been had to the preservation of the residential amenity of existing properties, when balanced against the need for housing on zoned and serviced lands. No BRE tests are required to further support this position.

11.4.11. To the side of existing properties, the proposed development is situated closest to no.25 Rossana Close and will project in front of that existing property (by approximately 3.2m). In my opinion, it is possible that such a proximity and positioning could have some impact on the daylight and sunlight to the property at no.25 Rossana Close. There is a side window at first floor level within the existing property, although this does not appear to be a main window to a habitable room. However, given the alignment of the existing property, angled toward the subject site, and the positioning of the proposed property, with a projection in front of that existing property, an impact upon daylight and sunlight levels could be possible. Although, I do not consider this impact to be significant or that the proposed development would have an atypical relationship to the existing dwelling, given that the character of the proposed development reflects a normal residential estate in layout and scale. I am satisfied that adequate regard has been had to the preservation of the residential amenity of existing properties, when balanced against the need for housing on zoned and serviced lands and that the design and layout of the proposed scheme is of a good architectural and urban design standard respecting the established pattern of development in the area.

11.4.12. Overall, I am content that daylight, sunlight and overshadowing impact from the proposed development upon existing properties will be within an acceptable range for the area and not significantly harmful. I have applied the guidance within the BRE guidelines and associated BS 17037:2018 in my assessment of this issue, and



particularly in light of the guidelines own assertions that numerical targets should be applied flexibly (para.1.6) and that natural light is only one of many factors in site layout design (para.1.6). Tests that assist in assessing this potential impact, which follow one after the other if the one before is not met, are noted in the BRE

Guidelines as follows:

- i. Is the separation Distance greater than three times the height of the new building above the centre of the main window (being measured); (ie. if 'no' test 2 required)
- ii. Does the new development subtend an angle greater than 25° to the horizontal measured from the centre of the lowest window to a main living room (ie. if 'yes' test 3 required)
- iii. Is the Vertical Sky Component (VSC) <27% for any main window? (ie. if 'yes' test 4 required)
- iv. Is the VSC less than 0.8 the value of before ? (ie. if 'yes' test 5 required)
- v. In room, is area of working plan which can see the sky less than 0.8 the value of before ? (ie. if 'yes' daylighting is likely to be significantly affected)

11.4.13. As the separation distance from proposed buildings is greater than three times the height of the new building above the centre of the main window to existing properties, the further tests (ii-v) are not required. While I note the lack of a submitted assessment with the application, I am satisfied that this does not have a material bearing on my assessment, and potential daylight/sunlight impacts upon existing residents in accordance with the criteria described in the BRE guidelines can be determined as negligible and reasonable for the location of the site. Specifically, that as a result of the separation distance to existing dwellings, the low rise height of the proposed development at those points closest to existing dwellings and the orientation of these structures, impacts upon daylight and sunlight would not be significantly harmful. Therefore, while a specific assessment has not been submitted with quantification of this impact, in my opinion the proposed development has been designed in consideration of potential daylight and sunlight impact upon existing residents and this is reflected in the scale and layout of the proposal.

11.4.14. I am satisfied that that proposal has a layout that reflects a standard suburban residential estate, as well as in scale and form, which will limit potential for reduced daylight and sunlight to surrounding properties. As such, I consider that the proposed

development makes adequate provision for daylight and sunlight to surrounding properties in accordance with BRE considerations that I have applied, and therefore the requirements under the Wicklow County Development Plan and s.28 guidance are satisfied.

11.4.15. I also note that within Wicklow Planning Authority area, for schemes of a low-rise character (such as the proposed development), where no particular sensitivity is demonstrated in separation distances to neighbouring properties, the submission of a specific daylight and sunlight assessment it is not generally required. In addition, I note that the Planning Authority has not raised concern in relation to this matter and that the Planning Authority confirm that they have no objection to the proposed layout. On this basis, it is reasonable to interpret that the requirement under the Development Plan concerning BRE standards is considered to be achieved, and the proposed accommodation is within best practice limits.

11.4.16. Overlooking

11.4.17. I note third party representations regarding impacts upon the privacy of existing residents from the proposed development. The proposed development complies with standards described in the County Development Plan, with separation distances of more than 22m between opposing windows serving living areas. The backdrop to properties bounding the subject site on Rossana Close will alter, with some increased perceived overlooking of rear garden areas, such impact is inevitable as part of the efficient development of a zoned greenfield site for housing. This impact will be reflective of normal back-to-back housing arrangements for residential estates and will not be significantly harmful in my view.

11.4.18. Compatibility with Adjacent Agricultural Use

11.4.19. A third party has raised concerns regarding the impact of the proposed development upon the adjacent working farmland areas. The County Development Plan states that residential amenity in transitional areas should be protected, through the avoidance of abrupt transitions in scale and use at the boundary of adjoining land use zones.

11.4.20. The proposed development is situated on lands zoned for residential development. The existing agricultural fields to the north west and south east of the subject site are also zoned under the AA1 lands for residential development. These fields currently bound directly onto the properties and garden areas for dwellings in Rossana Close

and therefore the proposed development will reflect this established boundary relationship between land uses. To the south east of the subject site, the boundary adjoins self catered holiday homes and farmland. While currently the setting to those lands is largely greenfield in character, it is clearly the intention for residential development to be brought forward adjacent to these existing areas given the zoning of the AA1 lands. I do not consider the transition between the agricultural / holiday home uses and the proposed residential development to be abrupt between land uses, with residential and farmland boundary relationships clearly an established character in the area.

11.4.21. In relation to third party concerns regarding anti-social behaviour, I do not consider there to be anything inherent in the design or layout of the proposed development or landscaping, that would attract such undesirable behaviour. I note concerns regarding dog walking and the adjacency to working farmland areas, however the proposed development does not, in my view, encourage conflict of these activities in terms of design or layout. Routes are shown to extend up to boundary edges to facilitate future connections into these adjacent residentially zoned lands, however boundary treatment is also included to dissuade access into the neighbouring lands. I note that the boundary plan submitted omits boundary treatment to some areas of the site, however, there appears to be retention of tree and hedgerow areas at some of these points. Albeit, I note one section without either hard or soft boundary treatment reference. As a result, I consider it appropriate to request final details of all boundary treatments. In terms of the detailed appearance of these boundary treatments, I note third party request that these be higher than detailed in the submitted drawings. The boundary condition drawing indicates the locating of a 1.2m high post and rail fence on boundaries with adjacent farmland, which is broadly reflective of the existing hedgerows in these locations and therefore acceptable in my view. The proposed development has therefore in my opinion, accounted for this matter as far as is practical in terms of design and the Gardai are the appropriate body to address individual instances of anti-social behaviour.

#### 11.4.22. Noise and Light

11.4.23. Third party objections have been raised regarding the increase in noise and light pollution as a result of the proposed development. A public lighting report and external lighting plans have been submitted with the application, these describe the

location and luminance level of exterior lighting to be included as part of the development. Luminance levels are appropriate for a residential area. I am satisfied that there will be no disturbance to adjacent lands from lighting at the proposed development. I also consider that light spill from the proposed development onto adjacent farmland will reflect established adjacencies between land uses in the area and their associated light levels.

11.4.24. I note third party concerns regarding the change in the quiet character of the area, as well as noise from traffic associated with the proposed development. I address traffic impact in section 11.6 below. I do not consider the increased population of the area and associated change in character to be a negative consequence of the development. The site is zoned for residential development and will naturally result in increased population with associated footfall and traffic. The noise associated with this population will be at a standard residential level and not unusual for the area.

11.4.25. Construction Impacts

11.4.26. Representations have been received regarding the need for control and monitoring of noise, dust, and light impacts during construction. A Construction Environmental Management Plan has been submitted with the application. Measures for the management of noise and suppression of dust are described. Vehicle site access and traffic management is also addressed. I note third party concern that the submitted plan does not mention the Cronroe Stream. Section 16 of the submitted plan outlines environmental mitigation and specifically in relation to the Cronroe Stream in section 16.3 where specific mitigation measures to prevent pollution are described. I also address this in detail in section 12 of this report as part of my Appropriate Assessment. The submitted plan also outlines measures for the control and monitoring of noise and dust. While specific lighting details during construction are not provided at this stage, it is acceptable to address this by way of condition, particularly as the overall lighting approach during construction is described as part of measures in section 16.1 of the submitted plan.

11.4.27. A condition is recommended to secure these arrangements and the submission of a final construction management plan for approval. I have also incorporated a working hours condition in my recommended order. With the application of these mitigation measures, I have no concerns regarding construction impacts (or construction

transport impacts) resulting from the proposed development. I acknowledge that the application will result in some disturbance to adjacent residents, including during connection works planned on Rossana / Woodview / Ashleigh estate roads, however this will be on a temporary basis and mitigated through measures in the construction management plan. This type of disturbance is an inevitable and typical consequence of any development. All contractors on the site will be required to adhere to mitigation described in the Construction Management Plan which will also reflect mitigation described in the submitted NIS.

## **11.5. Proposed Residential Standards**

### **11.5.1. Daylight, Sunlight and Overshadowing**

11.5.2. Third parties have queried the lack of a daylight, sunlight and overshadowing assessment with the application. I have addressed this matter above in section 11.4 relating to potential impact upon existing properties. In relation to the proposed development, I note that Wicklow County Development Plan 2016-2022, Development Standards, Section 1, Design Quality, states that *“Layouts shall ensure adequate sunlight and daylight in accordance with ‘Site layout planning for daylight and sunlight: a guide to best practice’ (BRE 1991).”*

11.5.3. As noted above, the BRE guidelines are discretionary and not mandatory policy/criteria. Albeit, I note that the Design Standards for New Apartments states that levels of natural light in new apartment developments is an important planning consideration and regard should be had to BRE standards. I also note that the Building Height Guidelines ask that reasonable regard is had to the BRE standards.

11.5.4. However, similar to my assessment above in section 11.4, I do not consider the omission of a specific daylight, sunlight and overshadowing assessment to be a critical deficit of the application proposal given the characteristics of the proposed development. The absence of this information has had no material bearing on my assessment, given the low density traditional nature and design of the proposal, and guidance in the BRE document. The proposed development is at an appropriate scale for the site location, with properties between 1 and 3 storeys in height, limiting the extent of overshadowing that may result. Separation between blocks and dwellings is also acceptable and will limit the degree of obstruction that could result between blocks in the proposed development. All of the proposed dwellings are dual

aspect, maximising available light and ventilation to both the self-contained housing and duplex units proposed. Buildings proximate to the subject site are not of a scale or height that would generate significant obstruction to light or overshadowing of areas.

- 11.5.5. As detailed in section 11.4 above, the BRE guidelines are clear that access to natural light is only one of many factors in site layout design. I consider that adequate allowance has been made in the proposed design for daylight and sunlight through adequate separation between blocks relevant to the scale of the development. As such, I am content that daylight, sunlight and overshadowing conditions for units in the proposed development will be within an acceptable range. While I acknowledge that the applicant has failed to carry out their own assessment of the numerical targets for daylight and sunlight in the proposed development, I am satisfied that considerations of daylight and sunlight have informed the proposed layout design in terms of separation distances, scale and dual aspect of units. I have also carried out my own assessment in accordance with the considerations outlined in the BRE guidelines. As such and noting that the guidelines state that numerical targets should be applied flexibly (specifically ADF values of 1% to bedrooms, 1.5% to livingrooms and 2% to kitchens), and that natural light is only one factor to be considered in layout design, I consider the development to be in accordance with the BRE guidelines and therefore the associated requirements under the County Development Plan and s.28 guidance are satisfied.
- 11.5.6. In addition, I note that the Planning Authority has not raised concern in relation to this matter. In my view, it is accepted practice within Wicklow Planning Authority area for schemes of a traditional character and relatively low density to not require the submission of a specific daylight and sunlight assessment. On this basis, it is reasonable to interpret that the requirement under the Development Plan concerning BRE standards is considered to be achieved, and the proposed accommodation is within best practice limits.
- 11.5.7. Internal Space Standards
- 11.5.8. The floor areas for all proposed houses and duplexes conform with minimum standards described in the County Development Plan and Apartment Guidelines as applicable.

#### 11.5.9. Private Amenity Space

11.5.10. Private external space is provided in the form of rear garden areas to houses and terrace / balcony areas to the duplex units proposed. All areas conform with relevant size standards in the County Development Plan and Apartment Guidelines as applicable.

#### 11.5.11. Communal and Public Open Space

11.5.12. The proposed development provides 5,522.4sqm of public open space equating to 15.1% (approximately) of the net site area at 3.65ha, conforming with expectations under the County Development Plan. Three areas of public open space are provided, 2,433.4sqm in Open Space 1 centrally within the site, 2,018.7sqm in Open Space 2 towards the south east of the site including play equipment and 1,070.3sqm in Open Space 3 in a linear form along the south west boundary of the site. Communal open space is provided to the rear of the apartment/duplex with 271.8sqm provided, exceeding requirements under the Apartment Guidelines.

11.5.13. In relation to objectives under the Ashford Town Plan for the AA1 lands and provision of sports infrastructure, I address this in section 11.8 and 11.11 of this report below.

11.5.14. I note the Planning Authority concern regarding impact of pumping station on the usability of the public open space and play equipment. The final design of the pumping station will be agreed with Irish Water and I do not consider there to be any conflict with the location of the proposed pumping station in the open space area and close to the play area. I also note third party concerns regarding the locating of the public open space on the perimeter areas in the flood zones. The majority of public open space as described in the paragraph above is not located in flood zone areas. Open space area 3 is situated parallel to the stream and overlapping the flood zone but forms a largely retained riparian habitat that will form a visual and more unmanicured amenity for residents / visitors to the site. Attenuation tanks are proposed beneath the public open space areas 1 and 2, however with the incorporation of good quality SUDs and surface water drainage technology, these areas will still be usable for the majority of the year. There will be times when the ground in these areas will be wetter during heavy rainfall events, but this is not unusual for open space areas during wetter times of year when a decrease in use will

be expected anyway and therefore will not reduce the amenity value of these areas overall.

#### 11.5.15. Mix

11.5.16. I note third party concern that the predominance of terrace housing in the proposed development, does not reflect the established housing mix of the area. The Planning Authority have confirmed that the proposed housing mix is in accordance with Development Plan requirements. In my opinion, the proposed mix of housing types and sizes supports a variety of household types and sizes in accordance with County Development Plan and National planning policy requirements.

#### 11.5.17. Privacy

11.5.18. The layout and arrangement of houses and duplexes in the proposed development ensures that adequate separation is achieved between all units in most instances. Where separation is less than 22m, opposing windows are between non-habitable spaces such as hallways / bathrooms or between a habitable space and a non-habitable space (i.e. bedroom to hallway). There is one instance where two bedrooms in opposing houses are situated less than 5m away from each other in units 40 and 41, and I note the Planning Authority comments in this regard. I note that this issue relates to secondary windows to bedroom areas and that the main aspect from these bedrooms overlooks open space. Should the Board be minded to grant planning permission for the application, I suggest that these secondary windows be conditioned to be obscure glazed. With this mitigation in place, I am satisfied that adequate privacy and the prevention of undue overlooking is accounted for in the proposed design.

### 11.6. **Traffic and Transport**

11.6.1. I note third party concerns regarding traffic impact associated with the proposed development. Elected members and the Planning Authority have also raised concerns. The Planning Authority recommend that the application be refused, in part, due to the access arrangements proposed which do not conform with objectives under the Ashford Town Plan. I address the material contravention of the plan in section 11.8 below.



11.6.2. In relation to traffic impacts, the application is accompanied by a Traffic and Transport Assessment. This describes that the surrounding road network has capacity to accommodate the predicted vehicular traffic generation from the proposed development. I am satisfied that the submitted data supports this conclusion.

11.6.3. Access

11.6.4. Objective HD14 and section 1 of the Development Design Standards of the County Development Plan, state that new apartment development will not be permitted if dependent on access through existing areas of family houses (note – this is stipulated as a *general* requirement in the objective). The requirement in the design standards is in relation to infill / backland apartment development, which the proposed development would not fall under. The proposed development is a greenfield site zoned for residential development and situated at the edge of an existing estate with access from an existing taken in charge road which provides the current access to the site. The requirement under Objective HD14 is a general consideration and therefore does not preclude access through existing residential estates such as in the proposed development. As a result, the proposed access does not conflict with this design standard or objective, and a qualitative appraisal of proposed access arrangements is required, and I set this out in detail below.

11.6.5. In relation to the principle of the access arrangements, I note that the proposed development is predominately a self-contained housing scheme, with duplex development making up approximately 15% of the overall development. The duplex block itself is relatively low rise at three story, contains 18 duplex units, and is situated away from the boundary with the adjoining existing residential estate around Rossana Close. Overall, given the low proportion of duplexes in the proposed development and the relationship with the adjacent estate, I see no reason that access through the existing estate should be precluded as a general consideration under Objective HD14. My detailed assessment of the suitability of access arrangements is set out in more detail below.

11.6.6. The objective for the AA1 lands includes that access to the AOS lands should be provided through the residential land from the R772. The proposed development incorporates a vehicular access to the site from the existing residential estate on

Rossana Close. The application redline boundary does not extend across the total extent of AA1 lands and does not extend up to the R772. As a result, access from the R772 cannot be facilitated under the current redline boundary for this application. The lands located closest to the R772 are also not within the ownership of the applicant and therefore the applicant has no control over the provision of access across those lands to the R772.

- 11.6.7. Whilst the applicant has stipulated that the landowner of the land parcel closest to the R772 has no intention to develop at this time, a third-party representation from that landowner contradicts this position.
- 11.6.8. The submitted Road Safety Audit with the application includes a Quality Audit of the surrounding road network as well as the proposed access and routes within the proposed development itself. Recommendations are made with respect to the proposed development extent, which have been incorporated into the design submitted in this planning application. In relation to the audit of the surrounding road network, this reveals a number of areas of concern. The Planning Authority have requested that in the event that planning permission be granted by the Board, the applicant be obliged to carry out / finance the recommendations in the audit with respect to the surrounding road network.
- 11.6.9. With respect to the objective pertaining to access to the AA1 lands under the Ashford Town Plan, I consider this to specifically relate to access to the AOS lands. The objective does not prohibit access to a single point and only from the R772, but specifically states that “...**access to the AOS lands** should be provided through the residential land from the R772...” (my emphasis). I note that the applicant’s masterplan illustrates one way that this could be achieved, while conforming with the requirement that access to the AOS lands is through residential land from the R772. Therefore, in my opinion there is nothing within the design of the proposed application that would prevent future delivery of housing to the north of the site on AA1 lands, alongside AOS lands, with access provided from the R772.
- 11.6.10. However, a number of areas of concern are highlighted in the submitted Road Safety Audit with the application that relate to the selected access route for the proposed development. The proposed access route relies upon existing junctions and road networks, including through Rossana Close, Woodview, Ashleigh, Ashford Downs

and Ballinlea Road. The Stage 1 Quality Audit considers accessibility of the existing residential areas to be relied upon for access to the proposed development from the R772, including the R772 and L5070 (Ballinlea Road) – junction 1; the L1095 and L5070 – junction 2; and the L1095 and R772 – junction 3.

11.6.11. In relation to pedestrian access, the submitted audit notes that while pedestrian routes to the centre of the town of Ashford are generally catered for reasonably well, there are no footways at a number of points. The audit also notes inadequacies in footpath treatment / conditions at points. I can confirm that from my visit to the site, that I walked from the site to the centre of the settlement, and there was provision of footpaths for the entire route. While there are points along this route where footpaths do not feature on both sides of the road, pedestrians are catered for on at least one side for this route into the centre. In my opinion, the pedestrian infrastructure surrounding the site is adequate for the scale of development proposed.

11.6.12. In terms of cycle access, I note third party objection on the basis of a lack of provision to support the development in the surrounding network. I agree that cycle infrastructure is largely unsupported in terms of dedicated cycleways in the surrounding network and the proposed development does not include dedicated cycle routes through the site. In my opinion, the adequacy of cycle infrastructure should be considered in proportion to the quantum and characteristics of development proposed. I do not consider the lack of cycle infrastructure to be a significant failing of the application. The proposed development is not relying upon cycle access as a primary form of transport for future occupiers of the proposed development. While dedicated cycle routes are not provided throughout the proposed development streets, the inclusion of homezone areas and the general layout will encourage traffic calming and would in my opinion be an inclusive environment for cycle movements.

11.6.13. While it is clear that the surrounding road network would benefit from pedestrian and cycle upgrades, the level of upgrade required is beyond the scope of this current application and would not be proportionate to the scale of development proposed. As a result, I am satisfied with pedestrian and cycle access to the site.

11.6.14. In relation to vehicular access to the site, I note that the Planning Authority recommend that the application be refused, in part, due to impact on the safe

operation of the local roads and junctions network in the surrounding area and that the development would give rise to a traffic hazard.

11.6.15. The submitted Road Safety Quality Audit highlights a number of areas of concern regarding existing vehicular routes and junctions to be relied upon by the proposed development. This includes (but is not limited to) an inappropriately high speed limit on the R772 southwest of junction 1; inadequate highway signage; poor visibility in areas and obstructions; obstruction to visibility caused by a bus stop near junction 1; deteriorating or damaged surface and kerb treatment; abruptly terminating footpaths; incorrect treatment of safety barriers; steep gradients; debris on roads with insufficient drainage; evidence of vehicular collision with existing signs; and existing safety issues at a private access directly opposite Ashford Downs that would be exacerbated by significant increase in use. The audit contains numerous recommendations for improvements to the network as a result.

11.6.16. In my consideration of this matter, I have had regard to the purpose of Quality Audits. DMURS clearly describes the Quality Audit process as a checking procedure on the proposed design. The intention being that the proposed design be updated to reflect recommendations made under the audit. DMURS describes the Quality Audit process as follows:

*The extent to which these processes are undertaken will vary according to the scale and scope of any given project. The intention of a Quality Audit is not to 'pass' or 'fail' a design. Rather it is intended as an assessment tool that highlights the strengths and weaknesses of a design and a documented process of how decisions were made. (Page 138).*

11.6.17. Therefore, while I recognise the safety hazards identified under the submitted Quality Audit of the surrounding road network, the expectation that the proposed development might practically deliver the recommendations described is unrealistic in my view. As previously mentioned, the application includes a Quality Audit of the proposed development itself, with recommendations accounted for in the submitted design. This additional Quality Audit has been undertaken of the surrounding network in recognition that access is sought through the existing residential estates rather than directly from the R772. DMURS is clear (as extracted above) that the Quality Audit will vary according to the scale and scope of any given project. The proposed

development is for 117 units on lands zoned for residential use on the edge, and attached to, existing residential estates. In my opinion, many of the recommendations made are beyond the capability of the applicant to deliver. Recommendations include the reduction of speed limits and the relocation of a bus stop. To condition a planning permission for this site, at the scale of development proposed, upon the delivery of such measures (as requested by the Planning Authority), could stymie development of the application site in my view. I consider it disproportionate to require the delivery of the extent of upgrades recommended as part of the proposed development, which in practice are unlikely to ever be delivered.

11.6.18. I also note that even if access to the site had been via the R772, occupiers of the proposed development would still rely upon the same junctions highlighted in the Quality Audit to access the site, as identified above in para.11.6.10. The Planning Authority is linking their request for the highway upgrades described in the Quality Audit to the proposed access to the site from Rossana Close, however many of the highlighted matters for concern are in locations that would still be relied upon by vehicles frequenting the subject site with an access directly from the R772. In my opinion, the matters highlighted for upgrade works in the vicinity of junctions 1, 2 and 3 are not linked to the proposed access to this development from Rossana Close.

11.6.19. The final question in relation to access is then the safety of the proposed arrangements. While the submitted Quality Audit of the surrounding network highlights numerous areas of concern, including existing traffic hazards, these are not matters that would be significantly exacerbated by the proposed development. Ample capacity has been identified on the surrounding road network to accommodate the proposed development and it would not have a significant impact on traffic flows. The identified hazards and required upgrade works would appear to me to be largely within the control of the Planning Authority for delivery, and as such, should not in my view, be solely associated with the proposed development in this current application, which will not significantly increase road traffic in the area and is on lands zoned by the Planning Authority for residential development.

11.6.20. In relation to local safety concerns, I note third party representations regarding children playing, excess on-street car parking, roads not fit for purpose, and inadequate traffic calming. During my visit to the site, I observed that Rossana Close has a number of green spaces, including a large area between Woodview, Meadow

View and Rossana Close. There is no lack of space for children to play as a result and this would not be impacted by the current proposed development. I did not note excessive on street parking during my site visit, and I note driveway areas are a typical condition to the houses in the streets closest to the subject site. In any case, I do not consider that the proposed development would exacerbate existing conditions in this regard. The street design for the proposed development incorporates a junction shortly after the access from Rossana Close, which will have a similar impact upon slowing traffic as the current cul-de-sac character of the estate. The application includes a DMURS compliance report and I do not consider there to be anything inherent in the design that would reduce existing traffic calming in the area.

#### 11.6.21. Car Parking

11.6.22. The proposed development includes 218 no. car parking spaces at surface level, equating to 1.86 per unit. This includes provision of parking at a rate of 1:1 for the duplex units proposed, along with an additional visitor space for every 5 duplex units. The Planning Authority have confirmed that the provision of car parking associated with the proposed self-contained housing is acceptable but requests an additional 10 spaces as part of the 'apartment' development proposed to reflect Development Plan standards.

11.6.23. The Apartment Guidelines state that in peripheral and / or less accessible urban locations (such as the subject site), one car parking space per unit, together with an element of visitor parking, *such as* one space for every 3-4 units, should *generally* be required (my emphasis). The proposed development includes 18 duplex units, with 18 resident car parking bays, alongside 4 visitor bays situated in the wider site area. This is an appropriate provision in my view and compliant with the Apartment Guidelines, as a result, I do not concur with the Planning Authority view that provision should be increased.

11.6.24. The proposal also incorporates 9 car parking spaces for the creche which is acceptable.

11.6.25. I note third party objection to the lack of electric vehicle charging points in the submitted plans, however the Planning Authority recommend a condition with respect to a 10% provision and I concur that this is a reasonable approach.

#### 11.6.26. Cycle Storage

11.6.27. The proposed development includes 54 cycle storage spaces. This is formed of 38 enclosed stacker spaces for the duplex units and 16 surface / Sheffield type stands situated in open space area 1 for visitors to the development. This is an acceptable quantum and form of cycle storage for the proposed development.

#### **11.7. Flood Risk and Water Infrastructure**

11.7.1. Third parties have raised extensive concerns regarding existing flooding in the area. Representations state that the subject site currently acts as a flood plain, photos are submitted to support statements around existing flooding problems on and around the site, and concern is raised that the proposed development will increase risk of flooding to surrounding areas. It is also suggested that the submitted information with the application is flawed with respect to flood risk. Drainage conditions on and around the site are also highlighted to be of concern and the use of the Cronroe Stream for surface water discharges is objected to.

11.7.2. A Site Specific Flood Risk Assessment (FRA) has been submitted with the application. The submitted FRA has been undertaken in light of the Planning System and Flood Risk Management Guidelines 2009 as detailed in section 2 of the FRA. In order to determine the potential for flood risk on the subject site, the FRA details that a series of investigations were carried out, including topographical survey and site walkover. However, I note that third parties are concerned that the site walkover was carried out in summer months, when the weather was dry.

11.7.3. The submitted FRA includes OPW records indicating that the subject site has no recorded historic flood events, however I acknowledge that this point is disputed by residents who suggest that local knowledge conflicts with this finding. The flood mapping figures included in the FRA demonstrate that the site has an area in the south-eastern and south-western boundaries that is subject to fluvial flooding for the 10% and 1% AEP event, which coincides with the location of the Cronroe Stream. I note that third parties object to the reference to an 'unnamed watercourse' in the FRA, however I am clear that this is in reference to the Cronroe Stream. The FRA suggests that the identified fluvial flooding is contained within the Cronroe Stream.

11.7.4. I have also reviewed flood map information for the location of the subject site online ([www.floodinfo.ie](http://www.floodinfo.ie)). I am content that the information provided in the submitted FRA reflects accurate flood risk data available via public record. I note that third parties

reference a refusal of a planning application by the Planning Authority (reg. ref. 20/876) on a nearby site on the grounds of flood risk. However, it is clear from available flood map data, that this nearby site is recorded to exhibit a higher coverage of flood risk area across its extent when compared to the current application site. In addition, it is necessary to consider each case on its own merits and the refusal of a nearby site does not predetermine a decision for the current application.

- 11.7.5. The submitted FRA concludes that the site is located in Flood Zone C. The FRA details that raised floor levels are included to the proposed dwellings and pumping station to be above the 0.1% AEP flood level and 1:100 year flood level. Stormwater drainage is also incorporated and stated to be in accordance with the Wicklow County Development Plan requirements.
- 11.7.6. I note third party concern regarding reliance on the Cronroe Stream for surface water discharges from the development and the associated carrying capacity of the stream in this regard. The Planning Authority have not raised any concerns regarding the proposed development and flood risk. Conditions are recommended to ensure appropriate incorporation of SUDs and queries are raised with respect to property ownership adjacent to the stream. The Planning Authority's Engineer also request that further detail is provided in relation to how the stormwater drainage will be designed to accommodate an overwhelming rainfall event, to ensure that dispersal of surface water does not increase risk of flooding for neighbouring sites.
- 11.7.7. I have considered third party concerns regarding flood risk in detail, including the photographs showing pooling of water on what appears to be the subject site, and flooding of areas around the subject site. I have also considered the applicants FRA and the Planning Authority response. I also visited the site myself in May of this year, during a time of relatively heavy rainfall for the month of May.
- 11.7.8. It is clear from the information before me, that there is no significant flood risk on the site, that would preclude residential development. The proposed development incorporates raised floor levels and is set back from the fluvial flood extents along the southeast and southwest boundaries where the Cronroe Stream is located. However, these measures will not prevent risk of flooding increasing to surrounding areas, and I examine this in more detail below.



- 11.7.9. I acknowledge third party concerns that development of the site could increase risk of flooding elsewhere. Currently the site is an undeveloped greenfield and therefore acts as a largescale natural drainage area, with run off ultimately entering the Cronroe Stream. Therefore, development of the site and the reduction of permeable areas, has the potential, if not designed appropriately, to increase surface water run-off into adjoining site areas and I address this further below.
- 11.7.10. During my visit to the site, I observed pooling of water on the site following rainfall in the days before. The areas subject to saturation were located away from the Cronroe Stream, at the site entrance closest to Rossana Close and towards the middle of the northern edge of the site. I did not observe saturation of ground and pooling of water at the edges of the Cronroe Stream. This tells me that the water pooling on the subject site is not related to fluvial flooding from the stream, but is indicative of inadequate drainage on the site following a rainfall event. The subject site is located at a lower level to the adjacent residential estate and in my view, it is likely that runoff from the Rossana Close is contributing to the saturation of the subject site. Therefore, the incorporation of adequate drainage measures as part of the proposed development will be fundamental to ensuring that runoff from the subject site is not displaced into surrounding areas, increasing risk of flooding elsewhere.
- 11.7.11. During construction, the submitted Construction and Environmental Management Plan and NIS describe in detail, the measures to be incorporated to control discharges into the Cronroe Stream. I address this in detail as part of my Appropriate Assessment in section 12 of this report. Works during construction will not increase flood risk either on, or adjacent to the site, and the development will require the installation of surface water management systems as part of the initial construction stages when underground infrastructure for the development is established.
- 11.7.12. The submitted Engineering Report with the application, describes the surface water drainage to be incorporated during operation of the development, which will be in accordance with the Greater Dublin Strategic Drainage Strategy and has been informed by national best practice and local SUDs requirements. During operation of the proposed development, it is proposed to discharge into the existing 'drainage ditch', which I have clarified using the submitted drainage layout to mean the Cronroe Stream. Prior to discharge into the stream, surface water will be filtered for silt and potential pollutants through permeable paving to be incorporated in the development.

Discharge is also proposed into tree root system areas for treatment prior to entering the drainage network. Two attenuation tanks are also incorporated into the design and located under the open space areas, centrally and to the south of the site. The size of these attenuation storage areas has been informed by simulation of the drainage network and incorporates a system to remove potential pollutants. These measures will result in the gradual discharge of filtered water into the Cronroe Stream and therefore should not impact the carrying capacity of that watercourse. The next stage detailed design of SUDS and a storm water audit can also be requested by condition, as suggested by the Planning Authority, to ensure it is designed to accommodate an overwhelming rainfall event. This proposed drainage network is entirely separate to the foul water network to be provided for the development.

11.7.13. In my opinion, the above measures are appropriate and necessary to reduce the increased risk of flooding to neighbouring sites. I recognise third party concerns with respect to this matter, however in my opinion, the incorporation of extensive SUDs across the site and proper management of surface water drainage, will ensure that the risk of flooding does not increase to adjacent areas. There are no doubt existing flooding issues in the surrounding area, but the proposed development will not exacerbate this in my view. I acknowledge the photographic evidence provided and that saturation of the site occurs during large rainfall events, however the incorporation of extensive SUDs, including attenuation tanks in two locations, and controlled, filtered discharge into the natural and existing drainage network, adequately responds to this. Overall, I consider that the subject site in its current condition does not adequately drain during a rainfall event and the proposed development will improve this through attenuation measures. As a result, I am content on the basis of the information provided to me, that the proposed development is not likely to increase the risk of flooding elsewhere. In relation to the conditions requested by the Planning Authority, I have incorporated a condition to require detail of storm water audit to be agreed with the Planning Authority into my recommended order below.

11.7.14. The proposed development also incorporates a pumping station for foul sewage. Third parties raise an objection to the proposed pumping station as part of the development. I address concerns regarding potential impact upon Natura 2000 sites

in my Appropriate Assessment in section 12 below and on residential amenity in section 11.4 above. I address remaining concerns in this current section below.

- 11.7.15. The proposed development is unable to incorporate a gravity connection to the existing foul sewer network, as a result it is proposed to provide a pumping station. Wastewater within the site is proposed to be collected via a gravity system and conveyed to the station to be pumped to an existing foul sewer to the north-west of the site within the adjacent residential estate.
- 11.7.16. In relation to concerns regarding the use of the pumping station for development of the subject site and not the wider AA1 lands, the applicant has confirmed that a gravity connection to existing sewer infrastructure can be achieved by the site parcel to the north. In relation to the site parcel to the south, this cannot achieve a gravity connection. The proposed pumping station has therefore been sized to accommodate the same density of development (as proposed in this application) on that neighbouring site to the south. The proposed application has therefore given adequate consideration for the entire AA1 lands in relation to foul sewage connections.
- 11.7.17. In relation to flood risk and the pumping station, I describe in detail in section 12 below as part of my Appropriate Assessment, why I do not consider the proposed pumping station to be a pollution risk in terms of flooding. I also note general concerns regarding the smells from the pumping station. Irish Waters Code of Practice for Wastewater Infrastructure sets out the specifications for pumping stations to directly mitigate against smells and associated impacts. The code states requirements for wastewater infrastructure and it will be necessary for Irish Water to approve final details of the pumping station. It is also possible to include a planning condition requiring the pumping station to be completed in accordance with the code of practice. As a result, I am content that the pumping station will not result in harmful impacts on the area.
- 11.7.18. Irish Water have issued a confirmation of feasibility for connections to the Irish Water networks, subject to further engagement and agreement with Irish Water regarding extension of the network and connection into the Irish Water network. Works required will be at the developers expense. I recommend that a condition is incorporated to

require finalisation of design proposals for water and wastewater connections to Irish Waters agreement, prior to the commencement of development on the site.

#### **11.8. Material Contravention**

- 11.8.1. The applicant has submitted a Statement of Material Contravention with the application. The public notices make reference to a statement being submitted indicating why permission should be granted having regard to the provisions s.37(2)(b). There are two issues raised in the applicant's Material Contravention statement, firstly in relation to residential density and secondly in relation to objectives under the Ashford Town Plan for the AA1 lands.
- 11.8.2. I have considered the issue raised in the applicants submitted statement and advise the Board to invoke the provisions of s37(2)(b) of the 2000 Act (as amended).
- 11.8.3. I draw the Boards attention to the density of the proposed development at 32 units per hectare, exceeding the Ashford Town Plan, which forms part of the Wicklow County Development Plan 2016-2022, for up to 20 units per hectare. I note that the Planning Authority recommend, in part, that the proposed development be refused on this basis. In their recommended reason for refusal, the Planning Authority specifically state that the proposal materially contravenes the zoning objective in this regard. This is as a result of the zoning objective 'to protect, provide and improve residential amenities at a density up to 20 units/ha' applicable to the subject site.
- 11.8.4. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that subjective to paragraph (b), the Board may decide to grant a permission for strategic housing development in respect of an application under section 4, even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned. Paragraph (b) of same states 'The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land'.
- 11.8.5. Paragraph (c) states 'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section

37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development’.

11.8.6. Section 10(1) of the Section 10(2) of the Planning and Development Act 2000 (as amended) states that ‘10.—(1) A development plan shall set out an overall strategy for the proper planning and sustainable development of the area of the development plan and shall consist of a written statement and a plan or plans indicating the development objectives for the area in question’. Section 10(2) of the Planning and Development Act 2000 (as amended) states that ‘without prejudice to the generality of sub-section (1), a Development Plan shall include objectives for (a) the zoning of land for the use solely or primarily of particular area for particular purposes (whether residential, commercial, industrial, agricultural, recreational, as open space or otherwise, or a mixture of those uses), where and to such extent as the proper planning and sustainable development of the area, in the opinion of the planning authority, requires the uses to be indicated’.

11.8.7. In my view, the Planning and Development Act 2000 (as amended) is clear that the zoning of land relates to the use of that land only. The term ‘to such extent’, to my mind, refers to a geographical area, rather than a reference to the density of development allowed. This is supported, in my view, by the fact that separate provision is made under the Act for objectives relating to the density of structures (First Schedule Part II ‘Control of Areas and Structures which refers to ‘Regulating and controlling the layout of areas and structures, including density, spacing, grouping and orientation of structures in relation to roads, open spaces and other structures’).

11.8.8. I also note that the Planning Authority state that the proposed development is in accordance with the zoning objective with regards to land use. It is my view therefore that proposed residential development is not a material contravention of the residential zoning of the lands. However, the proposed density remains a material contravention of the County Development Plan, albeit not in relation to zoning.

11.8.9. I have considered the Statement of Material Contravention submitted with the application which describes the justification for the proposed density and in relation to objectives pertaining to the AA1 lands.

11.8.10. In relation to density, I have described in detail in section 11.3 of my report, why I consider the proposed density to be acceptable given the site characteristics and national planning policy, and specifically section 28 guidance in the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009), which supports the proposed density level for the site.

11.8.11. In relation to objectives for the AA1 lands, this corresponds to two matters, firstly, that only 50% of the proposed residential element may be developed prior to the AOS lands 'being levelled and drained suitable for sports use and devoted to an agreed sports body'. The subject site does not include lands zoned for AOS, and these areas are situated elsewhere in the wider AA1 zoned area to the north and south west of the subject site outside of the applicant's control. As such, it is not feasible for the proposed development to be tied to the delivery of levelled and drained sports use on AOS zoned lands. The Planning Authority have suggested that the proposed development should not be delivered separately to the total AA1 lands. However, the applicant suggests that the separate landownerships across the AA1 area is impacting the ability to comprehensively develop out the AA1 lands. Third party response contradicts the applicants' statements in this regard. The applicant has also offered an in-lieu financial contribution for sports / community infrastructure.

11.8.12. In my opinion, the division of the AA1 lands and proposals on an individual land parcel basis, rather than as a single planning application across the total extent, is not precluded in principle under policies or objectives for the AA1 lands. Therefore, in my mind, the resistance to this approach, should only result where there is harm as a result of a piecemeal approach. In the current case, the proposed development does not adversely impact the development potential and future delivery of housing and open space on the adjacent AA1 lands. The proposed development can be accessed appropriately and developed for much needed housing, without constraining future development prospects of the adjacent lands. There is no harm to the future delivery of development on those lands, which also benefit from a residential zoning alongside an AOS zoning. In my opinion, the requirement to deliver the AOS lands would rightly be associated with a proposed development that encompassed land with the AOS zoning. This would be necessary, in my view, for a development proposal immediately adjacent to the AOS zoning. The proposed development does not abut the AOS zoned areas and does not have practical control over the delivery

of sports use on those lands. As such, constraining development of the subject site on that basis, would be unduly restrictive in my view, where there is nothing inherent in the current proposition that would prevent future delivery of the sports use elsewhere on AOS lands in future. The Planning Authority has indicated acceptance of the applicant's social and community infrastructure audit and suggestion of a financial contribution for sports / community infrastructure, and I address this further in section 11.11 below. As such, I consider the proposal, whilst strictly in contravention to objectives under the Ashford Town Plan, to be the appropriate approach. This is supported by National Policy Objective 32 under the NPF in relation to the delivery of new homes as part of the Rebuilding Ireland Plan Project 2040 and chapter 6 of the Sustainable Residential Development in Urban Areas Planning Guidelines in relation to development being contiguous to the existing settlement and an efficient and effective use of the site.

11.8.13. Lastly, objectives for the AA1 lands relate to access being provided from the R772 to the north. I have described in detail in section 11.6 above, why I do not consider the proposed development to be in conflict with this requirement, and why I consider the proposed access arrangement to be adequate and safe. In my opinion, the proposed development does not represent a material contravention of the Town Plan as part of the Development Plan in relation to access. The objective under the Ashford Town Plan does not prohibit access to a single point and only from the R772, but specifically states that “...**access to the AOS lands** should be provided through the residential land from the R772...” (my emphasis). Nothing in the proposed development would preclude or hinder future delivery of an access from the R772 to AOS zoned land and there is no AOS zoned land included within the application redline boundary. In my view, this objective relates solely to access from the R772 to AOS lands, and as such, the proposed development which does not include AOS lands, does not materially contravene the plan in this regard.

11.8.14. Section 37(2)(a) of the Planning and Development Act 2000 (as amended), states that the Board may decide to grant a permission even if the proposed development contravenes materially the development plan. Section 37(2)(b) (i)-(iv) lists the circumstances when the Board may grant permission in accordance with section 37(2)(a).

- 11.8.15. Under section 37(2)(b) (i) the proposed development may be considered to be of strategic and national importance having regard to the definition of ‘strategic housing development’ pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government’s policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016. However, given the relatively small number of units proposed, it may be reasonable argued that the development is not strategic in scale, notwithstanding that all housing has a strategic and nationally important role to play in resolving the housing supply shortages facing the country.
- 11.8.16. Under section 37(2)(b) (iii) permission for the development at the proposed density should be granted having regard to the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and Project Ireland 2040 National Planning Policy Framework (NPF) Objective 35 which support the increased residential density on the subject site, in accordance with the principles of compact growth and on this site on the edge of the established settlement area, a reasonable walking distance to the centre of Ashford.
- 11.8.17. Whilst strictly in material contravention of the objective under the Ashford Town Plan relating to development of only 50% of housing prior to delivery of AOS land for sports use, permission should be granted (as provided for under s.37(2)(b)(ii)) having regard to NPF Objective 32 in relation to the delivery of new homes as part of the Rebuilding Ireland Plan Project 2040 and chapter 6 of the Sustainable Residential Development in Urban Areas Planning Guidelines in relation to development being contiguous to the existing settlement and an efficient and effective use of the site.
- 11.8.18. I note third party representation that the proposed development contravenes Development Plan policies and objectives under the Ashford Town Plan which forms part of the Development Plan. I specifically note a number of objectives listed in a third-party response, and I can confirm that having cross referenced each of these, they are not matters that represent a material contravention in the proposed development details. Many of the objectives listed in the response relate to local plan production, some concern social infrastructure which I address in section 11.11 below and I consider the other objectives, including the requirement for sequential



development, as part of the wider assessment of the development both above and below.

11.8.19. Following reflection of the above, I am satisfied that a grant of permission, that may be considered to materially contravene the Wicklow County Development Plan 2016-2022 and Ashford Town Plan as part of this, in relation to density and development of only 50% of housing prior to delivery of AOS lands for sports use, is justified for the current application. I have incorporated specific reasoning and justification having regard to s.37(2)(b) of the 2000 Act (as amended) into the Conclusion and Recommended Order for the Board's consideration at the end of this report.

### 11.9. Environmental Impact Assessment (EIA) Screening

11.9.1. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIA Screening report and I have had regard to the same. The report concludes that the proposed development is below the thresholds for mandatory EIA and that a sub threshold Environmental Impact Assessment Report (EIAR) is not required in this instance as the proposed development will not have significant impacts on the environment.

11.9.2. Section (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

(i) Construction of more than 500 dwelling units;

(iv) Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other built-up area and 20ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

11.9.3. Item (15)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that an EIA is required for:

*"Any project listed in this part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7."*

11.9.4. The proposed development is for 117 residential units in the form of a 3 storey block with apartments and duplexes and 1-2 storey houses, as well as a creche. The overall site area is 3.8ha and is formed of agricultural / greenfield land, on the edge of an existing residential estate, and not located within a business district. The site is currently zoned for residential use and can be serviced. It is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b)(i) and (iv) of the Planning and Development Regulations 2001 (as amended), in that it is less than 500 units and is below 10ha (that would be the applicable threshold for this site, being outside a business district but within an urban area). In addition, Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7. I would note that the uses proposed are in keeping with land uses in the area and that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance. The AA set out below, concludes that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites.

11.9.5. The criteria at Schedule 7 to the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of EIA. The submitted EIA Screening Report includes the information required under Schedule 7A to the planning regulations. In addition, the various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts regarding other permitted developments in proximity to the site, and demonstrates that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions, and I have considered all information which accompanied the application including inter alia:

- EIA Screening Report;
- Planning Report;
- Material Contravention Statement;
- Schools Demand Report;
- Social and Community Infrastructure Report;
- Statement of Consistency;
- Statement of Response to An Bord Pleanála's Opinion;
- Construction Environmental Management Plan;
- DMURS Compliance Statement;
- Mobility Management Plan;
- Outline Construction and Demolition Waste Management Plan;
- Outline Construction Management Plan;
- Traffic and Transport Assessment;
- Site Specific Flood Risk Assessment;
- Engineering Planning Report;
- Road Safety Quality Audit;
- Irish Water Confirmation of Feasibility and Design Acceptance;
- Landscape Design Report;
- Architects Design Report;
- Building Life Cycle Report;
- Housing Quality Assessment;
- Arboricultural Tree Survey Report;
- Ecological Impact Assessment;
- Mammals and Winter Birds Survey;
- Natura Impact Assessment;

- Outline Architectural Heritage Impact Assessment;
- Public Lighting Report.

11.9.6. Noting the requirements of Article 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union Legislation other than the EIA Directive have been taken into account, I would note and have considered that the following assessments / reports have been submitted:

- An AA Screening and NIS has been submitted pursuant to the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) and also responds to requirements arising from the Water Framework Directive (and River Basin Management Plans) and the Urban Wastewater Treatment Directive.
- The Flood Risk Assessment addresses the potential for flooding having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive.
- A Construction Environmental Management Plan, Outline Construction and Demolition Waste Management Plan, and Outline Construction Management Plan have been submitted and respond to the requirements under the EC Waste Framework Directive and EC Environmental Noise Directive and EU Ambient Air Quality Directive.

11.9.7. The EIA Screening report prepared by the applicant has under the relevant themed headings considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all relevant assessments have been identified for the purposes of EIA Screening.

11.9.8. I have completed a screening assessment as set out in Appendix A of this report and recommend to the Board that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an

Environmental Impact Assessment Report (EIAR) would not therefore be required.

The conclusion of this assessment is as follows:

11.9.9. Having regard to: -

(a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.

(b) the location of the site on lands zoned R20 New Residential, with the objective 'To protect, provide and improve residential amenities at a density up to 20 units/ha' under the Wicklow County Development Plan 2016-2022. Houses, apartments and childcare are uses identified to be generally appropriate for residential zoned areas under the Development Plan.

(c) The pattern of development in surrounding area.

(d) The availability of mains water and wastewater services to serve the proposed development, via extension of the network and use of a pumping station to be provided as part of the development.

(e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).

(f) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003).

(f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); and

(g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Natura Impact Statement, Ecological Impact Assessment, Construction and Environmental Management Plan, The Construction Waste Management Plan, the Traffic Impact Assessment Report, the Engineering Planning Report and the Flood Risk Assessment.

11.9.10. It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an

environmental impact assessment report would not therefore be required. I recommend that a screening determination be issued accordingly, confirming that no EIAR is required.

11.9.11. I note third party representations on the application that it is incompatible with Article 6(4) of the EIA Directive. Article 6 provides for public participation in decisions on activities that may have a significant effect on the environment. An EIA Screening Report submitted with the application was available for public review as part of consultation on the application. I have had regard to third party consultation responses as part of my assessment and concluded in my EIA Screening of the proposed development that it is not likely to have significant effects on the environment.

11.9.12. I also note concern at a lack of assessment of cumulative impact alongside application Reg. Ref. 20/876 or the submitted Masterplan, however this application is stated to be withdrawn on the council's website. As consideration has been made of the County Development Plan and zoned lands for development as part of this, cumulative impact of the potential development of zoned lands is considered. The detail submitted under the Masterplan is also purely indicative.

#### **11.10. Planning Authority Reason for Refusal**

11.10.1. The Planning Authority recommended that the application be refused for two reasons and I address each of these reasons here, with reference to the wider assessment set out in my report.

11.10.2. The first reason relates to the undermining the achievement of overall objectives for the AA1 lands, it being considered that the lands should be sequentially developed from the northeast and accessed from the R772. The Planning Authority states that the development would impact the safe operation of the local roads and junctions in the surrounding area, giving rise to a traffic hazard. The second reason relates to the density of the proposed development.

11.10.3. In relation to the objectives for the AA1 lands, I have addressed these in detail across my report, particularly in sections 11.2, 11.6, 11.8 and 11.11. I do not consider the proposed development to unduly hinder or constrain the future development potential of the remaining AA1 lands. I have explained in section 11.2 that the proposed development complies with the sequential approach to development

described under the County Development Plan, and there are no specific objectives requiring development of the AA1 lands from the northeast. While objectives specifically ask for access from the R772, this is in terms of access to the AOS lands, and I have set out in detail in section 11.6 why I consider the proposed access arrangement to be acceptable and safe.

11.10.4. I do not agree that the proposed development would give rise to traffic hazard, with adequate capacity identified for the proposed traffic associated with the development, at a level which would not be significant, and therefore would not exacerbate existing, unrelated traffic hazards identified in the surrounding network. The highlighted upgrades are required as a matter of course in the current situation and are not associated with the proposed development or chosen access from Rossana Close. The identified junctions would be relied upon by future occupiers of the AA1 lands even if access were provided from the R772 so in my opinion there is nothing about the proposed access arrangements that change the relationship of the proposed development to the use of those junctions.

11.10.5. In relation to density, I have set out in detail in section 11.3 why I do not agree with the Planning Authority in this regard. I consider national planning policy and section 28 guidance to support the proposed density and note that the Planning Authority acknowledge this to be the case. While the Planning Authority state in their recommended reason for refusal that the proposed density represents a material contravention of the zoning of the site, I do not agree and I address this in detail in section 11.8 above. In my view, the zoning of the site relates to land use, and the Planning Authority confirms in their chief executive report that the proposed development is in accordance with the land use zoning for the site.

11.10.6. I have fully considered the Planning Authority recommendation to refuse the application, however having regard to the foregoing matters, alongside the wider assessment set out in my report (both above and below), I have decided to recommend that the application be approved.

#### **11.11. Other Matters**

##### **11.11.1. Ecology and Trees**

11.11.2. I note third party objections on the bases of biodiversity impact and loss of trees. I also note recommendations from Inland Fisheries Ireland. I carry out an Appropriate

Assessment of the application and potential effects on Natura 2000 sites in section 12 below. In this section I consider the ecological implications of the proposed application upon the subject site itself.

- 11.11.3. An Ecological Impact Assessment has been submitted with the application, alongside an assessment of the lands for bats, other protected mammal species and winter birds, and tree survey. The submitted assessment describes in detail the existing habitats within the subject site, which include neutral grasslands (GS1), dry meadows and grassy verges (GS2), scrub (WS1), hedgerow (WL1), treelines (WL2) and depositing lowland river (FW2). The report identifies that the most important ecological features of the site following the site boundaries, where there are either treelines or hedgerow, as well as the Cronroe Stream in areas. A total of 61 tree units were surveyed and assessed, with tree labelled no.235 representing a group of 7 trees and tree labelled no.258 representing 2 trees.
- 11.11.4. In total, 26 trees will be removed, 24 to facilitate the development itself and 2 for sound arboriculturally management. Of the 24 trees to be removed for the development, 3 are category B (moderate value and quality) and 21 are category C (low value and quality). None of the trees identified for removal are category A (high value and quality). 2 hedgerow sections are identified for removal, formed of the central line dividing the site and the north-eastern boundary of the northern field. The submitted Ecological Impact Assessment concludes that the loss of these trees and hedgerows is a moderate negative impact of the proposed assessment. I note third party representation that the boundaries for the subject site are uncertain, given its agricultural character and therefore trees / hedgerow may be removed outside of the site demise. In relation to the hedgerow for removal on the north-eastern boundary of the northern field for the subject site, this represents the defining marker for the boundary in this location and will be replaced with a new boundary treatment. The applicant has indicated in their drawings that the hedgerow for removal is within the redline boundary for the application and I have no evidence to the contrary.
- 11.11.5. The survey of the site states that no otter holts or badger setts were discovered within the site and there were no other signs of these protected mammals on the site. There is also no evidence that this is an important site for badgers however they have been recorded in the wider area. Otters would also not necessarily be expected given the characteristics of the site. A number of bat species were recorded on the



site, including common pipistrelle, soprano pipistrelle, leisler's bat, brown long-eared bat and natter's bat. No bat roosts were noted on the site, although some of the mature trees on the site would offer good roost potential. The removal of trees and hedgerow would therefore impact habitat used by protected species, due to the removal of trees that contribute to the treeline area for feeding bats. In addition, there is potential for impact to badgers and otters, if they pass through the site (although they have not been surveyed or recorded as doing so). This impact would be at a local level only.

11.11.6. The subject site also contains suitable foraging and nesting habitat for birds, however no species listed as Qualifying Interests of The Murrough SPA were noted within the application site. The drains and watercourses in the site would also provide suitable habitat for the common frog and a number of invertebrates were recorded on the site, none of which are protected.

11.11.7. The submitted Ecological Impact Assessment identifies the potential impacts during both construction and operational phase upon habitat loss / fragmentation, wildlife, from lighting, pollution, landscaping and cumulative impacts. Without mitigation, some of these impacts would be significant and harmful. However, mitigation measures can be incorporated through planning conditions, to limit and control these impacts and prevent significant negative effect. While impact would still be negative upon ecology as a result of the proposed development, with the inclusion of mitigation measures this will be at the local level only and in line with expected impact given the residential zoning of the site.

11.11.8. Mitigation measures include tree / hedgerow protection measures during construction, examination for bat roosts prior to felling, felling and clearance of vegetation outside of bird nesting season, controls around lighting, incorporation of bat boxes within the proposed development, control measures around construction waste and measures to ensure protection of water quality. The proposed development will also incorporate landscape enhancement through planting of native trees, shrubs and a wildflower area. With these mitigation measures in place, the Ecological Impact Assessment concludes that the proposed development will have a neutral impact.

- 11.11.9. Overall, and in light of the foregoing, I consider that while removal of trees and hedgerows from the site will have negative impacts, these will be at the local level only and would not significantly impact protected species at a population level. The retention of a large number of trees along boundaries, specifically as they follow the Cronroe Stream forming a riparian habitat, will lessen this impact considerably. In my opinion, the retention of these trees can be considered a beneficial feature of the proposed development in this regard.
- 11.11.10. As the site is zoned for residential development, I consider that a degree of habitat loss is inevitable if an appropriate scale of development is to be delivered. However this loss will be at a local level only. The loss of the central hedgerow line will be a negative impact of the proposed development, but acceptable in order to achieve comprehensive development of the site. Removal of the north western section of hedgerow (on the north eastern boundary) is also a negative impact of the proposed development, but acceptable in my opinion, in light of the future development prospects of the AA1 zoned lands to the north, and facilitating future connection to those lands. Retention of the hedgerow to the south eastern section of the northern eastern boundary is a beneficial feature of the proposed development. The use of the mitigation measures described in the Ecological Impact Assessment will ensure that the impacts of the proposed development upon biodiversity are within acceptable parameters in my opinion, for this site designated for the delivery of housing. As such, I have included this mitigation as part of conditions in my recommended order below.
- 11.11.11. In relation not the Cronroe Stream specifically, this can be considered of greater than local importance given its connection to Natura 2000 sites. A setback zone from the stream is included in the proposed development and I discuss potential impacts associated with the development upon this watercourse in detail in section 12 below.
- 11.11.12. I note third party concern that instances of Japanese knotweed have occurred in the area. I also note Inland Fisheries Ireland request that a Pre-Construction Invasive Species Management Plan be required. The submitted Ecological Impact Assessment acknowledges records for the presence of invasive species around Ashford, but confirms that no incidences of Japanese knotweed or balsam noted on the site. Taking the precautionary approach, and in light of the record of invasive species in the area, I agree with the approach requested by Inland Fisheries Ireland and have included a

condition in my recommended order to require an invasive species management plan as part of construction management.

11.11.13. Social Infrastructure and Creche

11.11.14. I note third party concerns regarding a lack of existing social infrastructure in the area to support the proposed development. Including a lack of community facilities, sports provision and playgrounds. Representations reference the Ashford Town Plan objective relation to AOS zoning and sports provision on the AA1 lands. I also note comments in relation to the provision of the pumping station, and I address the need and appropriateness of the pumping station in section 11.7 above.

11.11.15. Objective CD5 under the Wicklow County Development Plan 2016-2022 states that new residential development may be required to provide new social and community facilities, or, the developer will be required to carry out a social infrastructure audit to determine if social and community facilities in the area are sufficient to provide for the needs of future residents.

11.11.16. A Social and Community Audit has been submitted with the application. This includes a survey of social infrastructure and services within Ashford and a 1km catchment zone around the Ashford Town extent as defined in the County Plan. This is alongside CSO demographic data of the area. The report details the location of parks, medical clinic, pharmacy, community centre, post office, retail stores, cafes and restaurants within a 5 minute drive or 15 minute walk from the subject site. I am satisfied that the submitted audit identifies sufficient provision for social and community infrastructure in the surrounding area, much of which is within walking distance from the site. The proposed development also incorporates new public open space and play areas for public use which will be beneficial to both future occupiers and the wider community.

11.11.17. In relation to objectives under the Ashford Town Plan, this specifically require that on the AA1 lands only 50% of the proposed residential element shall be developed prior to the AOS lands being levelled and drained suitable for sports use and devoted to an agreed sports body. I have explained in section 11.8 above why I consider that the application can be approved without direct provision of this sports use. However, I also note that the applicant has suggested that if the Board considered it necessary, they are happy to accede to a condition on any grant of planning permission to pay the

Planning Authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 (as amended). The Planning Authority has indicated acceptance of this approach. I consider such an approach beneficial and necessary in light of the specific provisions under the Town Plan. As such, I have incorporated a condition in my recommended Order below, should the Board agree with this approach.

11.11.18. A School Demand Report is also submitted with the application. This report estimates that the proposed development could generate 66 children of school going age (5-18 years). However, this demand would not be associated with the initial occupation of the proposed development and would be over, and exceeding, a 10 year period. The report also identifies existing school provision in the Wicklow area, as well as planned provision under the County Development Plan, with the Ashford Town Plan identifying two sites for primary school provision. On this basis, I am satisfied that there is appropriate provision for education in the County area and that the scale of development proposed would not place significant strain on this provision, particularly in light of the gradual increase in demand on school places to be expected, and the planned provision for additional schools in the area in future.

11.11.19. The proposed development includes provision of a creche, this has been sized to reflect the potential child yield to be expected from the proposed development. I note that the Planning Authority makes comments on the internal layout of the creche, and I have included a condition to ensure that this reflects childcare space requirements should the Board be minded to grant planning permission.

11.11.20. Overall, I am satisfied that there is sufficient social and community infrastructure in the area to accommodate the proposed development, with the inclusion of an in-lieu financial contribution for public/sports/community infrastructure. I also consider the provision of a creche, public open space and play areas as sufficient contributions to infrastructure in the area as part of the proposed development.

11.11.21. Archaeology

11.11.22. The application includes documentation in relation to the identification of built heritage in the surrounding area and the potential for archaeological findings on the subject site. This confirms that there are no protected structures located in the

immediate vicinity of the site and that there is no evidence of architectural heritage on the site. However, the possibility of concealed archaeology cannot be ruled out.

11.11.23. The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media recommend conditions to account for the possibility for concealed archaeology on the site, and I have incorporated a condition regarding the same in my recommended order below.

11.11.24. Property Values

11.11.25. I note submission of third party representations relating to the impact of the proposed development upon property values in the area. I am not aware of any evidence to support the assertion that the proposed development would negatively impact property values in the area, and nothing has been submitted to demonstrate that this would be the case.

11.11.26. Energy

11.11.27. I note third party objection relating to inadequate consideration of energy performance. A Building Life Cycle Report is submitted with the application. This includes in section 2, consideration of energy and carbon emissions. As part of the overall energy strategy, the incorporation of air source heat pumps and exhaust air source heat pumps is proposed for the 3 storey block and houses respectively. Measures are incorporated to meet the requirements of Part L of the Building Regulations. The development design and materials have also been considered in order to maximise passive design measures. As a result, I am satisfied that appropriate regard for energy performance has been incorporated in the application.

11.11.28. Part V

11.11.29. The applicant has submitted Part V proposals as part of the application documents. 12 no. units are identified in compliance with Part V of the Planning and Development Act 2000 (as amended). The Planning Authority Housing Department have confirmed that the developers agent has engaged with the department and are aware of the Part V obligations pertaining to this site if permission is granted. Detailed comments are made with respect to the council's preference for Part V units. A condition is included with respect to Part V units in my recommended order.

## 12.0 Appropriate Assessment

- 12.1. This section of the report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The assessment is based on the submitted Natura Impact Statement (NIS) including Appropriate Assessment screening submitted with the application.
- 12.2. I have had regard to the submissions of third parties in relation to the potential impacts on Natura 2000 sites, and I have also had regard to the submission of Inland Fisheries Ireland with respect to the prevention of pollution to local water courses.
- 12.3. The Project and Its Characteristics
- 12.4. See the detailed description of the proposed development in section 2.0 above.
- 12.5. The European Sites Likely to be Affected (Stage I Screening)
- 12.6. The development site is not within or directly adjacent to any Natura 2000 site. The site is located on the edge of existing residential housing estates and adjacent to working agricultural lands. The site itself is bounded on the south west and south east by the Cronroe Stream. The natural habitats with the application site include areas of neutral grasslands (GS1), dry meadows and grassy verges (GS2), scrub (WS1), hedgerows (WL1), treelines (WL2) and depositing lowland river (FW2).
- 12.7. The Cronroe Stream joins the Rathnew Stream approximately 1.6km downstream of the site boundary. The Rathnew Stream flows in a north-easterly direction and it enters Broad Lough just north of Rathnew. Broad Lough enters the sea at Wicklow Harbour.
- 12.8. I have had regard to the submitted Appropriate Assessment screening section of the applicant's report, which identifies that while the site is not located within or directly adjacent to any Natura 2000 areas, there are a number of Natura 2000 sites sufficiently proximate or linked to the site to require consideration of potential effects. These are listed below with distance to the application site indicated:
- The Murrough Wetlands SAC (002249) 2.6km;
  - The Murrough SPA (004186) 2.6km;
  - Deputy's Pass Nature Reserve SAC (000717) 6.2km;

- Wicklow Head SPA (004127) 6.3km;
- Wicklow Reef SAC (002274) 7.6km;
- Vale of Clara (Rathdrum Wood) SAC (000733) 8.2km;
- Magherabeg Dunes SAC (001766) 9.4km;
- Wicklow Mountains SAC (002122) 10.2km;
- Carriggower Bog SAC (000716) 11.5km;
- Wicklow Mountains SPA (004040) 11.9km;
- Buckroney-Britta Dunes and Fen SAC (000729) 12.1km;
- Glen of the Downs SAC (000719) 13.9km.

12.8.1. The specific qualifying interests of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool ([www.epa.ie](http://www.epa.ie)), as well as by the information on file, including observations on the application made by prescribed bodies and Third Parties, and I have also visited the site.

12.9. I concur with the conclusions of the applicant's screening, in that the only two Natura 2000 sites where there is potential for likely significant effects are The Murrough Wetlands SAC (002249) and The Murrough SPA (004186), as a result of hydrological connectivity.

12.9.1. Significant impacts on the remaining SAC and SPA sites are considered unlikely, due to the distance and the lack of hydrological connectivity or any other connectivity with the application site in all cases. As such, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites: Deputy's Pass Nature Reserve SAC 000717, Wicklow Head SPA 004127, Wicklow Reef SAC 002274, Vale of Clara (Rathdrum Wood) SAC 000733, Magherabeg Dunes SAC 001766, Wicklow Mountains SAC 002122,

Carriggower Bog SAC 000716, Wicklow Mountains SPA 004040, Buckroney-Brittias Dunes and Fen SAC 000729 and Glen of the Downs SAC 000719.

12.10. The qualifying interests are listed below:

Table 12.1: European Sites/Location and Qualifying Interests

<b>Site (site code)</b>	<b>Distance from site (approx.)</b>	<b>Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)</b>
The Murrough Wetlands SAC (002249)	2.6km east / 3.6km downstream	<p>Annual vegetation of drift lines (1210)</p> <p>Perennial vegetation of stony banks (1220)</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) (1330)</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) (1410)</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> (7210)</p> <p>Alkaline fens (7230)</p>
The Murrough SPA (004186)	2.6km east / 3.6km downstream	<p>Red-throated Diver (<i>Gavia stellate</i>) (A001)</p> <p>Greylag Goose (<i>Anser anser</i>) (A043)</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) (A046)</p> <p>Wigeon (<i>Anas Penelope</i>) (A050)</p> <p>Teal (<i>Anas crecca</i>) (A052)</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) (A179)</p> <p>Herring Gull (<i>Larus argentatus</i>) (A184)</p>



		Little Tern ( <i>Sterna albifrons</i> ) (A195) Wetland and Waterbirds (A999)
Deputy's Pass Nature Reserve SAC (000717)	6.2km	Old sessile oak woods with Ilex and Blechnum in the British Isles (91A0)
Wicklow Head SPA (004127)	6.3km	Kittiwake <i>Rissa tridactyla</i> (A188)
Wicklow Reef SAC (002274)	7.6km	Reefs (1170)
Vale of Clara (Rathdrum Wood) SAC (000733)	8.2km	Old sessile oak woods with Ilex and Blechnum in the British Isles (91A0)
Magherabeg Dunes SAC (001766)	9.4km	Annual vegetation of drift lines (1210) Embryonic shifting dunes (2110) Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) (2120) Fixed coastal dunes with herbaceous vegetation (grey dunes) (2130) Petrifying springs with tufa formation (Cratoneurion) (7220)
Wicklow Mountains SAC (002122)	10.2km	Oligotrophic waters containing very few minerals of sandy plains ( <i>Littorelletalia uniflorae</i> ) (3110) Natural dystrophic lakes and ponds (3160) Northern Atlantic wet heaths with <i>Erica tetralix</i> (4010) European dry heaths (4030) Alpine and Boreal heaths (4060)

		<p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> (6130)</p> <p>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) (6230)</p> <p>Blanket bogs (* if active bog) (7130)</p> <p>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) (8110)</p> <p>Calcareous rocky slopes with chasmophytic vegetation (8210)</p> <p>Siliceous rocky slopes with chasmophytic vegetation (8220)</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles (91A0)</p> <p><i>Lutra lutra</i> (Otter) (1355)</p>
Carriggower Bog SAC (000716)	11.5km	Transition mires and quaking bogs (7140)
Wicklow Mountains SPA (004040)	11.9km north-west	<p>Merlin (<i>Falco columbarius</i>) (A098)</p> <p>Peregrine (<i>Falco peregrinus</i>) (A103)</p>
Buckroney-Brittas Dunes and Fen SAC (000729)	12.1km	<p>Annual vegetation of drift lines (1210)</p> <p>Perennial vegetation of stony banks (1220)</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) (1410)</p> <p>Embryonic shifting dunes (2110)</p>

		<p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) (2120)</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) (2130)</p> <p>Atlantic decalcified fixed dunes (<i>Calluno-Ulicetea</i>) (2150)</p> <p>Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) (2170)</p> <p>Humid dune slacks (2190)</p> <p>Alkaline fens (7230)</p>
Glen of the Downs SAC (000719)	13.9km	Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles (91A0)

12.11. Table 12.1 above reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration.

#### 12.12. Potential Effects on Designated Sites

12.13. The proposed development is on a site hydrologically connected to The Murrough Wetlands SAC and The Murrough SPA via the Cronroe Stream and the Rathnew Stream. The conservation objective for these Natura 2000 sites is to maintain or restore the favourable conservation condition of the bird species and habitats as listed as Special Conservation Interests in table 12.1 above.

12.14. There is potential for significant effects upon these Natura 2000 sites arising from construction activities associated with the proposed development, as well as during operation. The nature of the potential impacts are identified in the submitted report as follows:

- Deterioration of water quality in designated areas arising from pollution from surface water run-off during site preparation and construction;
- Deterioration in water quality in designation areas arising from pollution during the operation of the proposed development;

- In-Combination / Cumulative Impacts.

12.15. In the absence of mitigation, an accidental pollution event could occur during the construction or operational phases of the proposed development, either alone or in combination with other development, that could potentially affect the water quality in the Cronroe Stream that runs along south west and south east boundaries of the site, and therefore in the downstream designated habitats of The Murrough Wetlands SAC / The Murrough SPA.

12.16. AA Screening Conclusion

12.17. The site is situated 2.6km east or 3.6km downstream of The Murrough Wetlands SAC and SPA (002249 and 004186). I conclude that the impacts as described above cannot be ruled out, and if they occurred, would be significant given the hydrological links and proximity to these Natura 2000 sites.

12.18. As such likely effects on The Murrough Wetlands SAC (002249) and The Murrough SPA (004186), cannot be ruled out, having regard to the sites' conservation objectives, and a Stage 2 Appropriate Assessment is required.

12.19. Stage 2 – Appropriate Assessment

12.20. The Qualifying Interests/Special Conservation Interests of The Murrough Wetlands SAC (002249) and The Murrough SPA (004186) are outlined in table 12.1 above.

12.21. The submitted Natura Impact Statement (NIS) with the application provides a detailed description of the coastal wetlands area of The Murrough Wetlands SAC. Habitats include drift line vegetation, rich grassy sward, a variety of grass and herb species, saltmarsh, fen vegetation, wet woodland and marsh areas. Although affected by drainage, the area contains a wide range of coastal and freshwater habitats including six listed in Annex I. The SAC is an important site for wintering waterfowl and breeding birds, including Annex I species, such as Little Egret, Whooper Swan, Greenland White-fronted Goose, Golden Plover, Kingfisher and Little Tern. Otter has also been regularly reported in The Murrough.

12.22. In relation to The Murrough SPA, the NIS provides a detailed description of the species supported in this SPAs habitats. This includes being an internationally important site for Light-bellied Brent Goose and nationally important for Red-throated Diver, Greylag Goose, Wigeon, Teal, Black-headed Gull and Herring Gull. Annex I

species are also noted in addition to Red-throated Diver, including Little Egret, Whooper Swan, Greenland White-fronted Goose, Golden Plover, Little Tern, Sandwich Tern, Short-eared Owl and Kingfisher. Part of The Murrough SPA is a Wildfowl Sanctuary.

12.23. Site specific conservation objectives for The Murrough Wetlands SAC and The Murrough SPA have not yet been prepared, however the generic objective to maintain or restore the favourable conservation condition of particular habitats or species (i.e their Qualifying Interests) applies. The submitted NIS has considered the site specific conservation objectives of sites with similar qualifying interests to inform an assessment of potential impacts from the proposed development upon The Murrough Wetlands SAC.

12.24. The NIS considers the potential impacts of the proposed development upon the Qualifying Interest (QI) of the SAC and SPA areas considered. It is concluded that there will be no habitat loss, fragmentation or direct impacts upon QI bird species arising from the development. However, as the site is hydrologically connected to the The Murrough SAC and SPA, general impacts and significant effects upon it arising from deteriorations in water quality due to construction and operation of the proposed development cannot be ruled out and with application of the precautionary principle, it is considered appropriate to use specific mitigation measures as part of the proposed development. I concur with the findings of the NIS in this regard, specifically in light of the proximity of the hydrological link from the subject site to the SAC and SPA area. The situation of the Cronroe Stream immediately on the boundary of the site and its downward stream proximity (3.6km) to The Murrough SAC and SPA are particular characteristics that mean that likely significant effects cannot be ruled out. As such, specific mitigation measures during construction and operation are required to protect and maintain the integrity of the QI habitats and species supported in The Murrough in my view.

12.25. To determine the appropriate mitigation measures to be applied, consideration of the potential impacts as listed in paragraph 12.15 is required in light of the site specific conservation objectives for the SAC and SPA. These are addressed in detail in section 3.4 of the submitted NIS. The main potential impact upon deterioration of water quality is identified as part of potential pollution of water from construction impacts, with operational impact considered to comprise the potential for surface

water run-off containing oil or silt. In my view, the potential for failure of the pumping station should also have been specifically noted in the NIS. This issue has been raised by Third Parties and is absent in both the submitted NIS and Engineering Reports. However, I note that the application specifically describes the foul loading of the pumping station as being in accordance with 'Code of Practice for Wastewater Infrastructure' published by Irish Water. This code of practice describes in detail the requirements to be incorporated into the design of pumping stations:

*"...The pipes and related infrastructure to be put in place within Developments shall comply fully with this Code of Practice..."* (Scope page i of the code of practice.)

Features for the design of pump stations include pump unit protection systems to cover potential for pump failure events, incorporation of dial out alarm and emergency storage. The code of practice also specifically states that:

*"Emergency storage is required at each pump station by the provision of a larger wet well, a single separate specifically designed off-line storage tank or an enlarged Sewer shall be provided in order to provide additional storage and thereby reduce the risk of localised flooding or pollution during plant or power failure."*

12.26. Final details of the pumping station will also require approval from Irish Water and a planning condition can require confirmation that the design meets the specifications set out in the code of practice. As a result, while it would have been useful for the NIS to explicitly refer to the design requirements under the code of practice, the omission of this information does not represent a fundamental flaw in the report, and I am satisfied from my own review of the specifications described in the code of practice that with the incorporation of a design in accordance with those specifications, the pumping station does not represent a risk to the integrity of the SAC and SPA areas.

12.27. Mitigation measures identified are set out in detail in section 4 of the NIS. These refer, for the most part, to best practice construction measures which seek to ensure *inter alia* the protection of water quality, during both the construction and operational stages, as well as to the use of protective barrier fencing to prevent damage to treelines. Measures to prevent damage to nesting birds, compensation for potential loss of bat roosts and lighting to prevent disturbance of mammal fauna are also outlined. The limitation of disturbance to the habitats along the Cronroe Stream is a

specific area of note, with a 5-10m buffer zone recommended along the watercourse, with vegetation in this zone retained and enhanced. Prevention of deterioration of water quality within the Cronroe Stream is also noted to be vital and linked to the QI in the SAC and SPA.

12.28. In relation to mitigation measures in the Inland Fisheries Ireland (IFI) submission, I note that these include surface water management measures and monitoring, which are highlighted in the submitted NIS. The continual inspection and maintenance of SUDs as part of the operational phase of the development can be secured by condition. Implementation of best practice construction measures is also highlighted and can be secured by way of a condition for a final construction management plan for the development, which will build upon those measures already outlined in the submitted Construction and Environmental Management Plan. These measures will ensure that the integrity of the SAC and SPA areas will not be impacted by the proposed development. The submission also recommends the retention of tree and hedgerow vegetation and a natural riparian vegetation 10m zone is kept free from development each side of the Cronroe Stream.

12.29. I have given detailed consideration to the IFI recommendation that regarding 10m buffer to the Cronroe Stream. I note that the submitted NIS includes a recommendation of between 5-10m in recognition of the importance of preventing disturbance to habitats along the Cronroe Stream. This appears to have been incorporated into the design of the proposed development, with a couple of pinch points adjacent to surface parking on Street 2 and next to house no.38 type B1. I also note that there is limited tree removal along the boundaries with the Cronroe Stream, with tree removal closest to the stream occurring only as part of sound arboricultural management. There are 9no. trees highlighted for removal as a result of the development, most of which are set further in than 10m from the edge of the stream. There is also the complete removal of an area of scrub on the south west boundary closest to Rossana Close, however this scrub area extends further than 10m from the edge of the Cronroe Stream. I have based my assessment upon the submitted Tree Protection Plan in the absence of a specific drawing to illustrate the set back from the Cronroe Stream.

12.30. In my view, the buffer recommended by the NIS and IFI is an appropriate measure that should be incorporated by the development to sufficiently mitigate against

potential impact upon habitats along the Cronroe Stream. However, importantly I note that neither the NIS or IFI link this specific mitigation measure with associated hydrological connection and potential impact upon water quality in The Murrough SAC and SPA. As such, this particular mitigation is related to potential impact upon habitats for the Cronroe Stream only. I also note that the applications own NIS recommended a buffer of *up to* 10m and this has generally been reflected in the proposed design. Where the proposed development is situated closer than 10m to the stream, there is surface car parking space, roadway for Street 2 and one house type B1 unit no.38. I do not consider this level of extension of proposed built form within the 10m zone to be significant during the operational stage.

12.31. During construction, it is vital that mitigation measures are employed to prevent discharges of materials into the stream and these mitigation measures are included in the NIS. The set back of construction works from trees to be protected along the edge of the stream will also be beneficial in this regard, although as noted above, not specifically required. During operational stage, I do not consider there to be significant potential for deterioration of water quality of the stream with appropriate surface water management and SUDs in place. The situation of a single house, area of roadway and car parking space within 10m of the stream does not generate specific concern regarding deterioration of water quality in my view. In my opinion, there is no overarching biodiversity reason to increase the buffer from the edge of the stream from the 5-10m described in the NIS, to the minimum 10m buffer recommended by the IFI. Particularly as the buffer is generally 10m along the vast extent of the Cronroe Stream as it bounds the proposed development. As there is no link between a minimum 10m buffer zone and the prevention of deterioration of water quality within the stream, there is no associated impact upon the SAC or SPA. I am therefore content to accept the NIS recommendation of between a 5-10m buffer to the stream to protect locally important habitats associated there.

12.32. Following a complete review of the mitigation measures outlined in section 4 of the submitted NIS, alongside consideration of the site specific conservation objectives and potential impacts upon these, I am confident that with the incorporation of the described mitigation, the project would not adversely affect the integrity of The Murrough Wetlands SAC (002249) and The Murrough SPA (004186). This is based on a complete assessment of all implications of the project.



12.33. In-Combination / Cumulative Impacts

12.34. I note third party submissions with respect to inadequate consideration of potential cumulative impact upon SAC / SPA areas from wider development in the area alongside the application proposal.

12.35. The submitted NIS refers to the biodiversity and nature conservation objectives and policies within the Wicklow County Development Plan 2016-2020. The County Development Plan was also subject to Appropriate Assessment prior to adoption with consideration of the impact of identifying sites suitable for development in the County, including Ashford. Consideration of other planning applications in the Ashford Area is also undertaken in the NIS, with the majority of these noted to be for small, domestic developments. Where necessary, these developments were screened for AA or AA was carried out and an NIS submitted. Two larger applications are noted, Reg. Ref. 20554 for 22 units subject to appeal and Reg. Ref. SH202003 an SHD development for 133 units. Both applications were screened for AA and significant effects upon Natura 2000 sites were ruled out. I note a third party response highlighting lack of consideration of Reg. Ref. 20/876, however this is noted as withdrawn on the Council's website and there would not present potential for in-combination affect. Overall, I am content with the assessment of potential cumulative impacts described in the NIS.

12.36. With the implementation of the mitigation measures outlined in this report, I conclude that the proposed development is not likely to lead to any cumulative impacts upon the integrity of The Murrough Wetlands SAC and The Murrough SPA, when considered in combination with other developments.

12.37. AA determination – Conclusion

12.38. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

12.39. Having carried out screening for Appropriate Assessment of the proposed development, it was concluded that it would be likely to have a significant effect on The Murrough Wetlands SAC (002249) and The Murrough SPA (004186) due to its hydrological link. Consequently, an Appropriate Assessment was required of the

implications of the project on the qualifying features of those sites in light of their conservation objectives.

12.40. Following an Appropriate Assessment, it has been determined that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites, The Murrough Wetlands SAC (002249) and The Murrough SPA (004186), or any other European site, in view of the sites Conservation Objectives.

12.41. This conclusion is based on a complete assessment of all aspects of the proposed project, both alone and in combination with other plans and projects, and there is no reasonable doubt as to the absence of adverse effects.

### **13.0 Conclusion**

13.1. The proposed residential development and creche is acceptable in principle at this site with regard to the relevant zoning R20 New Residential, under the Wicklow County Development Plan 2016-2022.

13.2. The proposed development of 99 self-contained housing units and 18 duplex units, will in my opinion, be an appropriate and compatible addition to this location on the edge of the existing settlement area, on land zoned for residential development. The proposed development will require the removal of trees, hedgerows and associated habitat, however with the incorporation of mitigation measures, including the retention of trees, replacement planting and incorporation of enhancement/protection measures, the overall impact upon biodiversity will be with acceptable parameters and any negative effect will be at the local level only. These impacts will be neutralised in the long term with the establishment of replacement landscaping and other mitigation measures.

13.3. Following an Appropriate Assessment, it has been determined that with the incorporation of appropriate mitigation measures, the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites.

13.4. I am also satisfied that the development would not have any unacceptable adverse impacts on the amenities of the surrounding area. The future occupiers of the

scheme will also benefit from an acceptable standard of internal amenity. The overall provision of car parking and access arrangements to the site are acceptable in my view, and will not generate a traffic hazard. I am also satisfied that future occupiers of the scheme will not be at an unacceptable risk from flooding and the proposal will not increase the risk of flooding elsewhere.

- 13.5. Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied and that permission be granted for the proposed development, subject to conditions, for the reasons and considerations set out below.

## **14.0 Recommendation**

### **Planning and development Acts 2000 to 2019**

#### **Planning Authority: Wicklow County Council**

- 14.1. Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 23<sup>rd</sup> Day of February 2021 by Kingsbridge Design and Consultancy Limited care of McGill Planning, 45 Herbert Lane, Dublin 2.

#### **Proposed Development**

- 14.2. The proposed development will consist of:
- A total of 117 no. residential units;
  - 3 storey block with 9 no. 2 bed apartments and 9 no. 3 bed duplexes;
  - 99 no. 1-2 storey houses formed of 11 no. 2 bed, 80 no. 3 bed and 8 no. 4 bed houses;
  - 2 storey creche at 223.5sqm;
  - 218 surface car parking spaces;
  - 54 covered cycle parking spaces;
  - Open spaces, bin stores, pump station; and
  - All associated site development works, landscaping, boundary treatments and services connections.

The development includes for connection to the public road and footpath network, and services via the adjoining Rossana Close / Woodview / Aisleigh estate road.

## **Decision**

**Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **15.0 Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- 15.1. (a) the location of the site contiguous to the established urban settlement area of Ashford an area zoned for residential (under zoning R20 New Residential, under the Wicklow County Development Plan 2016-2022);
- (b) the policies and objectives of the Wicklow County Development Plan 2016-2022 and the Ashford Town Plan as part of that development plan;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (f) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government 2020;

- (g) 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;
- (h) The NIS with the application;
- (i) The nature, scale and design of the proposed development and the availability in the area of infrastructure;
- (j) The pattern of existing and permitted development in the area;
- (k) The planning history of the site and the zoning of adjacent lands;
- (l) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan;
- (m) The submissions and observations received;
- (n) The Chief Executive Report from the Planning Authority recommending that permission be refused; and
- (o) The report of the inspector.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment: Stage 1**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Natura Impact Statement Report submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and

concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, other than The Murrough Wetlands SAC (002249) and The Murrough SPA (004186) which are European sites for which there is a likelihood of significant effects.

### **Appropriate Assessment: Stage 2**

The Board considered the Natura Impact Statement and all other relevant submissions on the file and carried out an Appropriate Assessment of the implications of the proposed development on The Murrough Wetlands SAC (002249) and The Murrough SPA (004186), in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- a) the site-specific conservation objectives for the European sites,
- b) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and in particular the risk of impacts on surface water and ground water quality,
- c) the mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European Sites in view of the sites' conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

This conclusion is based on the measures identified to control the quality of surface water discharges which provide for the interception of silt and other contaminants prior to discharge from the site during construction and operational phases.

## **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environment Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to: -

(a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.

(b) the location of the site on lands zoned R20 New Residential, with the objective 'To protect, provide and improve residential amenities at a density up to 20 units/ha' under the Wicklow County Development Plan 2016-2022. Houses, apartments and childcare are uses identified to be generally appropriate for residential zoned areas under the Development Plan.

(c) The pattern of development in surrounding area.

(d) The availability of mains water and wastewater services to serve the proposed development, via extension of the network and use of a pumping station to be provided as part of the development.

(e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).

(f) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003).

(f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); and

(g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Natura Impact Statement, Ecological Impact Assessment,

Construction and Environmental Management Plan, The Construction Waste management Plan, the Construction Management Plan, the Traffic Impact Assessment Report and the Flood Risk Assessment.

The Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

### **Conclusions on Proper Planning and Sustainable Development**

Having regard to the zoning objective for the site as set out in the Wicklow County Council Development Plan 2016-2022, the pattern of existing development in the immediate vicinity of the site, the NIS submitted with the application and subsequent Appropriate Assessment in the Inspectors Report, the location on edge of the existing settlement area and a reasonable walking distance to the centre of Ashford, it is considered that the proposed development would not seriously injure the residential or visual amenities of the area or of property/land in the vicinity, would be consistent with national and local planning policy and would be acceptable in terms of design, scale, height, mix and quantum of development, and in terms of pedestrian and traffic safety. It was also concluded that the development would not subject future occupiers to flood risk or increase the risk of flood elsewhere. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene Wicklow County Council Development Plan 2016-2022 in relation to density, and the objective for the AA1 lands in relation to development of only 50% of housing prior to delivery of AOS lands for sports use, within the Ashford Town Plan. The Board considers that, having regard to the provisions of section 37(2) of the Planning and



Development Act 2000, as amended, the grant of permission in material contravention of the County Development Plan would be justified for the following reasons and consideration.

In relation to section 37(2)(b) (i) the proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016.

In relation to section 37(2)(b) (iii) permission for the development at the proposed density should be granted having regard to the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and Project Ireland 2040 National Planning Policy Framework (NPF) Objective 35 which support the increased residential density on the subject site, in accordance with the principles of compact growth and on this site on the edge of the established settlement area, a reasonable walking distance to the centre of Ashford. In relation to development of only 50% of housing prior to delivery of AOS land for sports use, permission should be granted having regard to NPF Objective 32 in relation to the delivery of new homes as part of the Rebuilding Ireland Plan Project 2040 and chapter 6 of the Sustainable Residential Development in Urban Areas Planning Guidelines in relation to development being contiguous to the existing settlement and an efficient and effective use of the site.

## **16.0 Conditions**

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

to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. The mitigation measures contained in the Natura Impact Statement which was submitted with the application shall be implemented in full. In addition, the pumping station shall be completed in accordance with 'Code of Practice for Wastewater Infrastructure' published by Irish Water.

**Reason:** In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European sites.

3. The development shall be carried out on a phased basis, in accordance with a phasing scheme submitted with the planning application, (unless otherwise agreed in writing with the planning authority/An Bord Pleanála prior to commencement of any development.)

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

4. The proposed development shall be amended as follows:
  - (a) The opposing windows in units 40 and 41 shall be obscure glazed.
  - (b) The childcare facility shall be designed in accordance with the Universal Design Guidelines for Early Learning and Care Settings 2019 and the requirements of the Wicklow County Childcare Committee.
  - (c) Final details of all boundary treatments of the site to be provided, including sections currently omitted in the submitted plan.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development.

**Reason:** In the interests of proper and sustainable planning.

5. The developer shall enter into water and waste water connection agreement(s) with Irish Water, prior to commencement of development. Final details of the pumping station shall be agreed with Irish Water prior to commencement and the pumping station shall be completed in accordance with 'Code of Practice for Wastewater Infrastructure' published by Irish Water prior to occupation of any dwellings.

**Reason:** In the interest of public health.

6. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.
- (c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of retained trees as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.
- (d) No trench, embankment or pipe run shall be located within three metres of any trees/hedging which are to be retained on the site.

**Reason:** To protect trees/hedgerow and planting during the construction period in the interest of visual amenity.

7. Bat roosts shall be incorporated into the site and the recommendations of the Ecology Impact Assessment be carried out on the site to the written satisfaction of the planning authority and in accordance with the details submitted to An Bord Pleanála with this application unless otherwise agreed in writing with the planning authority

**Reason:** To ensure the protection of the natural heritage on the site.

8. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

9. The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of residential and visual amenity

10. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development/installation of the lighting. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.

**Reason:** In the interest of public safety and visual amenity.

11. 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:

- a) A Pre-Construction Invasive Species Management Plan and an Invasive Species Management Plan if required;
- b) Provision for mitigation measures described in the approved NIS;
- c) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- d) Location of areas for construction site offices and staff facilities;
- e) Details of site security fencing and hoardings;
- f) Details of on-site car parking facilities for site workers during the course of construction;
- g) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- h) Measures to obviate queuing of construction traffic on the adjoining road network;
- i) Details of lighting during construction works;
- j) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- k) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- l) Provision of parking for existing properties at during the construction period;
- m) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- n) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- o) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- p) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- q) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interest of amenities, public health and safety.

12. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays and between 0800 and 1400 on Saturdays, and not at all on Sundays and public holidays. Deviation from

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

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

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

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Measures for the ongoing regular inspection and maintenance of SUDs infrastructure should also be agreed with the Planning Authority prior to the occupation of the development.

**Reason:** In the interest of public health and surface water management

14. 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 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.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles

15. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

16. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

17.(a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted

management company.

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

18) a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.



**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

19) 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.

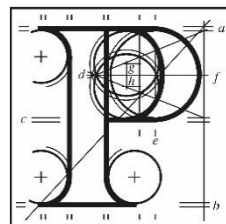
**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

20) 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.

**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.

## 17.0 Appendix A: EIA Screening Form



An  
Bord  
Pleanála

### EIA - Screening Determination for Strategic Housing Development Applications

#### A. CASE DETAILS

An Bord Pleanála Case Reference

ABP-309503-21

Development Summary

117 no. residential units (9 no. apartments, 9 no. duplexes and 99 no. houses), creche and associated site works

	Yes / No / N/A	

<b>1. Has an AA screening report or NIS been submitted?</b>	<b>Yes</b>	An EIA Screening Report and NIS was submitted with the application
<b>2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</b>	<b>No</b>	
<b>3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</b>	<b>Yes</b>	SEA undertaken in respect of the Wicklow County Council Development Plan 2016-2022 and an NIS under the habitats directive.

<b>B. EXAMINATION</b>	<b>Yes/ No/ Uncertain</b>	<b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b>  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) <b>Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</b>	<b>Is this likely to result in significant effects on the environment?</b> <b>Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b>			

<b>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</b>	<b>No</b>	The residential use proposed and the size and design of the proposed development would not be unusual for the area in Ashford in Wicklow. While the height of the proposed apartment block is 3 storeys and therefore a storey above the established context in the immediate surroundings, the scale is commensurate to other developments in the wider County area and is not significantly different in character relative to the context.	No
<b>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</b>	<b>Yes</b>	The site is currently undeveloped; however it is designated for residential development and no physical alteration is proposed to watercourses. Changes in land use and form are not considered to be out of character with the pattern of development in the surrounding area, and the site is situated at the edge of an existing residential estate.	No
<b>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</b>	<b>Yes</b>	Construction materials will be typical of such development. While the development will result in the loss of greenfield area with associated reduction in biodiversity value, this is not on a significant scale at either national or county level. The proposed landscape works also incorporate mitigation measures such as tree planting.	No

<b>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</b>	<b>Yes</b>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<b>No</b>
<b>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</b>	<b>Yes</b>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts.</p> <p>Construction waste will be managed via a Construction Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<b>No</b>

<b>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</b>	<b>Yes</b>	Risk of contamination of the Cronroe Stream during construction phase has been identified and adequately addressed in the submitted NIS. Mitigation measures are described and will be incorporated through implementation of a Construction Management Plan to prevent pollutants entering the hydrological network. No significant operational risk was identified.	<b>No</b>
<b>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</b>	<b>Yes</b>	Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Management Plan and Construction and Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.	<b>No</b>
<b>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</b>	<b>No</b>	Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Management Plan and Construction and Environmental Management Plan to include traffic movements, would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.	<b>No</b>

<b>1.9 Will there be any risk of major accidents that could affect human health or the environment?</b>	<b>No</b>	No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. There are no Seveso / COMAH sites in the vicinity of this location. The design of the proposed pumping station as part of the development will be in accordance with Irish Water's Code of Practice and therefore accounts for pump failure and emergency / flood events.	<b>No</b>
<b>1.10 Will the project affect the social environment (population, employment)</b>	<b>Yes</b>	Redevelopment of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the scale of the development, its situation on the edge of an existing built up area and the surrounding pattern of land uses.	<b>No</b>
<b>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</b>	<b>No</b>	This is a stand-alone development, comprising renewal of a site. The Wicklow County Development Plan 2016-2022 plans for the expansion of the county and has been subject to SEA. This application and those developments in the vicinity are catered for in the plan through land use zoning. Other developments in the wider area alongside the proposed development, are not considered to give rise to significant cumulative effects.	<b>No</b>



<b>2. Location of proposed development</b>			
<b>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</b> <ol style="list-style-type: none"> <li><b>1. European site (SAC/ SPA/ pSAC/ pSPA)</b></li> <li><b>2. NHA/ pNHA</b></li> <li><b>3. Designated Nature Reserve</b></li> <li><b>4. Designated refuge for flora or fauna</b></li> <li><b>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</b></li> </ol>	<b>Yes</b>	<p>The subject site has hydrological links to The Murrough Wetlands SAC and The Murrough SPA. An NIS is submitted with the application and identifies potential impacts. There is no potential for the proposed development to impact the integrity of the SAC and SPA areas. Incorporation of mitigation measures during the construction and operational phase will prevent potential pollutants entering the hydrological network.</p>	<b>No</b>
<b>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</b>	<b>No</b>	<p>The existing site is undeveloped. Existing habitats have been surveyed in the submitted Ecological Impact Assessment and categorised as of local importance (low-high). The existing watercourse to the southwest and southeast boundaries (Cronroe Stream) is of county importance and the development is set back from its edge. Bats do use the site for feeding and</p>	<b>No</b>

		commuting, however no evidence of bat roosts were found. There are trees to be removed that have potential for bat roosts therefore special measures are required to survey for roosts prior to removal and can be secured by conditions. The site is of local importance only to biodiversity and any disturbance to mammals / birds will not impact populations on a national scale.	
<b>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</b>	<b>No</b>	There is no evidence or record of archaeology on the site. As it is undeveloped, potential exists for discovery of previously unrecorded archaeology, as such a condition to require recording in such an event can account for unforeseen findings.	No
<b>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</b>	<b>Yes</b>	The subject site is currently formed of agricultural land used for grazing. Land to the north, south and east is working agricultural land. The site is designated for residential development and is situated on the edge of an existing built-up residential estate. Agricultural land to the north and south is similarly designated for residential development under the Wicklow County Development Plan 2016-2022. The loss of these lands from agricultural use is not significant to the overall agricultural landbank in the State and is expected as part of strategic planning of the area.	No

		The Cronroe Stream runs along the southwest and southeast boundaries for the site. The development does not alter this watercourse and mitigation is included to prevent potential discharge of pollutants into the stream.	
<b>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</b>	<b>Yes</b>	The Cronroe Stream runs along the southwest and southeast of the site. The development will implement SUDS measures to control surface water run-off. The site has no recorded history of flooding and mitigation measures are to be implemented to manage flood risk as set out in the submitted Flood Risk Assessment.	No
<b>2.6 Is the location susceptible to subsidence, landslides or erosion?</b>	<b>No</b>	There is no evidence in the submitted documentation that the lands are susceptible to lands slides or erosion and the topography of the area is flat.	No
<b>2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</b>	<b>No</b>	The site is accessed from Rossana Close. A Transport and Traffic Assessment has been submitted with the application and describes capacity on surrounding networks for the development, which will not significantly increase traffic on	No

		vehicular routes. Implementation of a Construction and Environmental Management Plan will mitigate traffic impacts during construction stage.	
<b>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</b>	<b>No</b>	There are no sensitive land uses or community facilities located in the immediate vicinity of the site.	<b>No</b>

<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<b>3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?</b>	<b>No</b>	Developments have been identified in the vicinity, however these are all of a scale and nature that would be anticipated under the Wicklow County Development Plan 2016-2022 and would not give rise to significant cumulative environmental effects alongside this development.	<b>No</b>
<b>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</b>	<b>No</b>	No trans boundary considerations arise	<b>No</b>
<b>3.3 Are there any other relevant considerations?</b>	<b>No</b>		<b>No</b>

<b>C. CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	<b>Yes</b>	ElAR Not Required	

<b>Real likelihood of significant effects on the environment.</b>	<b>No</b>		
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#### **D. MAIN REASONS AND CONSIDERATIONS**

Having regard to: -

(a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.

(b) the location of the site on lands zoned R20 New Residential, with the objective 'To protect, provide and improve residential amenities at a density up to 20 units/ha' under the Wicklow County Development Plan 2016-2022. Houses, apartments and childcare are uses identified to be generally appropriate for residential zoned areas under the Development Plan.

(c) The pattern of development in surrounding area.

(d) The availability of mains water and wastewater services to serve the proposed development, via extension of the network and use of a pumping station to be provided as part of the development.

(e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).

(f) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003).

(f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); and

(g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Natura Impact Statement, Ecological Impact Assessment, Construction and Environmental Management Plan, The Construction Waste management Plan, the Construction Management Plan, the Traffic Impact Assessment Report and the Flood Risk Assessment.

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

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Rachel Gleave O'Connor  
Planning Inspector

10<sup>th</sup> June 2021