



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309530-21

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<b>Development</b>	Construction of 91 residential units and a complementary creche facility.
<b>Location</b>	Boyne Road, Athlumney (Td), Navan, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	NA200611
<b>Applicant(s)</b>	Andrews Construction Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Michael & Maree Flanagan and others.
<b>Observer(s)</b>	Cllr Frances Deane.
<b>Date of Site Inspection</b>	11 <sup>th</sup> August 2021.
<b>Inspector</b>	Barry O'Donnell

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	5
3.1. Decision .....	5
3.2. Planning Authority Reports .....	6
3.3. Prescribed Bodies .....	9
3.4. Third Party Observations .....	10
4.0 Planning History.....	13
5.0 Policy Context.....	14
5.1. Ministerial Guidelines .....	14
5.5. Natural Heritage Designations .....	21
5.6. EIA Screening .....	21
6.0 The Appeal .....	23
6.1. Grounds of Appeal .....	23
6.2. Applicant Response .....	29
6.3. Planning Authority Response .....	32
6.4. Observations .....	32
6.5. Further Responses.....	33
7.0 Assessment.....	33
8.0 Recommendation.....	66
9.0 Reasons and Considerations.....	66

## 1.0 Site Location and Description

- 1.1. The site has a stated area of 2.58ha and is located on Boyne Road, approx. 1.5km from Navan town centre. It is primarily greenfield in nature and was laid to pasture at the time of my inspection and there is a residential property, comprising of a cottage and associated garden, in the centre of the site, fronting onto Boyne Road.
- 1.2. The site is bound by a block wall along its northern boundary and by a mix of hedgerows and trees along the remaining boundaries. Boyne Road adjoins the site to the north, St. Mary's graveyard lies to the east, the Navan to Drogheda railway line runs parallel to the south boundary and the L34003 runs parallel to the western boundary. The roadside verge along Boyne Road contains a 'welcome to Navan' signage board.
- 1.3. The site is in an area characterised by low-density housing. There are traditional 2-storey houses on the opposite side of Boyne Road and there is a row of single storey cottages on the opposite side of the L34003. There are 2 detached bungalows along the L34003 and there is also a commercial premises, Boyne Garden Sheds, on the opposite side of the rail line, also accessed from the L34003. There is also more contemporary housing further east along Boyne Road, the Glenveigh housing estate, which is characterised by 2-storey detached and semi-detached housing.
- 1.4. Boyne Road is a two-way carriageway connecting Navan to the N2 National Road, approx. 10km from the town centre. The site is within the 50km/h speed zone, with the transition to 60km/h adjacent to the boundary with St. Mary's Graveyard. In the area of the site the road undulates, with restricted visibility in parts. There is a single white line along the frontage of the site.
- 1.5. The River Boyne runs to the north, on the opposite side of Boyne Road and approx. 200m from the site. A stream running parallel to the east site boundary, referred to by the applicant as the Ferganstown and Ballymacon stream, flows into the Boyne.

## 2.0 Proposed Development

- 2.1. The development described in the public notices entailed:-
  - Demolition of an existing single storey dwelling (121sqm) and associated outbuildings

- Construction of 91 no. units (2-storey houses and 3-storey apartment/duplexes) comprising:
  - 56 No. houses
    - 10 No. 2-bed houses,
    - 36 No. 3-bed houses,
    - 10 No. 4-Bed houses,
  - 35 No. apartments/duplexes
    - 20 No. 1-bed apartments,
    - 8 No. 2-bed duplexes,
    - 7 No. 2-bed apartments.
- 5,448sqm of landscaped open space areas
- 162 No. car parking spaces
- Creche facility (173.5sqm)
- Primary vehicular access and pedestrian access from Boyne Road and secondary access from the L34003 local road including road widening and improvement works
- Proposal includes hard and soft landscaping, boundary treatments, footpaths and associated works.
- A Natura Impact Statement was submitted with the application.

2.2. At the further information stage the proposal was amended, with the number of units increased to 92 (1 No. additional unit) and the proposed layout was amended in a number of areas, including in relation to parking. The mix of houses and apartments was amended thus: -

- 59 No. houses
  - 10 No. 2-bed units
  - 41 No. 3-bed units
  - 8 No. 4-bed units

- 33 No. apartments/duplexes
  - 9 No. 1-bed units
  - 20 No. 2-bed units
  - 4 No. 3-bed units

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The Planning Authority granted permission on 1<sup>st</sup> February 2021, subject to 32 No. planning conditions.

- Condition No. 2 required the submission of a site specific flood risk assessment, prior to the commencement of development.
- Condition No. 8(a) required the attenuation volume for the development to be agreed with the Water Services Department.
- Condition No. 10 (a) required the applicant to agree the design of the boundary treatment along the Boyne Road / L3400 with the Planning Authority, which should include footpaths, cycleways, access visibility, drainage, grass verges and street lighting.

Condition No. 10(b) required the applicant to submit and agree a design solution to address the items of the Street Design Audit and Road Safety Audit.

- Condition No. 25(a) required the applicant to agree a revised boundary treatment for the boundary between development site and the adjacent stream and that a wall and fence arrangement will not be acceptable.

Condition No. 25(c) required the applicant to agree the boundary treatment for the boundary between the development site and the Boyne Garden Sheds / dwelling site to the south with the landowners and that details of the boundary treatment should be submitted for the agreement of the Planning Authority.

## 3.2. Planning Authority Reports

3.2.1. Planning Reports dated 16<sup>th</sup> July 2020 and 1<sup>st</sup> February 2021 have been provided.

The initial report stated that the proposed development was considered to be acceptable in principle under the A1 zoning, subject to the residential amenity of adjoining residential property being protected. Regarding design and external finish, the Report stated that the proposed houses and apartments/duplexes were acceptable and it also stated that the internal layout of apartments satisfied or exceeded the minimum requirements of the 2018 Apartment Guidelines. Minor non-compliance of a number of apartment units in respect of private open space was identified and no communal open space had been provided. Regarding layout, the Report outlined that no dedicated outdoor area for the proposed creche had been delineated and that this could lead to conflict with wider residential use of open spaces and the Report acknowledged the Transportation Department's request to create more active frontages onto Boyne Road. Concerns were expressed regarding potential overshadowing of open spaces by the apartment blocks and also that a number of duplex units were accessible directly from open spaces. Instances of potential overlooking between units were also identified. Issues raised by the internal technical documents (summarised separately below) were acknowledged, together with acknowledgement of the Officer of Public Works' observations in respect of flood risk. The report recommended that additional information should be sought in relation to: -

- Revisions to the site layout, which ensured compliance with the Urban Design Manual's design criterion.
- The provision of communal open space.
- Identification of dedicated outdoor space for the creche unit.
- Proposals to address potential overlooking between units.
- Revised design proposals for the proposed duplex units.
- Proposals to address potential overshadowing of public open space from proposed buildings.
- Proposals for bin storage facilities.

- Proposals which responded to the comments provided by the OPW in its submission.
- A flood risk assessment justification test was requested.
- Issues raised within the Transportation, Water Services, Public Lighting, Broadband consultation reports.
- Issues raised by Irish Rail in its submission.
- Issues raised within third party submissions.

3.2.2. The second Planner's Report, date stamped 10<sup>th</sup> September 2020, followed receipt of the additional information response and followed the submission of revised public notices. It summarised the individual additional information responses and concluded that the development was acceptable, subject to 32 No. recommended conditions, which were in accordance with the Planning Authority's decision

3.2.3. Other Technical Reports

#### **Water Services**

Reports dated 27<sup>th</sup> May 2020 and 25<sup>th</sup> January 2021 have been provided. The first report requested additional information in relation to: -

- The proposed creche was required to be relocated within the site, to maintain a 10m maintenance strip adjacent to the watercourse parallel to the east site boundary.
- Specifications for a flow control advice were requested.
- Further details and revised proposals for the proposed attenuation system and attenuation volume were requested.

The second report followed the additional information response, outlining that surface water drainage proposals met with the Council's requirements. A number of conditions were recommended.

#### **Public Lighting**

Emailed comments dated 3<sup>rd</sup> June 2020 have been provided, which advised that public lighting proposals did not comply with the Council's public lighting technical specification document. The comments requested a revised layout, which complies

with the requirements of the technical document and also that proposed landscaping should take into consideration the public lighting design.

### **Housing Department**

Details of email correspondence between the Housing Department and the applicant, dated 6<sup>th</sup> May 2020, have been provided, which outline a preferred option for the delivery of Part V obligations.

### **Broadband Officer**

Reports dated 8<sup>th</sup> June 2020 and 18<sup>th</sup> December 2020 have been provided. The first report requested that additional maps showing details of ducting and access chambers should be provided and that provision should be made for broadband ducting to each unit. The subsequent report stated that adequate provision had been made for such infrastructure.

### **Conservation Officer**

A report dated 12<sup>th</sup> June 2020 has been provided, which expressed no objection to the development and recommended that archaeological monitoring should be required as part of the development.

### **Fire Officer**

Comments dated 16<sup>th</sup> June 2020 have been provided, which advised of the requirement for fire safety certificate applications.

### **Transportation Department**

Reports dated 30<sup>th</sup> June 2020 and 25<sup>th</sup> January 2021 have been provided. The first report requested additional information in relation to (1) the proposed layout along the Boyne Road frontage, (2) demonstration of compliance with DMURS, (3) a Street Design Audit incorporating a Road Safety Audit was requested, (4) safe provision was requested for refuse vehicle access to the site, (5) provision of pedestrian and cycle access on the northern side of the development and (6) the applicant was requested to agree the boundary treatment along the railway line, with Irish Rail.

The second report followed receipt of the additional information response and outlined no objection, subject to a number of recommended conditions.

### **Environment Department**

A report dated 6<sup>th</sup> July 2020 has been provided, which outlined no objection subject to a number of recommended conditions.

### **Environment (Flooding)**

Emailed comments dated 5<sup>th</sup> July 2020 and 27<sup>th</sup> January 2021 have been provided. The initial comments advised that the site is partially situated within Flood Zones A and B and recommended that a site-specific flood risk assessment and associated justification test should be requested.

The comments dated 27<sup>th</sup> January 2021 followed the additional information response and stated that as no FRA had been provided, the applicant had not established the flood zones on the site or implemented the justification test, to enable the Planning Authority assess flood risk. The email further stated that in the absence of such information, it could not be determined that vulnerable infrastructure has been sited outside of flood zones A and B. It was concluded that there was insufficient information provided to allow for an informed decision.

### **3.3. Prescribed Bodies**

- 3.3.1. The Department of Culture, Heritage and the Gaeltacht (the Development Applications Unit) made submissions dated 25<sup>th</sup> May 2020 and 18<sup>th</sup> June 2020. The first submission advised that the site is in the vicinity of 2 sites of archaeological interest (Recorded monument Nos. ME025-028—and ME025-053--). A condition requiring pre-development testing was recommended. The second submission commented on heritage aspects, responding to and accepting the conclusions of the Natura Impact Assessment. A condition was recommended, requiring that a finalised Construction Environmental Management Plan be submitted and agreed with the Planning Authority, which should include measures to avoid pollution of the Feganstown and Ballymacon stream.
- 3.3.2. Irish Water made a submission dated 30<sup>th</sup> May 2020, which outlined no objection to the development subject to a number of standard recommended conditions.
- 3.3.3. Irish Rail made a submission dated 11<sup>th</sup> June 2020, which requested the following:
- A 2.4m high block wall in proximity to the Drogheda/Navan railway line.

- The stream under bridge UBK44 should be fenced off to prevent unauthorised access, with exact details to be agreed with Irish Rail.
- Access for Irish Rail staff to the railway should not be hindered.
- Surface water or effluent shall not discharge onto the railway and any discharge to the stream should not have an adverse impact on existing conditions.
- Access to the stream should be maintained at all times.
- No development shall take place within 7m south-east of the nearest running edge of the rail and no building should be constructed within 4m of the boundary, in order to ensure that property maintenance can be undertaken without requirement to enter onto Irish Rail property.
- No trees should be planted along the railway boundary.
- Lighting should not cause glare along the railway.
- The applicant was requested to bring to the attention of buyers, the proximity of the railway and the ongoing nature of the use.

3.3.4. An undated submission from the Office of Public Works has been provided, which advised that drainage channel C1/6 (the Feganstown and Ballymacon stream) running through the site is an OPW maintained drainage channel. The submission requested that a 6m maintenance strip should be maintained along the edge of the channel and the development should provide for access for the OPW to the channel.

3.3.5. The Planning Report identifies that the application was also circulated to An Taisce, The Heritage Council, Inland Fisheries Ireland, the Health Service Executive and the County Childcare Committee and that no responding submissions were received.

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

3.4.1. A number of third party observations letters were received, the issues raised within which can be summarised as follows: -

- Scale and layout
  - Concerns were expressed regarding the scale and density of development and proposed building heights.

- Concerns were expressed regarding the visual impact of the development, which was considered to be out of character
- The proposed site layout was considered to be an inappropriate design response.
- Apartments were considered to be inappropriate in a peripheral location.
- Community and social infrastructure in the area was considered inadequate to accommodate the development.
- Residential amenity
  - Concerns regarding impacts on residential amenity in the area, including overshadowing, overbearing and overlooking and impact on views.
  - Concerns regarding noise and litter nuisances and anti-social behaviour.
- Road safety and traffic generation
  - Concerns were expressed regarding impacts on traffic congestion, parking and road safety.
  - The development was considered to be premature, pending the upgrade of the local road network and preparation of a masterplan for the area.
  - Proposals to undertake development along a private lane (L34003) were objected to.
  - One observer expressed concerns regarding the impact of the development on their adjacent business premises. The observer also requested that ongoing access to their premises along the L43003 should be maintained, in order to allow the business to continue to operate.
- Biodiversity
  - Statements regarding the proximity of access to the Boyne River walkway were questioned.
  - Concerns were expressed regarding the loss of hedgerows, trees and field boundaries from the site.
  - Full consideration of potential ecological impacts was requested.
- The applicant's legal interest in the subject lands was questioned.

- The Planning Authority was requested to give consideration to the likelihood of the development being built out, to completion.
- The accuracy of statements within the application supporting documents was questioned.
- The development was considered likely to impact on users of the adjacent graveyard.
- Concerns were expressed regarding flood risk.
- The development was considered likely to devalue property in the area.

3.4.2. A number of additional observations were received following the submission of revised public notices. New issues raised, in addition to those raised in the initial public consultation phase, can be summarised as follows: -

- Road safety and traffic generation
  - Proposals for road widening and footpath provision along the cul-de-sac were objected to.
  - Proposals for multiple points of access to the subject site were objected to and a preference was expressed for a single point of entry/exit, from Boyne Road.
  - It was considered that road safety issues would arise from housing directly accessed from Boyne Road.
- Scale and layout
  - The area in which the site is located was considered to be of a rural character, with an urban development unsuited to it.
  - The issue of impact on an adjacent commercial property was considered to have been unsatisfactorily addressed.
  - Garden lengths shown on the application drawings were questioned.
  - One observer requested that house No. 30 should be omitted from the development.
  - The Planning Authority was requested to undertake a visual assessment of the development.

- Biodiversity
  - Concerns were expressed regarding potential impacts on the adjacent Natura 2000 sites.
- The development was considered to contravene policies and objectives within the Navan Development Plan and the Meath County Development Plan.
- Issues raised in third party observation letters were considered to have been inadequately addressed.
- A site specific flood risk assessment was considered a necessity.
- Concerns were expressed that the applicant had not made contact with objectors, as had been suggested within the additional information request.

## 4.0 Planning History

NA181528 - (ABP Ref. ABP-304744-19) Permission refused on 29<sup>th</sup> October 2019 for development consisting of the demolition of an existing single storey dwelling and the construction of 63 no. 2-storey houses and all associated site works. Permission was refused for 1 reason, as follows: -

1. *'The proposed development by reason of its design, form and layout and its predominance of three and four bedroom houses would result in a low density development that lacks variety in terms of a mix of units, within residentially zoned land in the development boundaries of Navan and would be contrary to the section 28 Ministerial Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) and the accompanying Urban Design Manual issued by the Department of the Environment, Heritage and Local Government in May, 2009. It is considered that the development as proposed results in a poor design concept that results in a lack of integration and connectivity to the open space in particular for the 12 number units fronting onto the local road (L34003) and a lack of permeability for pedestrians and cyclists. The proposed*

*development would be contrary to the provisions of “Project Ireland 2040 - National Planning Framework” issued by the Department of Housing, Planning and Local Government (2018) and the “Design Manual for Urban Roads and Streets” (2019). The proposed development would represent an inefficient and unsustainable use of serviced zoned land and would, therefore, be contrary to the proper planning and sustainable development of the area.’*

The Planning Report on the file also refers to application Reg. Ref. 93/202, where permission was refused for 2 No. houses, for reasons related to wastewater treatment.

## **5.0 Policy Context**

### **5.1. Ministerial Guidelines**

#### Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

- 5.1.1. The Guidelines set out key planning principles to guide the preparation and assessment of planning applications for residential development in urban areas.
- 5.1.2. In relation to infill sites, Section 5.9 advises that such sites can range from small gap sites to unused or derelict land and backland areas, up to larger residual sites or assembled sites from multiple owners. For proposed developments on such lands, the Guidelines state: -

*‘In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill... The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc.’*

- 5.1.3. Section 5.11 discusses ‘outer suburban / greenfield sites and it advises that most efficient use of land can be achieved by providing net densities in the range of 35-50 units per hectare.

Quality Housing for Sustainable Communities (2007)

- 5.1.4. The Guidelines identify principles and criteria that are important in the design of housing and highlight specific design features, requirements and standards.

Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018)

- 5.1.5. The Guidelines set out standards for apartment developments, with the aim of ensuring that such developments are an attractive and desirable housing option in the future. Standards provided within the Guidelines include: the mix of units to be provided, minimum size thresholds for 1-bed, 2-bed and 3-bed units, the orientation and internal layout of units and private open space provision.

**5.2. National Planning Framework**

- 5.2.1. The National Planning Framework provides an overarching policy and planning framework for the social, economic and cultural development of the country. The NPF sets out 75 no. National Policy Objectives including the following:

NPO 6: Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

NPO 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.

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

**5.3. Midlands and Eastern Regional Spatial and Economic Strategy**

- 5.3.1. The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands area (adopted June 2019) provides a framework for development at regional level.

#### 5.4. Meath County Development Plan 2021-2027

- 5.4.1. The county development plan took effect on 3<sup>rd</sup> November 2021, replacing the Meath County Development Plan 2013-2019 as the operative development plan for the county.
- 5.4.2. Navan is identified within the settlement hierarchy as a Key Town and Section 2.10.2 describes it as *'the largest settlement and primary growth centre in the County.'* The section goes on to state that *'This Plan will continue to support the economic development of the town which will strengthen its position as a centre of regional enterprise and employment. Alongside the economic growth of the town, residential lands will be released for development which will increase the critical mass of the population required to support the delivery of a rail line to the town.'*
- 5.4.3. Core Strategy Table 2.12 provides a housing allocation of 3,204 units to Navan over the plan period, equating to c.19% of planned housing growth within the county.
- 5.4.4. Volume 2 contains written statements and maps for each of the settlements, including Navan. Section 3 includes the following vision for the town: -  
  
*'For Navan to continue to function and develop as a multi-modal Key town in Meath; an important employment centre for administrative, retail, health, and education services, where development in the town centre is balanced by investment in the business and industrial parks, which will enhance its attractiveness as a place to live, work, and invest and thereby support the creation of a sustainable community.'*
- 5.4.5. The written statement acknowledges at Section 5 that there is a surplus of residential zoned land within the town and proposes to prioritise such lands through designation of a reserve of surplus lands that will not be available for development in the plan period.
- 5.4.6. The subject site is identified on the Zoning Map as being zoned *'A1 – Existing Residential'*, with an objective *'To protect and enhance the amenity and character of existing residential communities.'*
- 5.4.7. Section 11.5.19 relates to infill development and it states that the Council will support infill development on appropriate sites that make the most sustainable use of serviced land and existing urban infrastructure. Accompanying objective DM OBJ42 is relevant, where it states: -

**DM OBJ 42:** Infill development shall take account of the character of the area and where possible retain existing features such as building line, height, railings, trees, gateways etc.

5.4.8. Relevant policies include: -

**CS POL 1:** To promote and facilitate the development of sustainable communities in the County by managing the level of growth in each settlement to ensure future growth is in accordance with the Core Strategy and County Settlement Hierarchy in order to deliver compact urban areas and sustainable rural communities.

**CS OBJ 1:** To secure the implementation of the Core Strategy and Settlement Strategy, in so far as practicable, by directing growth towards designated settlements, subject to the availability of infrastructure and services.

**CS OBJ 4:** To achieve more compact growth by promoting the development of infill and brownfield/ regeneration sites and the redevelopment of underutilised land within and close to the existing built-up footprint of existing settlements in preference to edge of centre locations.

**SH POL 2:** To promote the consolidation of existing settlements and the creation of compact urban forms through the utilisation of infill and brownfield lands in preference to edge of centre locations.

**SH OBJ 9:** To develop Navan and the Southern Environs of Drogheda as the primary development centres in Meath and to continue to promote Dunboyne as a key settlement in the Metropolitan Area of Dublin. The long-term growth of these settlements shall be based on principles of balanced and sustainable development that support a compact urban form and the integration of land use and transport.

**SH POL 13:** To require that all new residential developments shall be in accordance with the standards set out in the Development Management Standards and Land Use Zoning Objectives set out in Chapter 11 of this Plan, in so far as is practicable.

**DM OBJ 6:** Building design shall maximise natural ventilation, solar gain and daylight, where possible, all new and renovated developments.

**DM OBJ 7:** Sustainable Urban Drainage Systems (SuDS) measures are required to form part of the design of all developments.

**DM OBJ 11:** Existing trees and hedgerows of biodiversity and/or amenity value shall be retained, where possible.

**DM POL 4:** To require that all proposals for residential development demonstrate compliance with the Sustainable Residential Development in Urban Areas - Cities, Towns & Villages (2009) and the Urban Design Manual-A Best Practice Guide, 2009 or any updates thereof.

**DM OBJ 13:** A detailed Design Statement shall accompany all planning applications for residential development on sites in excess of 0.2 hectares or for more than 10 residential units.

The Design Statement shall:

- Provide a Site Analysis
- Outline the design concept;
- Clearly demonstrate how the 12 Urban Design Criteria have been taken into account when designing schemes in urban area (as per the 'Urban Design Manual - A Best Practice Guide (2009)');
- Set out how the development meets the relevant Development Plan Objectives, Local Area Plan, Masterplan, Public Realm Strategy, etc;
- Provide site photographs;
- Provide an open space/landscape strategy which identifies any areas of ecological interest and sets out proposals for same; and
- Set out how energy efficiency measures have been incorporated into the project design process (Refer to DM POL 2).

**DM OBJ 14:** The following densities shall be encouraged when considering planning applications for residential development:

- Residential Development Beside Rail Stations: 50 uph or above
- Regional Growth Centres/Key Towns: (Navan/Drogheda) - 35-45 uph
- Self-Sustaining Growth Towns: (Dunboyne, Ashbourne, Trim, Kells): greater than 35uph
- Self-Sustaining Towns: 25uph - 35uph

- Smaller Towns and Villages: 25uph - 35 uph
- Outer locations: 15uph – 25uph

**DM OBJ 18:** A minimum of 22 metres separation between directly opposing rear windows at first floor level in the case of detached, semi- detached, terraced units shall generally be observed.

**DM OBJ 19:** A minimum of 22 metres separation distance between opposing windows will apply in the case of apartments/duplex units up to three storeys in height.

**DM OBJ 21:** A minimum distance of 2.3 metres shall be provided between dwellings for the full length of the flanks in all developments of detached, semi-detached and end of terrace houses.

**DM POL 6:** To require that the unit typologies proposed provide a sufficient unit mix which addresses wider demographic and household formation trends. The design statement required at DM OBJ 13 shall set out how the proposed scheme is compliant with same.

**DM OBJ 24:** To require the provision of EV charging points to serve residential development.

**DM OBJ 26:** Public open space shall be provided for residential development at a minimum rate of 15% of total site area. In all cases lands zoned F1 Open Space, G1 Community Infrastructure and H1 High Amenity cannot be included as part of the 15%. Each residential development proposal shall be accompanied by a statement setting out how the scheme complies with this requirement.

**DM POL 7:** Residential development shall provide private open space. Apartment schemes shall in accordance with the requirements set out in Table 11.1. Each residential development proposal shall be accompanied by a statement setting out how the scheme complies with the requirements set out in Table 11.1.

**DM POL 9:** To support the retention of field boundaries for their ecological/habitat significance, as demonstrated by a suitably qualified professional. Where removal of a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, mitigation by provision of the same boundary type will be required.

**DM OBJ 28:** To require that boundaries between the rear of existing and proposed dwellings shall be a minimum of 1.8 metres high and shall be constructed as capped, rendered concrete block or brick walls, to ensure privacy, security and permanency. Alternative durable materials will be considered.

**DM OBJ 38:** All proposals for residential developments above 75 units shall incorporate works of public art into the overall scheme or make a financial contribution to the Council to provide the piece of public art in order to enhance the amenities of the local environment (Refer to Chapter 7, Community Building Strategy).

**DM POL 12:** Apartment schemes shall generally be encouraged in appropriate, sustainable, locations, accessible to public transport in the following settlements: Drogheda, Navan, Dunboyne, Kilcock, Maynooth, Ashbourne and Dunshaughlin.

**DM OBJ 39:** An appropriate mix of units shall be provided to cater for a variety of household types and tenures. Apartment development proposals will be assessed having regard to the following requirements:

- Aspect-dual aspect units are encouraged;
- Mix of units- to cater for different size households;
- Floor areas and room widths;
- Private and communal amenity space;
- Floor to ceiling height;
- Car and bicycle parking;
- EV Charging points;
- Lift/ stair core access;
- Storage provision;
- Adaptability.

All planning applications for apartment development shall be accompanied by a statement which sets out how the scheme complies with this objective.

**DM OBJ 68:** Planning applications for childcare facilities shall be assessed for compliance with the following criteria:

- Suitability of the site for the type and size of facility proposed.
- Impact on residential amenity of surrounding residential development;
- Adequate availability of indoor and outdoor play space;
- Convenience to public transport nodes, pedestrian and cycling facilities;
- Local traffic conditions;
- Safe access and sufficient convenient off-street car parking and/or suitable drop-off and collection points for customers and staff;
- Number of such facilities in the area. In this regard, the applicant shall submit a map showing the locations of childcare facilities within the vicinity of the subject site and demonstrate the need for an additional facility at that location.

**DM OBJ 89:** Car parking shall be provided in accordance with Table 11.2 and associated guidance notes

- 5.4.9. Section 11.5.16 states that '*Daylight and sunlight levels should, generally, be in accordance with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011), and any updates thereof.*'

## 5.5. Natural Heritage Designations

- 5.5.1. The site is not located within or adjacent to any Natura 2000 sites, the closest such sites being the River Boyne and River Blackwater SAC and SPA, which are within approx. 110m and 170m, to the north-west.

## 5.6. EIA Screening

- 5.6.1. An Environmental Impact Assessment Screening report was not submitted with the application.
- 5.6.2. Class (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:
- Construction of more than 500 dwelling units,

- Urban development which would involve an area greater than 2 ha in the case of a business district<sup>1</sup>, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

5.6.3. The subject development is the construction of 92 units (houses and apartments), together with associated works, on a site with a stated area of 2.58ha. The development falls well below the threshold of 500 dwelling units noted above and also the applicable site area threshold of 10 ha. The site is not in an area where the predominant land-use is retail or commercial, so the 2ha threshold is not applicable.

5.6.4. The site is in an established residential area, which is characterised by a mix of traditional and contemporary housing. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of the landscape or of natural or cultural heritage. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Meath County Council, upon which its effects would be marginal.

5.6.5. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned 'A1', where residential uses are permissible under the Meath County Development Plan 2021-2027.
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended),
- The existing pattern of residential development in the vicinity,

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<sup>1</sup> A Business District is defined as 'a district within a city or town in which the predominant land use is retail or commercial use'

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

5.6.6. I have 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 and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. Separate third party appeals have been lodged by Michael and Maree Flanagan, Stephen and Rachel Flanagan and Liam and Margaret Davis and Patrick and Madeline Brennan. The grounds of appeal are summarised separately below.

#### Appeal by Michael and Maree Flanagan

- Impact on residential amenity
  - Unit Nos. 58-69 would overlook both the appellants’ home and garden. The window-to-window separation distance from the appellants’ house to unit No. 69 would be 15m. No 69 would also be located 17m from the bungalow on the other side of the lane.
  - The design of the proposed houses appears to allow for attic conversions in the future, which would extend potential overlooking.
  - The Essex Design Guide suggests that separation distances of up to 35m should be maintained, where development involves upper storey living rooms.
  - Unit Nos. 58-69 are overbearing and excessive in their height and density, in relation to their proximity to the boundary.

- The provision of open space adjacent to the shared boundary would have provided an unshaded amenity space and would have prevented opportunities for overlooking.
- The development plan previously provided some protection against such impacts, but the Building Height Guidelines 2018 now override the development plan.
- The development is likely to devalue the appellants' home and degrade its amenity.
- Redevelopment of adjacent lands
  - Because of the hard border provided by the railway line and the close proximity of proposed housing within the subject site, there would be no prospect of the appellants redeveloping their property.
  - The proposed layout does not lend itself to integrating the appellants' lands into a high density development.
- The Planning Authority did not give adequate consideration to the appellants' submission, in the context of the decision of the *Supreme Court on Balz v An Bord Pleanala [2019] IESC 90*.
- Proposed houses are not targeted at first-time buyers or lower income groups.
- Proposed layout
  - Proposed bin store locations/arrangements are extraordinary.
  - Apartment/duplex units 38-43 and 87-92 are accessible by two flights of stairs and they do not lend themselves towards life-long living as a lift cannot be easily fitted.
  - Density has been calculated in terms of unit numbers, but building volumes are also an indication of the intensity of development. The applicant is artificially exaggerating the density of the proposal.
- In view of the policy approach in favour of densities in the range of 45 units per hectare, it is questioned whether the development should have been of such scale (i.e. over 100 units) that it triggered the Strategic Housing Development

function. It is questioned whether a determination by the Board would have given rise to a different outcome.

- The objectives of NPO13 of the NPF in respect of compact urban areas can only be achieved by the implementation of consistent maximum practical densities. Exceptions to allow for lower densities, dominated by own-car-type dwellings would frustrate the high level objectives.
- The Navan development plan must be considered to be past its sell-by date.
- Proposed parking arrangements are questioned.
  - At the further information stage, car parking provision was increased from 162 spaces to 176 spaces along with 70 bike spaces. Parking provision should have been reduced at this point. The development does not comply with the NPF or Building Height Guidelines 2018.
  - A reduction in parking provision, to 1 space per house and no spaces for apartments would be appropriate, in the context of the provisions of the 2018 Apartment Guidelines.
  - Some provision could be made for car sharing
  - The level of parking provided to the creche is questioned.
  - The proposed layout appears to provide for additional, informal parking.
- Assessment of visual impacts is inadequate, with reference to the lack of photomontages and contextual drawings.
- Flood risk
  - The application should have been referred to Irish Rail, with reference to flooding issues, but it does not appear to have been. Irish Rail's previous requirement for fencing off of the stream adjacent to the site may impact on otter movements and may create upstream flood issues
  - The Planning Authority's assessment of the application suggests a lack of information on which to base a full assessment.
  - Substantial development upstream of the site is envisaged and any flood issues presented by this development could become more acute.

- It appears from the further information response documents that there was close liaison between the applicant and Planning Authority and that Planning Authority staff were involved in shaping the response, prior to formal submission.  
Reference is made to the case of *Illium Properties Limited v Dublin City Council [2004] IEHC 327*.
- Water Quality
  - Much of the River Boyne fails to achieve Good water quality status. Measurements most recently taken upstream of Navan WWTP outfall achieved Poor status in 1997 and monitoring was abandoned in 2004. It is questioned why monitoring at this location was abandoned.
- Appropriate Assessment
  - There is no evidence of a structured and systematic appropriate assessment having been carried out by the Planning Authority.
  - Reference is made to *Kelly v An Bord Pleanala [2014] IEHC 400*, in respect of the legal test for appropriate assessment screening. Reference is also made to *Balscadden Road SAA Residents Association Limited v An Bord Pleanala [2020] IEHC 586*, in the context of the impact of construction works.
  - Salmon, listed on the conservation objectives for the Boyne, is at 17% of its conservation limit, with numbers declining. No information has been provided in relation to the status of Lamprey and Otter within the Boyne.
  - There is a nutrient sensitive zone within the Boyne, in proximity to the site. The area is also designated under the Salmonoid River Regulations (S.I. 293/1988).
  - The development will impact on species of interest at the construction phase, related to construction activity, and at the operational phase, including through nuisance caused by domestic cats
- Consideration has not been given to the cumulative environmental impacts of the development, together with other recently consented housing developments, in the context of a requirement to undertake EIA.
- Road Safety

- The proposed layout along the Boyne Road frontage presents risks to motorists and cyclists. The Pinnacle Consulting Engineers report dated 25/11/20 recommended that an internal service lane should be provided to accommodate units 1-8, having identified road safety issues.
- Drawings submitted in respect of road layouts are not dimensioned, so to allows layout aspects to be assessed.
- The previous Inspector identified that there is a single footpath connecting the site to the town centre, but did not carry out an assessment of its adequacy. The application also does not assess adequacy. The width of the footpath reduces to 1.3m in places and is too narrow to facilitate safe use.
- It is questionable whether the development is premature, pending the delivery of a railway crossing as part of a relief road connecting Boyne Road and Kentstown Road. It is unclear when this road will be provided.
- Impact on Boyne Factory Village
  - The appellant owns an interest in this property.
  - Works along the L34003 would cause extensive disruption to the Factory complex.
  - No construction details or timetable for the works have been provided.
  - No swept path analysis drawings have been provided to demonstrate the adequacy of the new L34003 layout. The Factory Complex is accessed by articulated trucks.
  - The L34003 cannot be viewed merely as a residential street.
  - Redevelopment of the Factory complex may be beneficial, in the context of the draft development plan, but this required access to sewage services. The current proposal does not indicate how it facilitates a redevelopment at the Factory complex.

#### Appeal by Stephen and Rachel Flanagan

- The Planning Authority failed to prevent overlooking of existing housing from the proposed development.

- The development is concentrated adjacent to existing single storey housing rather than taking a stepped approach.
- The proposed creche could have been located adjacent to the existing single storey housing, to protect residential amenity and to provide a transition to higher density development.
- It appears that Planning Authority staff were involved in shaping and guiding the revised design of the development.
- The previous application was more sensitive to existing residential amenity.
- Assessment of visual impacts is inadequate, with reference to the lack of photomontages and contextual drawings.
- Flooding on the subject site may impact the appellants' lands, which are adjacent, along with other lands in the vicinity. The request from Irish Rail to fence off a stream may extend flood risk and may obstruct otter.
- It is questioned whether the planners overruled the engineers in relation to the issue of flood risk, where the engineer's report suggested a lack of information on which to base a full assessment.
- The approach to appropriate assessment and environmental impact assessment were inadequate.
- Much of the River Boyne fails to achieve Good water quality status. Measurements most recently taken upstream of Navan WWTP outfall achieved Poor status in 1997 and monitoring was abandoned in 2004.
- The appellant owns an interest in Boyne Factory Village and works along the L34003 would cause extensive disruption to the Factory complex. No construction details or timetable for the works have been provided and no swept path analysis drawings have been provided to demonstrate the adequacy of the new L34003 layout.
- Redevelopment of the Factory complex may be beneficial, in the context of the draft development plan, but this required access to sewage services. The current proposal does not indicate how it facilitates a redevelopment at the Factory complex.

- An oral hearing is requested.

#### Appeal by Liam and Margaret Davis and Patrick and Madeline Brennan

- The development would impact on the established low density character of the area.
- 2 or 3-storey apartments/duplexes will reduce privacy, overbear and will restrict light.
- Cars parked along the L34003 will obstruct access to properties along the road.
- The development will lead to road safety and traffic congestion issues. The layout of access points may also lead to anti-social behaviour.
- The development will lead to increased noise and environmental pollution.
- The development will devalue property.
- The development will generate nuisance issues such as noise, dust, dirt and air pollution.
- The applicant did not engage with the appellants in respect of the proposed layout adjacent to their property.
- It is questioned why existing site boundaries cannot be retained.
- It is questioned whether Meath County Council has undertaken any flood risk assessment, given the growth in the Johnstown/Athlumney/Farganstown areas.

## **6.2. Applicant Response**

6.2.1. The applicant responded to each of the third party appeals in a submission received on 29<sup>th</sup> March 2021, the contents of which can be summarised as follows: -

- Overlooking, overshadowing and overbearing
  - The proposal fully respects the residential amenities of neighbouring occupiers, in respect of scale and massing and orientation, north and east of the concerned properties.

- The referenced 22m separation distances relate to direct window-to-window overlooking. The revised layout of units 58-69 provides back garden depths of minimum 12m, which respects existing dwellings in the locality.
- Principal habitable rooms are at ground floor level and first floor uses are bedrooms. A 2m block wall along rear boundaries will prevent overlooking.
- The quoted section of the Essex Design Guide is taken from 'Criteria for placing buildings at densities over 20 dwellings per hectare' and it refers to back to back relationships. The section further states that where new houses are at an angle of greater than 30° to the existing, proximity may increase proportionately down to 1m. The faces of the new houses are 90° from the rear face of the existing neighbouring cottage.
- Cognisance has been taken of neighbour concerns on the previously refused application, where a gable end unit had presented more proximate to the appellants' cottage. The proposed separation distance is increased and is an improved scenario.
- Regarding attic spaces, the units are as described within the public notices and will be required to be constructed as they have been proposed.
- Regarding overbearing, further modelling has been undertaken in respect of the relationship between existing and proposed housing.
- Consideration has been given to the Board's previous concerns. Achievement of the requisite density and a more informed and respectful layout benefits existing and future residents in the area.
- Regarding the appellant request to locate open space and the creche in this area, this would undermine the centralised accessible open space and would attract additional traffic, associated with the creche.
- Bin storage is intended to break up long runs of parking spaces.
- Regarding concerns over the absence of a life-long living approach, the appellants fail to identify that there are own-door ground floor units within blocks A & B, which provide for life-long living.

- The appellant suggestion that a density of 45+ units per hectare should be provided runs counter to their submissions associated with reduced scale and density associated with the site's locality and context.
- The appellants' citation of NPF objective NPO13 is welcomed as it emphasises flexible application of standards to achieve high-quality outcomes.
- Regarding the suggestion that reduced parking should be provided, this aspect was informed by input from the Planning Authority.
- To address concerns over flood risk (including condition No. 2 of the Council's decision) a site specific flood risk assessment has been provided as part of the appeal response, prepared by Kilgallen & Partners.
- The applicant engaged with the Planning Authority at the pre-planning and further information stages. This approach is common practice, to ensure that proposals accord with adopted policies and procedures. The process is not biased in any way towards the first party.
- The application included an appropriate assessment screening report and natura impact statement, prepared by professional ecologist staff at SLR consulting. SLR has also had input into the preparation of a CEMP. There will be no adverse effects on the integrity of the River Boyne and River Blackwater SAC/SPA complex arising from the development.
- Density calculations have been presented consistently. Areas excluded from development (e.g. public open space zoned lands and the watercourse) have been omitted.
- The appellant raises valid concerns regarding pedestrian linkages to the town centre, but these are outside of the applicant's control. The Planning Authority's conditions presented a practical solution, requiring the provision of a pedestrian crossing to allow access to the footpath on the north side of Boyne Road. This significant infrastructure is an enhancement benefitting the wider area.
- Issues relating to vehicular access have been resolved to the satisfaction of the Planning Authority.

- Regarding works to the L34003, it is the applicant's intention to work with neighbours and programme construction works accordingly, with no intention to disrupt access. The development seeks to widen and enhance the local road, which should improve accessibility for articulated trucks. The previous Inspector's report did not see an obstruction of business activities as a material planning consideration.
- The applicant will comply with conditions controlling construction hours and will utilise dust suppression techniques, as outlined within the CEMP.
- Additional CGIs, a flood risk assessment and revised drawings have been provided as part of the submission.

### **6.3. Planning Authority Response**

6.3.1. The Planning Authority made a submission on 24<sup>th</sup> March 2021, the contents of which can be summarised as follows: -

- All matters raised within the appeals were considered in the course of the assessment of the planning application, as detailed in the planning officer's reports
- The proposed development is considered to be consistent with the proper planning and sustainable development of the area.

### **6.4. Observations**

6.4.1. Cllr Francis Deane made a submission on 18<sup>th</sup> March 2021, the issues raised within which can be summarised as follows: -

- The Navan development plan dates from 2009 and high-density development at height was not envisaged as per the 2018 Building Height Guidelines and the observer has not had an opportunity to review the development plan, in relation to these Guidelines.
- Applying these Guidelines, when Councillors have not had an opportunity to revise a development plan undermines the democratic process.

- It is suggested that the subject site should be developed under the new county development plan 2021-2027, rather than the Navan development plan, as this would have allowed Councillors to have considered compact growth principles and the 2018 Guidelines.
- There is a deficiency in infrastructure in the vicinity of the site, in terms of roads and footpaths. In the new reality of constrained exchequer funding, it may be necessary to reassess the priorities and location for development, as new supporting and enabling infrastructure may not be fundable.
- Concerns are expressed regarding the affordability of homes.
- Much of the educational and community infrastructure in the area is west or north of the Boyne River, or within 1km of the Town Centre. If there is to be high-density, taller buildings, they should be located beside public transport links, employment centres and educational and community infrastructure.
- Optimal results for the redevelopment of urban areas will be achieved by way of an integrated design approach, to make best use of land and the range of infrastructure that supports urban life.

## 6.5. Further Responses

6.5.1. None.

## 7.0 Assessment

7.1. Having inspected the site and considered the contents of the appeal, I consider the main planning issues in the assessment of the proposed development are as follows:

- Principle of development;
- Density and layout;
- Road safety;
- Residential amenity;
- Impact on neighbouring residential occupiers;
- Open Space;

- Flood risk and drainage;
- Parking and access
- Other issues;
- Appropriate Assessment

## 7.2. Principle of development

7.2.1. The new Meath County Development Plan 2021-2027 was adopted by the County Council following the submission of this appeal and it took effect from 3<sup>rd</sup> November 2021.

7.2.2. The development plan contains a zoning map for Navan and the subject site is zoned 'A1- Existing Residential', with an objective '*to protect and enhance the amenity of developed residential communities*'. Residential development is permissible under the zoning.

7.2.3. Navan is identified by the new development plan as the largest settlement and primary growth centre in the County and it is allocated a substantial portion of planned housing growth over the new development plan period, reflecting the Council's intention to increase critical mass within the town as part of its overall development strategy.

7.2.4. I also consider Objective CS OBJ 4 is relevant to the appeal, where it supports the development of infill and brownfield/regeneration sites and the redevelopment of underutilised land within and close to the existing built-up footprint of existing settlements, as a means of achieving more compact growth. The subject site is an infill site within the built-up area of the town.

7.2.5. In view of the above, I am satisfied that the proposed development is acceptable in principle, subject to consideration of compliance with other planning policies and objectives.

## 7.3. Density and Layout

7.3.1. The applicant states that the current proposed development is presented in recognition and acknowledgement of the Board's previous refusal on the site (appeal Ref. ABP-304744-10 refers) and that the proposal provides for (a) an increased residential density, (b) a more diverse range and mix of unit types and sizes and (3)

an improved layout to provide better access and integration with the centralised open space area.

- 7.3.2. The Board's refusal Order on the previous appeal stated that the development would result in the creation of a low density development that lacked variety in terms of a mix of units, arising from the predominance of 3 and 4-bed houses. The Order further stated that the development resulted in a poor design concept, resulting in a lack of integration and connectivity to the open space in particular for the 12 number units fronting onto the local road (L34003) and a lack of permeability for pedestrians and cyclists.
- 7.3.3. The development incorporates a residential density of 35.7 units per hectare and the applicant states that this density allows for the maximisation of the economic use of land resources and the available serviced infrastructural connections. The applicant also states that the net density (excluding land within the 10m maintenance strip parallel to the stream) is 38.66 units per hectare.
- 7.3.4. The third party appellants each raise concerns in respect of the proposed density, particularly as it relates to the site layout around the perimeter of the site, which it is considered would impact on the established low density character of the area, whilst the appeal by Michael and Maree Flanagan also makes a contradictory case, that the residential density should be in the range of 45 units per hectare.
- 7.3.5. The Planning Authority's submission states that the development is considered to be consistent with the proper planning and sustainable development of the area.
- 7.3.6. Section 5.1.3 of the written statement for Navan within the new development discusses the issue of residential densities and it outlines that, for town centre or strategic locations in the town, high densities of up to 45 units per hectare, and that remaining lands should be development at up to 35 units per hectare. As the site is not within the town centre and is not in a strategic location, I consider the 35 units per hectare limit to be applicable. I would also note that the development plan's approach is consistent with the recommendations of the Guidelines for *Planning Authorities on Sustainable Residential Development in Urban Areas* (2009), which for 'Outer Suburban/Greenfield' sites recommends densities of 35-50 units per hectare.

- 7.3.7. I have given consideration to the concerns expressed by the appellants but, in this instance, the site is identified for residential development and the proposed density is consistent with the development plan's stated approach to residential densities. In this context, and in view of the recommendations of the Guidelines for *Planning Authorities on Sustainable Residential Development in Urban Areas*, I consider that a residential density of approx. 35 units per hectare is acceptable.
- 7.3.8. Regarding the site layout, the appellants cite concerns, including in relation to building heights, the extent of parking provision and the absence of life-long housing from the apartment/duplex component. A common issue within each of the appeals is the impact of the development on the residential amenity of adjacent houses along the L34003, with one appellant expressing the view that open space should have been provided in the area adjacent to the south-west boundary, to offset the impact of the development on neighbouring occupiers.
- 7.3.9. The site layout was amended at the further information stage, following requests from both the Planning and Transportation departments for amendments to a number of aspects of the development. The layout now takes the form of 3 broad housing areas, separated by a central area of open space and the internal road network. The apartment and duplex units are contained within four blocks, adjacent to the east and west site boundaries. Additional open space areas are provided adjacent to the east site boundary, adjacent to Boyne Road north of units 80 and 81 and in the area between apartment blocks B and D. A number of houses are accessed directly from Boyne Road and the L34003. Primary access to the site is from Boyne Road, with a secondary access from the L34003.
- 7.3.10. Irish Rail's submission on the application requested that no development should take place within 7m south-east of the nearest running edge of the rail and no building should be constructed within 4m of the boundary, in order to ensure that property maintenance can be undertaken without requirement to enter onto Irish Rail's lands. Apartment block C, the closest building to the rail line is set back a minimum of 6.7m from the site boundary and all other housing is set further away from the boundary.
- 7.3.11. The application documents outline that there are four house-types (1-bed, 2-bed, 3-bed and 4-bed), with five variations on same, with an accompanying mix of 1, 2 and

3-bed apartments and duplexes. The applicant states that this represents a sustainable variety and mix of unit sizes and types.

- 7.3.12. I have given consideration to the proposed layout, in the context of the assessment criteria set out within the Urban Design Manual. In general terms I consider the proposed site layout is acceptable, incorporating an appropriate density, an acceptable mix of housing types and sizes, accessible and central public open spaces and permeability and connectivity options. However, I have concerns regarding the proposed carriageway widths and parking layout.
- 7.3.13. The provision of the majority of parking spaces as perpendicular spaces involves the provision of 6m wide carriageways throughout the site. I consider such carriageway widths are inappropriate for a local street design setting and are likely to result in the carriageway and parking bays dominating the streetscape. DMURS advises that a 6m wide carriageway is '*generally too wide for local streets*'<sup>2</sup> and provides advice on perpendicular bay design amendments which can be incorporated, in order to narrow the carriageway width. For example, this could involve kerb build-out forward of the parking bank, to narrow the carriageway, or widening the perpendicular spaces. Both options would provide for the necessary manoeuvrability, whilst reducing the carriageway width. Should the Board be minded to grant permission, I would recommend a condition be attached requiring the detailed layout of the internal road network and parking layout be agreed with the Planning Authority and that it should incorporate DMURS place-making principles. Allied to this, given the proliferation of perpendicular parking, I consider landscaping is required in frontage areas and in available spaces between parking bays, to assist in place-making, and I would recommend a further condition be attached, requiring that landscaping proposals should be submitted and agreed with the Planning Authority prior to the commencement of development.
- 7.3.14. I do not share the appellant and observer concerns regarding proposed building heights. The development incorporates 2-storey housing (some units contain accommodation within the roof), with ridge heights of approx. 10.8m-10.9m, and apartment blocks with uniform flat roof heights of 9.5m. The design and height of proposed houses in particular is commonplace, as part of contemporary housing

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<sup>2</sup> Design Manual for Urban Roads and Streets, Section 4.4.9 'On-Street Parking and Loading', Page 121.

development and, in my opinion, it would be unjustified to refuse the development on the basis of these proposed building heights. I consider the key issue in respect of the design of proposed housing in this instance is the potential residential amenity impacts, i.e. overlooking, overshadowing and overbearing, and as is set out elsewhere in this report, I do not consider that any such significant or undue impacts arise with the development.

7.3.15. Regarding the appellant contention that open space should have been provided in the area adjacent to the south-west boundary, the circumstances of this development require that the development must be set away from the east site boundary and the requested approach would further reduce residential density within the site, resulting in an inefficient use of serviced and zoned land. As is set out elsewhere in this report, I do not consider the level of overlooking of the neighbouring properties along the L34003 would be of such significance that a refusal of permission would be justified and, in this context, I do not support the argument that there should be an area of open space located adjacent to the shared boundary with these properties.

7.3.16. Concerns have also been expressed that the Planning Authority's assessment of visual impacts was inadequate and that there were inadequate photomontages and contextual drawings provided. I am satisfied that adequate information has been submitted, on which to complete my assessment. Regarding visual impacts, this part of Boyne Road is currently characterised by traditional and low-density housing on generous plots. It is inevitable that a contemporary housing development will be a noticeable addition to the locality but I do not consider the development would have any material or undue visual impact on the area. The proposed buildings are each of a contemporary design, which are of their time and the scale and density of development are also reflective of contemporary housing developments.

#### **7.4. Road Safety**

7.4.1. The appeal by Michael and Maree Flanagan raises concerns in relation to road safety, arising from the provision of direct accesses to units 1-8, arguing that the proposed layout along the Boyne Road frontage presents risks to motorists and cyclists.

7.4.2. As has been set out, the development was amended at the additional information stage, in particular to reorganise the means of access to units 1-8, which are now accessed directly from Boyne Road. This followed a request from the Transportation department, which, in its initial report on the application, outlined a desire to incorporate more frontage onto Boyne Road, to facilitate passive surveillance and to promote a sense of personal security to pedestrians.

7.4.3. Issues associated with this rearranged access are considered within a Quality Audit, provided as part of the additional information response and prepared by PMCE Consultant Engineers. Section 3.4.7 of the Audit addresses the issue of frontage access to units 1-8 and states: -

*'Residents will be required to reverse out of, or reverse into, their private parking spaces on what is considered a busy road. Where drivers are performing these manoeuvres, particularly where they are required to reverse with limited visibility into a busy road in the AM or PM peak, there may be an increased risk of the driver entering the Boyne Road when it is unsafe to do so, leading to a side-on collision with a vehicle or cyclist.'*

*Also, it's unclear if the provided visibility splay would be sufficient as its for 50kph road however the Boyne Road speed limit changes from 50kph to 60kph immediately east of the proposed development. Additionally it is unclear what boundary treatment will be provided between the driveways and if it will impede visibility*

*Recommendation: An internal service lane should be provided to accommodate these 8 No. properties.'*

7.4.4. An Exception Report was also provided at the additional information stage, prepared by Pinnacle Consulting Engineers, which responds to the issue identified by the Quality Audit and rationalises the reasons for not incorporating its recommendation. In particular, it highlights recommendations within UK guidance, the *Manual for Streets*, for frontage vehicle access proposals and justifies the proposal in the context of this guidance.

7.4.5. I agree with the Transportation department, that frontage accesses would facilitate passive surveillance, promoting a sense of personal security to pedestrians, and I also consider frontage accesses would assist in place-making, transitioning this

section of Boyne Road. But this approach requires consideration of potential road safety implications.

7.4.6. DMURS provides detailed guidance on street design and, of relevance to this appeal, it promotes the integration of street design into place-making. It highlights the effects of segregating roads, eliminating access and frontage along roads, and it makes an important point that *'If the design of a street creates the perception that it is safe to travel at higher speeds drivers will do so, even if this conflicts with the posted speed limit.'* Section 4.1.2 relates to 'self-regulating streets', advocating for the use of place in managing movement and referring to approaches within the *Manual for Streets*.

7.4.7. DMURS does not provide assessment factors to inform the assessment of frontage access proposals and, in this context, I have given consideration to the factors discussed within the UK *Manual for Streets*, together with the applicant's responses to same, which can be summarised as follows: -

- The site is within the controlled 50km/h speed limit area
- The junction of Boyne Road and Athlumney Road had an AM peak hour volume of 184 PCUs and a PM peak hour volume of 103 PCUs, when measured on 18<sup>th</sup> October 2018.
- It is not possible for cars to turn internally, within their front garden.
- There is a 3m buffer between the driveway and carriageway (3m wide combined footpath and cycle path).

7.4.8. Regarding traffic speeds on Boyne Road, the site is within the 50km/h zone but the 60km/h zone commences at the east site boundary. Visibility splay drawings for houses 1-8 have not been provided however, I am satisfied that acceptable visibility splays can be provided in accordance with DMURS recommendations for a 60km/h zone, given the relatively straight alignment of Boyne Road in this area.

7.4.9. Regarding traffic volumes, having analysed the traffic count data contained within the Traffic and Transport Assessment, I would consider the AM peak volume to be 257 PCUs and the PM peak volume to be 258 PCUs (this accounts for 2-way flows from the junction of Athlumney Road and Boyne Road).

- 7.4.10. Section 7.9 of the *Manual for Streets* refers to a relatively low limit on traffic flow (300 vehicles per peak hour or some 3,000 vehicles per day) as having previously been used when deciding whether direct access is appropriate. I also note that Section 7.9.5 recommends that the limit for direct access in a 30mp/h (50km/h) zone should be increased to 10,000 vehicles per day.
- 7.4.11. In this instance, the AM and PM peak traffic volumes are within the low traffic flow range discussed by the *Manual for Streets*. Taken together with the provision of acceptable visibility splays in both directions, I am inclined to agree with the conclusion of the Exception Report, that direct access to units 1-8 is appropriate. Should the Board be minded to grant permission, I would recommend a condition be attached requiring the detailed layout of the frontage accesses to units 1-8 be agreed with the Planning Authority.

## 7.5. Residential Amenity

- 7.5.1. The development contains a mix of 56 No. houses and 35 No. apartments. Updated schedules of accommodation for each of the apartment and house components were provided at the further information stage, following revisions to the site layout. The schedules outline key aspects of the internal layout, together with private open space provision, in the context of relevant minimum requirements.

### Proposed houses

- 7.5.2. Regarding the proposed houses, the development plan does not specify a standard in respect of internal layout. I have therefore given consideration to the target recommendations contained within *Quality Housing for Sustainable Communities* (2007). Each of the proposed houses achieves or exceeds the target recommendations contained in Section 5.3.2 and Table 5.1 of these guidelines.
- 7.5.3. In terms of private open space, all houses are provided with private open space which achieves or exceeds the development plan minimum requirements as set out in Table 11.1.

### Proposed apartments

- 7.5.4. Regarding the proposed apartments, compliance has been demonstrated with key aspects of the *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities* (2020) in relation to the mix of units, the size and

internal layout of each unit, orientation and the level of private open space provided. I note the schedule identifies that the combined living area for apartment unit No. 75 would fall below the minimum requirement of 30sqm, but this appears to be an error, where the floor plan drawing identifies that the minimum requirement is exceeded.

7.5.5. Section 11.5.16 of the development plan states that daylight and sunlight levels should accord with the recommendations of *Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice* (B.R.209, 2011), and any updates thereof.

7.5.6. Section 3.2 of the *Urban Development and Building Heights Guidelines for Planning Authorities* (DHPLG, 2018) outlines a series of criteria which are to be applied in the consideration and assessment of proposed building heights and, of relevance to the issue of daylight and sunlight, it states that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's '*Site Layout Planning for Daylight and Sunlight*' (2nd edition, 2011) or BS 8206-2: 2008 – '*Lighting for Buildings – Part 2: Code of Practice for Daylighting*'. The Guidelines go on to state that: -

*'Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives.'*

7.5.7. Section 6.6 of the Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2020 also state that planning authorities should have regard to these BRE or BS standards.

7.5.8. I note that an updated British Standard (BS EN 17037:2018 '*Daylight in Buildings*'), was published in May 2019, to replace the 2008 BS, but this updated guidance does not have a material bearing on the outcome of the assessment and the relevant guidance documents remain those referred to in the *Urban Development and Building Heights Guidelines*.

7.5.9. In relation to the BRE 209 guidance, with reference to BS8206 – Part 2, sets out minimum values for average daylight factor (ADF) that should be achieved, these are

2% for kitchens, 1.5% for living rooms and 1% for bedrooms, or where a room has a dual purpose the higher ADF value is recommended. ADF is the ratio of the light level inside a structure to the light level outside of structure, expressed as a percentage. Section 2.1.14 outlines that non-daylit internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well-daylit living room. The guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout, although it states that where a room serves a dual purpose the higher ADF value should be applied. The BRE guidance is intended to be applied flexibly, and is only one consideration in apartment/house design. For apartments, or higher density urban schemes, an ADF of 1.5% is considered to be a reasonable target where compensatory design features such as balconies, aspect, outlook, etc. are factored in. In this instance, as the scheme is not particularly dense and of lower heights, an ADF of 2% is considered to be a reasonable target.

- 7.5.10. No daylight and sunlight assessment report was submitted with the application, so I have not been able to confirm that the relevant standards within both the BRE and BS guidance have been achieved. Notwithstanding, I have given consideration to the issue of sunlight and daylight within proposed apartments, in the context of guidance contained within both the BRE and BS guidance.
- 7.5.11. 30 (90%) of the apartments are dual aspect and there are no single aspect, north-facing apartments. Each of the apartments contains a combined kitchen/living/dining layout, whilst the duplex units are provided with a separate living room.
- 7.5.12. Unit Nos. 25, 30 and 35 are the single aspect units, facing east, and they each contain a non-daylit kitchen. In each instance, in accordance with the BRE advice, the affected kitchen is directly linked to a well-daylit living room. The level of light penetration through to the affected kitchen areas is likely to be reduced for each of these units. I would note that the ADF for rooms is only one measure of the residential amenity that designers should consider in the design and layout, and to this end, I am satisfied that the applicant has endeavoured to maximise sunlight/daylight to these 3 apartments, through the incorporation of large-scale glazing (section drawing No. 181608 FI shows 2.3m high windows to affected units) within the living room portion of the room. I would also note that there will be

challenges for urban developments such as this, in meeting the 2% ADF target in all instances, and to do so would unduly compromise the design/streetscape and that where this alternate target is not met it is justified and reasonable on the basis of the low number not reaching this target and the quality of the design.

- 7.5.13. The remaining 30 apartments are each dual-aspect, with the main kitchen/dining/living area for each unit provided with multiple window openings.
- 7.5.14. Having regard to the level of separation between the apartment blocks and adjacent housing/buildings, together with the limited height of proposed buildings and the orientation of each apartment, I am satisfied that apartments will receive adequate daylight and sunlight levels.
- 7.5.15. One of the appellants has questioned whether apartment units will provide life-long accommodation, in view of the fact that a number of the units are accessible by stairwell only. I note, in this respect that the applicant points out that there are a number of own-door accessed apartment units incorporated. I am satisfied that adequate provision has been made for life-long living as part of the development.

#### Existing adjacent housing

- 7.5.16. In respect of impacts on neighbouring residential amenity, key aspects of the appeals relate to overlooking, overshadowing and overbearing.
- 7.5.17. I am satisfied that no overshadowing of the closest neighbouring properties will occur, given that the development is north and east of these closest adjacent houses. Overshadowing of houses on the north side of Boyne Road is also unlikely, given the distances between houses. A series of modelled shadow drawings were provided as part of the additional information response, which indicate that shadows cast by the development would be generally contained within the site and would not overshadow the nearest adjacent properties.
- 7.5.18. Regarding overlooking and overbearing, the potential for such impacts lies in the south-west corner of the site and adjacent to the west site boundary, where the closest adjacent existing houses are located.
- 7.5.19. The house on the west side of the L34003, which abuts the site boundary and which is owned by the appellants Michael and Maree Flanagan, has the potential to be overlooked by units 58-69, however; in saying this, the affected house sits close to

its north property boundary and the provision of a 2m boundary wall along the shared boundary will heavily restrict views of the house from within the development. Any such view would be from a single rear-facing bedroom within each of units 58-69. Whilst the adjoining garden is relatively long, the appellant has confirmed that it is partly used for display purposes, associated with their garden shed manufacturing business, and there are also mature trees and hedging on the appellants' side of the boundary, which restrict views of the primary garden area. Taking a balanced view, the development maintains a setback of more than 12m from the shared boundary with this property and I do not consider that potential overlooking would be of such significance that a refusal of permission would be justified.

- 7.5.20. The detached house on the east side of the L34003 adjacent to the south-west corner of the site would be overlooked by bedroom windows within house No. 69, which are within c.10m of the garden. The extent of overlooking would not be significant but as the bedrooms within house No. 69 are provided with primary windows on the front and rear elevations, I would recommend that should the Board decide to grant permission, a condition be attached requiring omission of the first floor west-facing bedroom windows within house No. 69.
- 7.5.21. Block B is a 3-storey apartment block with an east-facing front aspect. Upper floor units face towards the adjacent rear garden on the opposite side of the L34003 but I consider the level of separation between buildings and the presence of mature screening along the side boundary of the adjacent property are sufficient to mitigate the potential for significant or undue overlooking.
- 7.5.22. I do not consider that overbearing issues arise, in view of the primarily 2-storey height of the development adjacent to shared boundaries with the nearest neighbouring properties, the absence of overshadowing impacts and the separation distance between proposed and existing housing.
- 7.5.23. Regarding appellant concerns that conversion of attic spaces within units 58-69 would increase the extent of overlooking, I would point out that attic spaces are not proposed to be converted as part of the development and, initially, should permission be granted, a standard condition on all Board Orders is that the development shall be carried out in accordance with the approved drawings (i.e. attic spaces unconverted). I consider it would be unjustified to refuse permission for the proposed

development, on the basis of concerns regarding the potential conversion of attic spaces within units 58-69 in the future.

## 7.6. Open Space

- 7.6.1. Development plan objective DM OBJ 26 states that a minimum of 15% of the total site area should be provided as public open space. In this instance, there is therefore a requirement for 3,870sqm of public open space.
- 7.6.2. The accommodation schedule provided at the additional information stage states that 5,624sqm (21.7% of the total site area) is provided as public open space. I would question the practical usability of some of the spaces, for example the areas abutting Boyne Road, but in saying this, the two primary open space areas have a combined area of 3,785sqm. The open space area adjacent to the east site boundary is peripheral, but I acknowledge that this is a function of the need to maintain a 10m setback from the stream (as requested by the Water Services department). In the circumstances, and where it is overlooked by housing, it is acceptable. The site layout drawing does not distinguish between the different types of open space being provided. Should the Board decide to grant permission, I would recommend a condition be attached requiring the detailed layout of the public open spaces (including play spaces) to be agreed with the Planning Authority.
- 7.6.3. I note that at the additional information stage the Planning Authority questioned the extent of likely overshadowing of open spaces areas, caused by apartment buildings, and that, as part of the AI response, a number of shadow drawings were provided, which demonstrated for the 20<sup>th</sup> March modelled scenario that both of the primary public open space areas and the communal open space areas would each receive more than the 2 hours of sunlight over 50% of the garden recommended by BRE (2011).
- 7.6.4. There is also a requirement for 221sqm of communal open space, associated with the apartment component of the development. The applicant states that a total of 396sqm of such space has been provided, comprised of individual spaces to the rear of each block. Whilst the overall quantum meets the requirement, I would question the practical usability of the spaces identified for blocks B and D in particular. In circumstances where the quantum of public open space exceeds the minimum requirement, I consider it would be more appropriate to provide the entire space

between Blocks B and D as communal open space, rather than public open space. This can be controlled by condition, should the Board decide to grant permission.

## 7.7. Flood Risk and Drainage

### Flood Risk

- 7.7.1. Available CFRAMS mapping indicates that the eastern-most part of the site falls within Flood Zones A and B. The Environment (flooding) department requested in its initial report that a site specific flood risk assessment and associated justification test should be provided and, when this request was not addressed, the department concluded that it did not have sufficient information on which to make an informed decision. Condition No. 2 of the Planning Authority's decision thus required the submission of a site specific flood risk assessment, prior to the commencement of development.
- 7.7.2. Irish Rail's submission on the application suggested that the stream should be fenced off under railway bridge UBK44, to prevent unauthorised access.
- 7.7.3. The applicant has provided a flood risk assessment as part of their response to the appeals, prepared by Kilgallen & Partners Consulting Engineers. The FRA states that the site is at marginal risk of fluvial flooding in the 0.1% and 1% flood events. The stream routeing parallel to the east site boundary (described within the FRA as The Mill Stream), is stated as showing evidence of having been dredged in the past and it is acknowledged that this suggests it may have given rise to flood risk in the past. Pre-development modelling of the site indicates that the site is affected by both Flood Zones A and B, along a corridor adjacent to the stream. In applying the modelled flood scenario to the proposed layout, the assessment shows that elements of the proposed development encroach into the flood zones. House No. 8 is the only housing unit shown to encroach within Flood Zone B, whilst apartment Block C is close to the Flood Zone B extent. Parts of the public open space and parking/circulation areas are shown to fall within both Flood Zone A and B.
- 7.7.4. The FRA proposes compensatory storage, in order to offset the loss of floodplain storage. Compensatory storage is to be provided by reprofiling ground levels immediately adjacent to the stream, in effect creating a swale. An analysis of flood plain storage in pre and post-development scenarios indicates that floodplain storage

would be larger post-development and that it can be expected to have a beneficial impact on flood risk elsewhere.

7.7.5. Section 3.3.1 of the Technical Appendices of *The Planning System and Flood Risk Management Guidelines* (DOEHLG, 2009) discusses compensation and, of relevance to this appeal, it discusses direct compensation methods which generally comprise of regrading of land to provide a direct replacement for lost storage volume. The section advises that the compensatory volume must be at the same level (within reasonable working limits) as the lost storage and ideally new areas of floodplain should be outside of Flood Zones A and B. The Section outlines that the basic requirements for compensatory flood plain storage are : -

- A volume of flood plain equal to that lost to the proposed development should be created;
- The equal volume should apply at all levels between the lowest point on the site and the design flood level. Normally this is calculated by comparing volumes taken by the development and the volume offered by the compensatory storage for a number of horizontal slices through the range defined above;
- The thickness of a slice should be typically 0.1 metres. In the case of large flat sites or very steep sites this may be varied to 0.2 or even 0.05 metres in order to have about 10 slices to compare; and
- Compensatory storage should be provided equal to or exceeding that lost as a result of development for each of these slices

7.7.6. The FRA indicates that these basic requirements have been met.

7.7.7. The compensatory flood storage proposal as designed involves regrading of land levels and this is to be undertaken within the existing flood plain. In the circumstances, where the proposal would provide for a significantly larger storage volume, I consider the approach is acceptable. Should the Board decide to grant permission, I would recommend a condition be attached, requiring the detailed design and layout of the compensatory flood plain to be agreed with the Planning Authority.

7.7.8. The FRA also states that localised finished floor level increases are required, for houses 7-8 and 17-22 (7 houses total), in order to comply with the Flood Risk

Management Guidelines requirement to keep floor levels above the Flood Zone A flood level, with an appropriate allowance for freeboard (a 500mm allowance is applied). The visual impact of these raised FFL will be negligible, where they are each currently below the ridge level of adjacent housing and will remain so.

- 7.7.9. The FRA also contains a Justification Test, prepared in accordance with Section 5.15 of the Flood Risk Management Guidelines.
- 7.7.10. Regarding Irish Rail's submission, I am satisfied that fencing can be installed to control access to the stream, which will have no consequential flood risk impacts for adjoining lands. The design of this fencing can be agreed with the Planning Authority.
- 7.7.11. In conclusion, I consider that subject to implementation of the mitigation outlined above, the development is not at risk of flooding and will not increase flood risk elsewhere in the surrounding area.

#### Foul Water Drainage

- 7.7.12. Foul drainage is proposed to drain to the public network via connection adjacent to the Boyne Road access point. I note that Irish Water did not express any objection to the development, subject to a number of standard requested planning conditions.

#### Surface Water Drainage

- 7.7.13. Surface water will be discharged to the stream adjacent to the east site boundary, via controlled discharge which maintains the existing greenfield run-off rate. Engineering drawing No. 200 identifies that attenuation tanks would be provided within both of the main public open space areas. The additional information response stated that the tanks are sized to accommodate 100% of surface water run-off (i.e. the design assumed that all of the site was developed as hardstanding/impermeable surfacing). The applicant also expressed a desire to provide for on-site infiltration, but stated that infiltration testing could not be undertaken on the site at that time, due to Covid19 restrictions.
- 7.7.14. The Water Services section expressed general satisfaction with the applicant's approach and, to this end, condition No. 8 was attached to the Planning Authority's decision, which amongst other requirements, required the attenuation volume to be agreed prior to the commencement of development.

7.7.15. One of the attenuation tanks appears to be partly located within the compensatory flood storage area. This was not acknowledged by the FRA and it may give rise to conflict in the event of a flood event. The Planning Authority's submission on the appeals did not address this issue.

7.7.16. In the circumstances, where the Planning Authority has agreed to determine the surface water attenuation volume prior to the commencement of development and has also not objected to attenuation tanks being located in public areas (i.e. within areas of public open space), I would recommend that should the Board decide to grant permission, a condition be attached requiring that the surface water drainage proposals, including the location and volume of underground attenuation tanks, should be agreed with the Planning Authority.

## 7.8. **Parking and Access**

7.8.1. I have previously addressed the issue of road safety, associated with direct access being provided to units 1-8 from Boyne Road.

7.8.2. The development incorporates a primary access from Boyne Road, and a secondary access from the L34003. Sightline drawings have been provided, which demonstrate sightlines of 2.4m x 45m from the Boyne Road access and at the junction of the L34003 and Boyne Road, in accordance with the recommendations of DMURS.

7.8.3. For the Boyne Road access, the sightline splay incorporates a section of the front garden of house No. 1 and the east-facing splay from the junction of the L34003 and Boyne Road incorporates part of an on-street parking bay.

7.8.4. For the junction of the L34003 and Boyne Road, there are a number of potential impediments to the sightline splays. West-facing visibility is currently impeded by a timber post and rail fence that bounds the grassed area to the front of the adjacent Cottages, whilst east-facing visibility is impeded by a telegraph pole and public signage which is located in the verge.

7.8.5. I also note that the Boyne Road access layout, which incorporates a raised pedestrian crossing, may create pedestrian/motorist conflict, whereby any vehicle stopped at the junction will block the pedestrian crossing. Section 4.3.1 of DMURS advises that '*Designers should also ensure that the design of vehicle crossovers clearly indicate that pedestrians and cyclists have priority over vehicles. There*

*should be no change in level to the pedestrian footway and no use of asphalt (which would incorrectly indicate vehicular priority across a footpath).'*

- 7.8.6. Achievable sightlines from the secondary access along the L34003 have not been outlined but based on the site layout drawing, the north-facing splay is likely to be impeded by perpendicular parking bays. I estimate the splay measures approximately 2m x 12m, which DMURS advises would be appropriate for a road with a design speed of 10-20km/h. This road is narrow and is lightly trafficked, associated with the 2 detached houses and Boyne Garden Sheds commercial property and it will continue to be lightly trafficked following the development. I do not object to reduced visibility being provided, however; the achievable sightlines are inadequate and the provision of greater distance sightlines will require the omission of a number of parking spaces. As is set out later in this section, the parking ratio for the apartment element is high and the omission of some spaces will allow for greater distance sightlines to be provided.
- 7.8.7. One of the appeals cited concerns regarding the suitability and safety of the existing footpath network along Boyne Road, which connects the site to Navan town centre. There is a footpath on the north side of the road, providing pedestrian access to the town, which I noted on my site inspection varies in width. I do not consider that it is the responsibility of the applicant to upgrade the wider public footpath network and it would be unreasonable for the development should be refused because the footpath has a reduced width in area which are outside of the applicant's control. I note, in this respect, that the Quality Audit recommended that a pedestrian crossing should be provided along the Boyne Road frontage, to allow pedestrians connect to the existing footpath, on the opposite side of the road. I would support this recommendation and I note that its provision was incorporated by the Planning Authority, under condition No. 10 of its decision.
- 7.8.8. Should the Board decide to grant permission, I would recommend a condition be attached requiring the detailed layout of both site accesses and the junction of the L34003 and Boyne Road, including sightlines and the provision of a pedestrian crossing, to be agreed with the Planning Authority and that they should incorporate DMURS principles.

7.8.9. Section 11.9.1 of the development plan contains parking standards and, of relevance to this appeal, its relationship to the proposed development is set out below. I note that for apartments the new development plan has increased the parking allowance, from 1 space per unit to 2 per unit.

	<b>Development Plan standard</b>	<b>Proposed development</b>	<b>Parking provision</b>
Dwellings	2 per conventional dwelling	59 No. houses	118
Apartments	2 per unit	33 No. apartments	66
	In all cases, 1 visitor space per 4 apartments	8.25 visitor spaces	8.25
	Creche	1 per employee & dedicated set down area 1 per 4 children plus dedicated set down area	6 (not including employee parking, where such numbers are not stated)
		<i>Total</i>	<i>198</i>

7.8.10. The development incorporates 176 parking spaces and, as has been stated elsewhere, parking spaces are generally provided in perpendicular bays, with front garden parking spaces identified for units 1-8.

7.8.11. The parking ratio for the apartment element exceeds that recommended by the 2020 Apartment Guidelines, which recommends a benchmark of 1 parking space per apartment unit, with 1 visitor space per 3-4 apartments in peripheral locations such as this. The applicant states that apartments and duplexes with more than 1 bedroom are provided with parking at a rate of 1.25 spaces per unit (24 units provided with 30 spaces). I have previously recommended that greater sightline distances from the secondary access should be provided, which will have the effect of omitting a number of parking spaces from the development along the L34003.

7.8.12. Should the Board decide to grant permission, I would recommend a condition be attached requiring that a parking layout should be submitted and agreed, identifying allocated parking spaces for houses and apartments, in accordance with development plan and apartment guidelines requirements, and with the remaining spaces identified as visitor parking.

## 7.9. Other Issues

- 7.9.1. The applicant states that the proposed creche would accommodate 24 places. As part of the AI response, the location of the creche was revised, it now addresses Boyne Road. The revised location includes identified outdoor space, to the rear of the unit. Proposed hours of operation have not been specified and the nature of the facility has not been stated (i.e. whether it would be full day care, sessional, drop-in or after school care). Should the Board decide to grant permission, I would recommend a condition be attached requiring the applicant to agree the details of operation with the planning authority, together with external boundary treatments.
- 7.9.2. Regarding boundary treatments, Irish Rail's submission on the application requested that a 2.4m block wall should be provided parallel to the boundary with the rail line. A 2m high block wall is proposed along this boundary, which is in my view adequate for the development. The OPW requested that a vehicular access to the stream should be maintained, but this does not appear to have been incorporated into the proposal. I also note that the boundary treatment drawing (No. 1816 PD06FI) contains a number of anomalies, whereby the side of rear garden boundary treatment for a number of boundaries is not identified. Should the Board decide to grant permission, I would recommend a condition be attached requiring the applicant to agree boundary treatments with the Planning Authority.
- 7.9.3. The appeals have raised a wide range of other issues, which I deal with in turn below.
- 7.9.4. The appellants and observer have contended that the Navan development plan is out of date and that the development should have been assessed under the new county development plan 2021-2027. I have given consideration to the development under the new development plan, which contains an updated zoning map and written statement for Navan. I also note that the plan acknowledges the statutory obligation to prepare a new local area plan for the town.
- 7.9.5. Regarding the concerns that the development would devalue property in the area, I have assessed the merits of the proposal and consider that the development would not give rise to any unacceptable overlooking, overshadowing or overbearing impacts. I therefore see no basis for concerns regarding devaluation of property.
- 7.9.6. Regarding the concerns that proposed houses are not targeted at first-time buyers or lower income groups, this is not a material planning consideration, in my view. I am

satisfied that the development incorporates a mix of house types and sizes and, should permission be granted, a condition will be attached to the Board's Order to ensure that Part V obligations are addressed.

7.9.7. Regarding the question as to whether the development should have been a Strategic Housing Development (SHD), considered directly by the Board, this is not a material planning consideration for this appeal, in my view. The development falls below the SHD threshold of 100 housing units.

7.9.8. Concerns have also been expressed regarding impacts on the ongoing operations at Boyne Factory Village and other nuisance impacts for neighbouring residents. The construction methods for this development are likely to be of a standard nature and are unlikely to have a significant or undue impact on neighbouring properties. With particular reference to the impact on ongoing operations at Boyne Factory Village, the matter of road works and (if necessary) road closure at any point can be controlled through a construction management plan, with procedures in place to control such works, in the interests of all affected parties. I would recommend a condition requiring the submission and agreement of a construction management plan, should the Board decide to grant permission.

7.9.9. One of the appellants refers to the judgement from *Ilium Properties Limited v Dublin City Council [2004] IEHC 327*, and questions whether a situation of bias arose in the Planning Authority's assessment of the application, whereby the applicant was invited, as part of the additional information request, to engage with Planning Authority staff to discuss revisions prior to formal submission of a formal additional information response and that revised plans had been approved before the appellants had an opportunity to be heard by way of written submissions on the revised design. The Board will be aware that a further period of public consultation followed the submission of the additional information response, wherein the applicants had an opportunity to make further submissions, prior to a decision being made on the application. I do not consider that any issue of bias has arisen. In any case, the Board is now the competent authority with respect to the appeal and the proposed development has been considered *de novo*.

#### 7.10. **Appropriate Assessment**

##### Appropriate Assessment Screening

### *Compliance with Article 6(3) of the Habitats Directive*

- 7.10.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

### *Background on the Application*

- 7.10.2. The applicant submitted an *Appropriate Assessment Screening Report and Natura Impact Statement* as part of the application, prepared by SLR Environmental Consulting. It provides a description of the proposed development, identifies European sites within a possible zone of influence and identifies potential impacts in relation to the River Boyne and River Blackwater SAC and the River Boyne and River Blackwater SPA.
- 7.10.3. Having reviewed the appeal documents provided and submissions, I am satisfied that there is adequate information in relation to the European sites to allow for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

### Need for Stage 1 Appropriate Assessment Screening

- 7.10.4. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken on any plan or project not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives.
- 7.10.5. The proposed development is not directly connected with or necessary to the management of a European site and accordingly is subject to the provisions of Article 6(3).

### Brief Description of the Development

- 7.10.6. The applicant provides a description of the proposed development at Section 5 of the AA/NIS report. The development is also summarised at Section 2 of this Report. In summary, permission is sought for demolition of an existing single storey dwelling and associated outbuildings and the construction of a development of 92 houses and duplexes/apartments (amended at the additional information stage, from 91 units), public, private and communal open space, car parking and cycle parking, creche

facility, vehicular access from Boyne Road and the L34003, hard and soft landscaping, boundary treatments, footpaths and associated works. The site has a stated area of 2.58ha and is currently greenfield in nature. The site is situated on Boyne Road, approx. 1.5km from Navan town centre. The site is served by the public potable and foul water networks. Foul water is proposed to drain to the public network, via connection on Boyne Road. Surface water is proposed to drain via attenuated discharge to a stream adjacent to the east site boundary, identified by the NIS as the Ferganstown and Ballymacon stream. The site is located approx. 110m and 170m of the River Boyne and River Blackwater SAC and SPA, which lie to the north-west.

7.10.7. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, I consider the following potential impact mechanisms require examination:

#### Construction phase

- The impact of potential surface water discharges from the site on water quality within the European sites.
- Loss or fragmentation of habitat within the SAC and disturbance of species of conservation interest within both European sites.

#### Operational Phase

- The impact of foul and surface water discharges from the development on water quality within both European sites.
- The impact of potential flood water discharges on water quality within both European sites.

#### Submissions and Observations

7.10.8. The submissions from the applicant and the Planning Authority are summarised as Sections 6.2 and 6.3 of this Report. A submission was received from the Department of Culture, Heritage and the Gaeltacht, which commented on the AA aspect.

7.10.9. One of the appellants has expressed concerns that the development will impact on biodiversity within River Boyne and River Blackwater SAC & SPA.

#### European Sites

7.10.10. The development site is not located in or immediately adjacent to a European site. The closest European sites are the River Boyne and River Blackwater SAC/SPA complex, which lie approx. 110m and 170m to the north-west. These European sites are connected to the subject site by the Ferganstown and Ballymacon stream, which runs adjacent to the east site boundary.

7.10.11. The AA/NIS report states that there are no other European sites within a 15km search zone, with the next closest site being the Girley (Drewstown) Bog SAC, which is approximately 17.7km west. The report states that the site is not connected to this European site.

7.10.12. A summary of European Sites within 15 km of the proposed development is presented in the table below.

<b>European Site (code)</b>	<b>List of Qualifying interest /Special conservation Interest</b>	<b>Distance from proposed development (Km)</b>	<b>Connections (source, pathway receptor)</b>	<b>Considered further in screening Y/N</b>
<u>SPA</u>				
River Boyne and River Blackwater SPA (Site Code 004232)	Kingfisher	c.170m	Watercourse at east boundary of site	Y
<u>SAC</u>				
River Boyne and River Blackwater SAC (Site Code 002299)	River Lamprey, Salmon, Otter, Alkaline Fens, Alluvial Forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i> , <i>Salicion albae</i> )	c.110m	Watercourse at east boundary of site	Y

7.10.13. In respect of Screening, the report concludes that: -

*'It is considered that there is potential for effects on features of interest in the River Boyne and River Blackwater SAC (002299) and SPA (004232) as a result of the proposed housing development at Boyne Road, Navan. The significance of the effects on the Natura 2000 sites is uncertain and that therefore the proposed development should progress to the second stage of the appropriate assessment process to determine if adverse effects on the integrity of the Natura 2000 sites are likely.'*

#### Construction phase impacts

- 7.10.14. As has been outlined already, I consider that potential loss of or fragmentation of habitat within the SAC needs to be considered, whilst for both European sites impacts on water quality arising from potential surface water discharges, together with disturbance arising from activity within the site need to be considered.
- 7.10.15. Regarding loss of or fragmentation of habitat, the Screening report outlines that as the development does not involve development within the European site that could result in loss of or fragmentation of the habitats. I am satisfied that there is no potential for significant effects on the SAC and the issue can be excluded at this stage.
- 7.10.16. The Screening report states that Species of Conservation Interest (SCI) within both European sites are at risk from potential surface water discharges from the site, containing suspended solids or pollutants, which have the potential to impact on water quality and subsequently reduce prey availability. The Natura 2000 form for the SAC identifies that it is at 'High' risk from '*pollution to surface waters*' and '*other discharges*.' From the information available to me, I consider there is a risk of significant effects arising from potential surface water discharges from the site and the issue therefore cannot be excluded at this stage.
- 7.10.17. The Screening report states that Otter may be disturbed during the construction phase, due to noise and activity in proximity to the Ferganstown and Ballymacon Stream, whereby individuals using the stream for foraging and commuting may avoid using this part of the stream during construction. Whilst there may be some short-term disturbance during construction, I consider this is unlikely to be a significant effect for the SCI, given the stream is remote from the European site. Movements within the stream are likely to be incidental and any disturbance is

unlikely to have a significant effect on the population. I would also note that Otter using the stream are likely to be accustomed to some disturbance associated with human activity and habitation, given the stream passes alongside a number of existing residential properties on its route to the European site. I consider the risk of disturbance to Otter during the construction phase is low and can be excluded at this stage.

#### Operational phase impacts

7.10.18. As has been outlined previously, I consider that impacts arising from foul and surface water drainage on water quality within the European sites, together with impacts from surface water discharges in a storm event, need to be considered.

7.10.19. Regarding wastewater, as has been outlined previously, effluent will discharge to the public network, connecting to the Navan WWTP approximately approx. 1.3km north-east. Navan WWTP is operated under licence by Irish Water and it treats effluent to a specified level, prior to discharge to the Boyne. The most recently published Annual Environmental Report for the WWTP<sup>3</sup> (July, 2020) states that it has a capacity of 50,000 PE (with capacity to accept additional volumes) and that it is compliant with licensing requirements. Further, the Report states at 2.1.3 that discharge monitoring found that discharge from the WWTP does not have any observable impact on water quality. From the information available to me, I am satisfied that the likelihood of significant impacts on qualifying interests within the European sites arising from foul water discharges is low and can be excluded at this stage.

7.10.20. Regarding surface water, attenuated water is proposed to discharge to the Ferganstown and Ballymacon stream, which is adjacent to the east site boundary, and this stream flows into the European sites, approx. 200m away. The applicant states that surface water drainage proposals have been developed on the basis of accommodating all of the site's surface-water run-off. I consider the risk of pollutants being transferred via attenuated discharge is low and, in the event that a discharge from the site was transferred to the European sites, the quantity is unlikely to be of such a scale that significant effects would arise. I am therefore satisfied that the

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<sup>3</sup> [d0059-01\\_2020\\_aer.pdf \(water.ie\)](#)

potential for likely significant effects on qualifying interests within the SAC and SPA can be excluded at this stage.

7.10.21. Regarding floodwater, proposed regrading works adjacent to the stream bank may cause uncontrolled surface water flows to be transferred to the European sites, in the event of a flood event. However, the stream forms part of the OPW drainage network in the area and it already drains storm water from adjacent lands, including the subject site. The regrading works will increase the volume of storm water stored adjacent to the stream but they will not affect or alter the current means of drainage. The regraded lands are also to be developed as public open space, so are unlikely to contain any pollutants or contaminants which could be transferred to the European sites in a flood event. I am therefore satisfied that the potential for likely significant effects on qualifying interests within the SAC and SPA can be excluded at this stage.

#### In-combination impacts

7.10.22. The NIS states that there are no strategies or objectives in the county development plan or biodiversity action plan that are likely to result in significant in-combination effects. It also states that applications in the immediate are small scale (i.e. domestic extensions, one-off housing, extension of duration permissions, etc) and are considered unlikely to act in-combination with the proposed development.

7.10.23. I have reviewed available planning records in the immediate area and I note that in the time since the application was submitted, an application for a phase 1 housing development of 98 No. houses (application Reg. Ref. 211046) was submitted on 28<sup>th</sup> May 2021. The subject site of that application is c. 500m south-east of the subject site, on the other side of the rail line. An NIS was submitted with the application, which identified that sediment from the site may be discharged to the River Boyne during construction.

7.10.24. The proposed development has the potential to act in-combination with Reg. Ref. 211046, with surface water discharges that contain suspended solids or pollutants having the potential to impact on water quality.

#### Screening Determination

7.10.25. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having

carried out Screening for Appropriate Assessment of the project, it has been concluded that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development, individually or in combination, will have a significant effect on the following European sites.

- River Boyne and River Blackwater SAC, Site Code 002299,
- River Boyne and River Blackwater SPA, Site Code 004232.

#### Stage 2 Appropriate Assessment

7.10.26. The NIS examines and assesses potential adverse effects of the proposed development on the SAC and SPA and was prepared based on a desk study. It is stated to be based on standard methods and best practice guidance and its structure follows the appropriate assessment report template within 'Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites' (EC, 2001).

7.10.27. The NIS concluded that: -

*'The mitigation measures outlined in this report, if fully implemented, are considered to be sufficient to prevent any effect on features of interest of the River Boyne and River Blackwater SAC and SPA. It is therefore considered that, there will be no adverse effects on the integrity of River Boyne and River Blackwater SAC and SPA as a result of the proposed development at Boyne Road, Navan, Co. Meath.*

*Based on the information set out in this report as well as the CEMP and engineering report accompanying the planning application, we submit that the competent authority has sufficient information to allow them to determine that the proposed development, individually or in combination with other plans or projects, will not have an adverse effect on any European sites.'*

#### Appropriate Assessment of Implications of Proposed Development

7.10.28. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

#### European Sites

7.10.29. The relevant European sites for Stage 2 Appropriate Assessment are the River Boyne and River Blackwater SAC (002299) and SPA (004232). This Stage 2 assessment will consider whether or not the project would adversely affect the integrity of this European site, either individually or in combination with other plans and projects in view of the site's conservation objectives.

7.10.30. The main aspects of the development that could adversely affect the conservation objectives of European sites relate to: -

- Impacts on water quality arising from surface water discharges which contain suspended solids and/or pollutants, at the construction stage.

#### Evaluation of Effects

7.10.31. Discharge of surface water during construction has the potential to cause the release of suspended solids and pollutants into the watercourse and the NIS identifies that surface water discharges have the potential affect the SCI within both European sites, i.e. River Lamprey, Salmon and Otter within the SAC and Kingfisher within the SPA. The NIS considers potential effects on each of the stated species of interest, arising from such surface water discharges.

7.10.32. Regarding River Lamprey, reference is made to a 2006 survey of juvenile populations, which determined that the section of the Boyne between Navan and Drogheda had an above favourable conservation status for lamprey populations and habitats. The highest densities of lamprey were recorded in this section of the Boyne. Deposition of suspended solids within gravel areas that may be used as Lamprey spawning grounds would reduce their usability.

7.10.33. Regarding Salmon, reference is made to a survey in 2013, which recorded low numbers of tagged salmon in the area where the Ferganstown and Ballymacon stream joins the main body of the Boyne. Salmon require areas of clean gravel substrates in rivers during the productive and nursery phases of their lifecycle. Salmon also require very good water quality. The release of suspended solids may result in deposition in areas of gravel downstream, that are used by Atlantic salmon and, together potential release of other pollutants, has the potential to reduce water quality within the European sites.

7.10.34. For both Salmon and Lamprey, the NIS states that reduced water quality has the potential to reduce the suitability of the SAC for breeding, whilst also more generally reducing the availability of prey species or aquatic vegetation important to each of the species of conservation interest, thereby reducing the attractiveness of the European sites to these species.

7.10.35. The NIS states that the identified effects may undermine the conservation objectives for each species, through the reduction of water quality and possible effects on the availability and abundance of prey. The integrity of the SAC is likely to be affected, should conservation objectives be undermined by the development.

#### Proposed mitigation

7.10.36. Sections 7.19-7.23 of the NIS set out proposed mitigation, which are contained within the draft Construction Environmental Management Plan (CEMP) submitted with the application and which will ensure that no suspended solids or other pollutants will be discharged to the stream during construction. Proposed mitigation can be summarised as follows: -

- Sediment barriers will be installed to protect the stream. The barriers will consist of: -
  - 2.5m fence with debris / dust netting along the watercourse. This will delineate a 10m buffer zone between the construction site and the stream.
  - A gravel berm will be placed at the base of the boundary fence along the watercourse, to prevent run-off.
- No direct discharges to the stream will take place during construction. Surface water drainage infrastructure, including interceptors and silt traps, will be provided at an early stage of the works and surface water will be directed to this system and will pass through silt traps and settlement ponds before entering the attenuation tank prior to discharge.
- The buffer zone will remain untouched during construction, with vegetation left intact. No machinery will operate within this area.
- Features of the surface water management system designed to capture silt and sediment will be maintained throughout the lifetime of the project.

- Excavated material to be removed from the site will be removed as soon as possible and materials required will be delivered on a 'just in time' basis. Excavated material to be reused on the site shall be stored in spoil heaps in bunded areas.
- Any short-term stockpiles will be located minimum 15m from the watercourse and will be made stable. Stockpiles will be on impermeable surfacing and covered.
- Equipment and machinery will be checked for leaks and/or other contaminants on a daily basis. Equipment likely to introduce contaminants will be removed from site and spill kits will be available to machine operators, who will be trained in their use.
- No refuelling of machines will take place within 15m of the watercourse.

7.10.37. The NIS also states that: -

- The appointed contractor will be responsible implementation of good working practice, including briefing personnel on environmental protection measures and ecological sensitivities, implementation of mitigation measures contained within the NIS, Construction Environmental Management Plan and any site-specific method statements.
- Good work practices within *Guidelines on Protection of Fisheries During Construction Works In and Adjacent to Waters* (IFI, 2016), *Environmental Good Practice on Site Guide* (CIRIA, 2015) will be employed at all times.

7.10.38. The Department of Culture, Heritage and the Gaeltacht's submission also recommended that it should be a condition of any permission that a finalised CEMP should be submitted for the agreement of the Planning Authority, which should include details of measures to protect the stream from pollution.

7.10.39. The proposed mitigation is likely to ensure that no suspended solids or other pollutants will be discharged to the stream from the main part of the construction site. Additionally, I consider further mitigation in the form of water quality monitoring should be undertaken and maintained throughout the construction phase, in order to ensure that other mitigation measures are effective and that water quality within the Ferganstown and Ballymacon stream is not affected by surface water discharges from the site. This can be controlled by condition, should the Board decide to grant permission.

- 7.10.40. The NIS considers development within the main part of the construction site but, it does not consider potential impacts from the proposed land regrading works immediately adjacent to the Ferganstown and Ballymacon stream, which also has the potential to impact on water quality within both European sites.
- 7.10.41. Importantly, the proposed mitigation within the NIS does not take account of the proposals arising from the FRA and it is undermined by the land regrading proposals, which will involve excavation and soil deposition up to the bank of the stream. The proposed regrading works will involve soil scraping and excavation and no details of construction methods or assessment of potential impacts have been provided. The FRA was submitted as part of the applicant's appeal response and its proposals were not taken into consideration by the NIS, which was not updated.
- 7.10.42. Given the very close proximity of the proposed works to the stream bank, there is potential for significant effects on the European sites, arising from discharge of suspended solids or pollutants during construction and, in the absence of details regarding construction methods and proposed mitigation, I am unable to ascertain whether the development would adversely affect water quality within the European sites and/or the integrity of the sites, in view of their Conservation Objectives.

Appropriate Assessment Conclusion

- 7.10.43. 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.
- 7.10.44. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the River Boyne and River Blackwater SAC (Site Code 002299) and the River Boyne and River Blackwater SPA (Site Code 004232). 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.
- 7.10.45. Following an Appropriate Assessment, it has not been ascertained beyond a reasonable doubt that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of European site Nos 002299 and/or 004232, in view of the sites' Conservation Objectives. This conclusion is based on:

- A lack of information on the possible effects of flood risk alleviation measures on the European sites as prescribed as additional proposed development within the Flood Risk Assessment prepared by Kilgallen & Partners Consulting Engineers, as part of the appeal response. This proposal entails land regrading works immediately adjacent to the Ferganstown and Ballymacon stream, in order to provide compensatory flood storage. This additional element of the proposed development was not examined for possible impacts on the European Sites.

7.10.46. Appropriate assessment identified that the proposed land regrading works have the potential for significant effects on these European sites, arising from discharge of suspended solids and/or pollutants to the Ferganstown and Ballymacon stream during construction and, in the absence of details regarding construction methods and proposed mitigation, the likelihood and/or extent of such effects cannot be determined. This is considered a gap in the overall assessment and therefore in the absence of such information, adverse effects on integrity of the European sites cannot be excluded.

## **8.0 Recommendation**

8.1. I recommend that planning permission is refused in accordance with the following reasons and considerations.

## **9.0 Reasons and Considerations**

The proposed development includes land regrading works immediately adjacent to the Ferganstown and Ballymacon stream, which are intended to provide compensatory flood storage. Insufficient information is provided as part of the application in relation to the proposed works and such works are not identified or assessed within the submitted Screening for Appropriate Assessment Report /Natura Impact Statement. The Board is therefore not satisfied, on the basis of the information provided with the application, including the Screening for Appropriate Assessment Report /Natura Impact Statement, that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European site(s) including the River Boyne and River Blackwater SAC

(002299) and the River Boyne and River Blackwater SPA (004232). In such circumstances the Board is precluded from granting approval/permission.

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Barry O'Donnell  
Planning Inspector

10<sup>th</sup> November 2021.