



An  
Bord  
Pleanála

## Inspector's Report ABP-312047-21

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<b>Development</b>	Demolition of existing building, and construction of 58 houses. A Natura Impact Statement was submitted to the planning authority with the application.
<b>Location</b>	Town Parks, Athboy, Co. Meath.
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	2176
<b>Applicant(s)</b>	Lynx Developments Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Lynx Developments Ltd
<b>Date of Site Inspection</b>	30 <sup>th</sup> April 2022
<b>Inspector</b>	Colin McBride

## 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 2.48 hectares, is located in Athboy town centre. The appeal site is occupied by a two-storey vacant dwelling located on Connaught Street with a long narrow site to the rear that links to the main body of the site, which is a field area. Adjoining uses along Connaught Street include two-storey storey dwellings. There is an existing housing development to west and south west of the site consisting of two-storey dwellings (Connaught Place). To the south east of the site is the rear gardens/sites belonging to properties fronting the Main Street (N51) and to the north east is similar agricultural lands. The Athboy River is located a short distance to the north east/east of the site.

## 2.0 Proposed Development

- 2.1. Permission is sought to demolish an existing dwelling and shed and to construct 58 no. dwellings comprising of the following: (A) 10 No. 1 bed single-storey dwellings comprising 4 no. semi-detached units and 2 no. blocks of 3 units.
- (B) 36 no. 2 bed two-storey dwellings, comprising of 6 no. semi-detached units, 6 no. blocks of 3 units and 3 no. block of 4 units.
- (C) 10 no. 3 bed two-storey dwellings, comprising of 6 no. semi-detached units and 1 no. block of 4 units.
- (D) 2 no. 4 bed two-storey semi-detached dwellings.
- (E) Form new service road and entrance onto public road from Connaught Street.
- (F) Form connections to all public services, install foul sewer pumping station, together with all associated site works.
- 2.2 The proposal was revised in response to further information to provide for 50 dwelling units including...
- 10 no. 1 bed single-storey dwellings, 30 no. two bed two-storey dwellings, 8 no. three bed two-storey dwellings and 2 no. four bed two storey dwellings.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission refused based on two reasons...

1. It is the policy (WS POL 29) of the Meath County development Plan 2013-2019 (as varied), "To have regard to the "Planning System and Flood Risk Management - Guidelines for Planning Authorities" (DoEHLG/OPW, 2009) through the use of the sequential approach and application of the Justification Tests for Development management and Development Plans, during the period of this Plan" and policy (WS POL 32), "To ensure that flood risk assessment is carried out for any development proposal, where flood risk may be an issue in accordance with the Planning System and Flood Risk Management – Guidelines for Planning Authorities" (DoEHLG/OPW, 2009). This assessment shall be appropriate to the scale and nature of risk to the potential development".

The Site-Specific Flood Risk Assessment submitted by the applicant has been reviewed with the context of the aforementioned guidelines. The Flood Risk Assessment submitted by the applicant is not sufficiently detailed to enable an appropriately detailed assessment of flood risks associated with the subject site to be carried out by the Planning Authority as is required by the aforementioned guidelines. Therefore, the proposed development, if permitted would be contrary to the aforementioned Ministerial Guidelines and would materially contravene policies WS POL 29 and WS POL 32 of the Meath County Development Plan (as varied).

2. It is a policy (HS POL 1) of the Meath County Development Plan 2013-2019 (as varied), "To encourage and foster the creation of attractive mixed use sustainable communities which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities" and policy (HS POL 2), "To require a high standard of design in all new residential schemes that are built in a style and scale that is appropriate to the landscape setting". Furthermore, proposals for residential development shall be required to comply with Sustainable

Residential Development in Urban Areas (Cities, Towns and Villages), Guidelines for Planning Authorities, 2009.

It is considered that the proposed development by reason of its layout, form, design and failure to comply with the requirements of the Design Manual for Urban Roads and Streets (DMURS) would result in a substandard residential development and would seriously injure the residential amenity of future residents of the proposed development. Therefore, the development would materially contravene the aforementioned policies and Ministerial Guidelines, seriously injure the amenities and depreciate the value of properties in the vicinity, would create an undesirable future precedent for similar types of developments and would be contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

3.2.2. Planning report (09/03/21): Further information required including demonstration the proposal will not impact development potential of adjoining sites, traffic layout issues to be addressed, submission of an archaeological impact assessment, proposals to address flood risk issues, surface water attenuation, and provision of lighting scheme and details of telecommunication services.

3.2.3. Planning Report (27/10/21): It was considered that the applicant failed to demonstrate the site/development would not be impacted by flood risk and the design and layout of the scheme was considered deficient in the context of the recommendations of the Urban Design Manual and the Design Manual for Urban Roads and Streets. The proposal was deemed to be contrary development plan policy. Refusal was recommended based on the reasons outlined above.

#### **3.2.4. Other Technical Reports**

Water Services (11/02/21): Further information required regarding surface water attenuation.

Public Lighting (15/02/21): Further information required including a lighting design for the scheme.

Broadband Officer (15/02/21): Further information including details of how the development is to be serviced telecommunication services.

Transportation (25/02/21): Further information required including amended/detailed proposals for main access junction, amendment to road layout to include additional parking and driveways to accommodate side by side parking.

Environment (09/03/21): Refusal recommended based on flood risk issues.

Irish Water (14/09/21): No objection.

Water Services (14/09/21): Clarification of further information required regarding surface water attenuation.

### **3.3. Prescribed Bodies**

Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media (DAU) (22/02/21): Further information required including submission of an archaeological impact assessment.

Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media (DAU) (14/09/21): No further archaeological requirements.

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

None.

## **4.0 Planning History**

99/1704: Permission granted to demolish an existing dwelling and construct 24 no. two-storey semi-detached dwellings and two blocks consisting of 12 no. apartments and associated site works.

On adjacent sites within the same landholding...

KA/191031: Permission granted for (a) the demolition of 3 No. existing two storey buildings and associated outbuildings. (b) Construction of 2 No. semi-detached two storey buildings along Main Street, Building Type A consists of 1 no. ground floor retail unit (360.3m<sup>2</sup>) and 1 no. 2 bedroom apartment at first floor level (65.3m<sup>2</sup>). Building Type B consists of Restaurant/Cafe at ground floor level with associated office and storage at first floor level (275.1m<sup>2</sup>). (c) Construction of 4 No. detached two storey buildings to the rear of Main Street. Building Type C consists of 1 no. retail unit at ground (123.0m<sup>2</sup>) and 1 no. office unit at 1st floor level (130.6m<sup>2</sup>). Building Type D consists of 1 no. retail unit at ground floor (114.0m<sup>2</sup>) and 1 no. office unit at 1st floor (121.4m<sup>2</sup>). Building Type E consists of 1 no. ground floor retail unit with associated office/storage at first floor level (133.5m<sup>2</sup>). Building Type F consists of 1 no. retail unit at ground floor (123.0m<sup>2</sup>) and 1 no. office unit at 1st floor (130.6m<sup>2</sup>) (d) provide selected shop fronts and signage to each unit. (e) form connections to existing mains foul and surface water sewers and watermain. (f) form new pedestrian only access from Main Street and civic/amenity area to service all proposed units. (g)with all associated site work. This site is located adjoining the entrance to the appeal site and is to be accessed from the same entrance off Connaught Street and access road serving the site.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant Development Plan is the Meath County Development Plan 2021-2027. The appeal site straddles two zonings. The southern part of the site is zoned B1 Commercial Town or Village Centre with a stated objective “to protect, provide for and/or improve town and village centre facilities and uses’. The northern part (main body of the site) of the site is zoned F1 Open Space with a stated objective ‘To provide for and improve open spaces for active and passive recreational amenities’.

Chapter 11 contains the Development Management Standards and Land Use Zoning Objectives.

## 5.2. **Natural Heritage Designations**

The River Boyne and River Blackwater SAC (002299) 176m east.

The River Boyne and River Blackwater SPA (004232) 392m south east.

Girley (Drewstown) Bog SAC (002203) 4.8km north.

## 5.3. **EIA Screening**

The proposal is for 58 no. residential units on a site of 2.48 ha is below the mandatory threshold for EIA. The nature and the size of the proposed development is well below the applicable thresholds for EIA. I would note that the uses proposed are similar to predominant land uses in the area and that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

6.1.1 A first party appeal has been lodged by Lynx Developments Ltd. The grounds of appeal are as follows...

- A full Stage 3 Flood Risk Assessment was submitted with no flood risk to the proposed development. Precedents exist for granting of permission for similar development based on similar assessments of Flood Risk.
- The proposed development complies with the Design Manual for Urban Roads and Streets and there is sufficient precedent for similar development that displays less compliance with DMURS.

- The appellant has included a response from their engineering consultants regarding flood risk and an updated Site Specific Flood Risk Assessment to address the issues in refusal reason no. 1.
- In relation to refusal reason no. 1 the appellant outlines that pre-planning consultation was carried out with the Environmental Department of the Council to discuss the contents of the Site-specific Flood Risk Assessment (SSFRA) and that the document submitted was based on such as well as industry standard format that has been used to assess other developments (listed) and was considered acceptable in scope for assessment of Flood Risk.
- The applicant could have clarified information if required and has provided an updated SSFRA detailing the 1% AEP flood extents. Sufficient information is provided to derive critical flood levels for the site and such are included in the updated SSFRA.
- The updated SSFRA includes a table detailing a justification test and is derived from information in the original SSFRA. This outlines that the development is appropriate based on consideration of flood risk.

## 6.2. Planning Authority Response

### 6.2.1 Response by Meath County Council.

- The Council request that the Board uphold the decision to refuse permission and also point out that the zoning of the site has changed to F1- Open Space under the current Meath County Development Plan 2021-2027.

## 7.0 Assessment

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

Principle of the proposed development



Density, Core Strategy  
Layout & Design/Development Control Standards  
Flood risk  
Residential Amenity/Adjoining Amenity  
Traffic Impact  
Ecological Impact/tree  
Flood Risk

7.2. Principle of the proposed development:

7.2.1 Permission is sought for the construction of 58 no. dwelling and associated site works. The proposed development was assessed under the Meath County Development Plan 2013-2019. At the time of assessment the site was zoned mainly A2 New Residential with a zoning objective 'to provide for new residential communities with ancillary community facilities, neighbourhood facilities and employment uses as considered appropriate for the status of the centre in the Settlement Hierarchy'. Part of the site (southern part) was zoned B1 Commercial/Town centre or Village Centre with a stated objective 'to protect, provide for and/or improve town and village centre facilities and uses'.

7.2.2 Since the decision to refuse a new Development Plan has been adopted and the zoning of the site has changed. The main body of the site, which was previously zoned A2 is now zoned F1-Open Space with a stated objective 'to provide for and improve open spaces for active and passive recreational amenities'. Dwellings are not in the in category of development either permitted or open for consideration within the F1 zoning objective and the proposed development would constitute a material contravention of Land Use zoning policy under the Meath County Development Plan 2021-2017. It is possible that the change in zoning is related to the issue of flooding with parts of the site located in Flood Zone A and Flood Zone B.

7.3 Density/Core Strategy:

7.3.1 The appeal site has an area of 2.48 hectares and the proposed development consists of 58 no. residential units yielding a density of 24 units per hectare (revised proposal reduced density to 20 units per hectare). National policy on density is contained under the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual'). Chapter 6 relates to Small Towns and Villages. The application site is in a small town (defined as population of between 2,000 to 5,000). The guidelines do not identify a specific density range for such settlements and advocate that development in these settlements is plan led and that "the scale of new residential schemes for development should be in proportion to the pattern and grain of existing development". I would be of the view that the density of the development proposed is in keeping with the density of existing development in the vicinity with housing development on the site to the south west (Connaught Place).

7.3.2 The Meath County Council Development Plan 2021-2027 places Athboy in the category of Towns and Villages under the settlement hierarchy/core strategy. The core strategy identifies that anticipated population growth for the county is 33,256 for the plan period (up to 2027) and that there is projected household requirement of 20,671 during the plan period. The capacity of all zoned lands for residential development is 20,581 units. There is a housing allocation of 510 and a total of 29.29 hectares for Small Towns in Meath. The proposed development accounts for 58 units (revised to 50 on FI). The development however is not on lands zoned for residential development and on land zoned F1 Open space where this use is not permitted or open for consideration. There are lands zoned for residential development elsewhere in the town and such would be accounted of under the Core Strategy. The proposal would not be in compliance with the Core Strategy under the County Development Plan.

7.4 Layout & Design/Development Control Standards:

7.4.1 The original proposal was for 58 dwellings, broken down into...  
10 one bed single/storey (semi-detached and terraced).  
36 no. two bed two-storey (semi-detached and terraced).

10 three bed two-storey (semi-detached and terraced).

2 four bed two-storey (semi-detached).

The proposal was revised in response to FI to include 50 dwelling units and associated site works broken down into...

10 one bed single/storey (semi-detached and terraced).

30 no. two bed two-storey (semi-detached and terraced).

8 three bed two-storey (semi-detached and terraced).

2 four bed two-storey (semi-detached).

7.4.2 In regards to Development Control standards the development proposed meets all relevant standards relating to plot ratio (1.0) , site, coverage (max 30% on lands zoned B1), separation distances between opposing first floor windows (22m), level of public open space (15% of the site area, and private opens pace (one bed 55sqm, two bed 60swm and three bed 70sqm). In case of the proposed dwellings the recommended room size/dimensions are as set out under the Quality Housing for Sustainable Communities guidelines. In terms of car parking the required standard is 2 spaces per dwelling under Table 12.9. The proposal meets the basic development control standards set out under the County Development Plan.

7.4.3 The proposal was refused in part due to concerns about the design and layout in the context of provision of an “attractive mixed use sustainable communities which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities” (policy HS POL 2) and the requirement for “a high standard of design in all new residential schemes that are built in a style and scale that is appropriate to the landscape setting”. The proposed development was deemed to be deficient in terms of the recommendations of the Sustainable Residential Development in Urban Areas (Cities, Towns and Villages), Guidelines for Planning Authorities, 2009 and the Design Manual for Urban Roads and Streets (DMURS) and constitute substandard development.

7.4.4 The original layout proposed was for 58 no. dwellings with the main open space area provided along the north western and north eastern boundary. The scheme was revised in response to further information to provide for a reduced level of development consisting of 50 dwellings with the open space area to the north of the site increased significantly in size. Both layouts are quite generic in terms of layout including no great variation in building heights or type and no distribution of public open space through the scheme. The revised proposal for 50 units has a sizeable area of open space and is poorly integrated with the layout of the proposed dwellings with a sizeable number of dwellings presenting their side boundaries to the space. I would suspect that the layout to a degree is dictated by flood risk issues with a sizeable portion of the site located in Flood Zone A and B and the proposal including mitigation measures such as compensatory flood storage. I would be of the view the layouts proposed and in particular the revised layouts are not of a high standard, however the proposal does meet and exceed all development control standards and is not a high density proposal. I also acknowledge that the layout may be constrained by flood risk issues and these issues and current zoning designations are fundamental issue that may be difficult to overcome regardless of the quality of the design and layout.

7.4.5 In relation to the Design Manual for Urban Roads and Streets, I would be of the view the layout could be improved in this regard in particular corner radii and treatment of the cycling lanes and footpaths at the junction, however these issue could be dealt with by way of condition.

7.5 Flood Risk:

7.5.1 The proposed development was refused on the basis that the Site-Specific Flood Risk Assessment submitted by the applicant was not sufficiently detailed to enable an assessment of flood risks associated with the subject site to be carried out by the Planning Authority. The proposed development was deemed to be contrary Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoEHLG/OPW, 2009) and a material contravention of Development Plan (2013-2019) policies in regards to flood risk.

7.5.2 The applicant submitted a Flood Risk Assessment and has submitted an updated Flood Risk Assessment to deal with issues that arose from the Environment Section. The Site-Specific Flood Risk Assessment submitted with the appeal (refers to the amended scheme of 50 dwellings), is broken down into a number of sections. The first section is a Risk Assessment Process outlining the definition of flooding and the flood zones used, relevant and objectives and planning guidelines and the requirement to apply a sequential approach and justification test (Planning System and Flood Risk Management - Guidelines for Planning Authorities” (DoEHLG/OPW, 2009). The report outlines the data sources use to assess flood risk including flood mapping (OPW and CFRAM mapping), the Flood Risk Assessment and Management Plan for the Meath CDP. The report outlines flood flow calculation with four separate methods used to estimate existing flow conditions at the site. The site drainage characteristics were outlined with the Athboy River located 175m to the east of the site and an open drain discharging to the river running along the eastern boundary of the site. Flood modelling identifies that parts of the site are located within Flood Zone A (1% AEP flood event) and Flood Zone B (0.1% AEP flood event).

7.5.3 Mitigation measures proposed include compensatory storage with the levels of the developed area of the site (housing, roads, public space etc) raised to 64.63m OD. The increase in level would displace a volume of 1413m<sup>3</sup> and the north eastern portion of the site is to be lowered in level to 63.80m OD to provide for a volume of 1519m<sup>3</sup>, which exceeds the flood storage lost on site. The applicant/appellant states that compensatory storage is designed in accordance with Appendix B of the Planning System and Flood Risk Management Guidelines for Planning Authorities. The finished floor level of the houses will be 65.01m AOD providing a freeboard of 0.47m above the estimated 0.1% AEP flood levels. The assessment and mitigation measures take into account climate change and a restriction of flow at an existing bridge downstream of the site (Lower Bridge Street).

7.5.4 The assessment includes a justification test in accordance with the criteria under Table 5.1 for considering proposals for development, which may be vulnerable to flooding, and that would generally be inappropriate as set out in Table 3.2 of the guidelines.

The test identifies the site is zoned for residential use (A2 and B1 zoning at the time of assessment).

The proposal has been subject to an appropriate flood risk assessment that demonstrates:

The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk;

The development proposal includes measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible;

The development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management measures and provisions for emergency services access;

The development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes.

7.5.5 The proposal is for a residential development on a site that has significant portion of the site within both Flood Zone A (1% AEP flood event) and Flood Zone B (0.1% AEP flood event) in relation to fluvial flooding with the source being the Athboy River located 175m to the east of the site. Based on the Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoEHLG/OPW, 2009). Section 3.5 of the guidelines summarise the planning implications of the different Flood Zones.

In relation to Flood Zone A the following is stated...

“Zone A - High probability of flooding. Most types of development would be considered inappropriate in this zone. Development in this zone should be avoided

and/or only considered in exceptional circumstances, such as in city and town centres, or in the case of essential infrastructure that cannot be located elsewhere, and where the Justification Test has been applied. Only water-compatible development, such as docks and marinas, dockside activities that require a waterside location, amenity open space, outdoor sports and recreation, would be considered appropriate in this zone”.

It is acknowledge the site at the time of the application and its assessment was partially zoned B1 and A2 under the Meath County Council Development Plan 2013-2019 and the applicant has carried out a Flood Risk Assessment including a justification test and mitigation measures to address flooding issues. A new development plan has been adopted since the assessment and Planning Authority decision and under such the main portion of the site previously zoned A2 is now zoned F1-Open Space.

Housing classified as highly vulnerable development under Table 3.1 with Flood Zone A with Table 3.2 identifying that such development requires a justification test.

The requirements for assessment of development, which may be vulnerable to flooding, and that would generally be inappropriate as set out in Table 3.2 is set out under Box 5.1 with a number of criteria to be satisfied. The first of these criteria is that “the subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these Guidelines”. The zoning of the site and the main portion of such being Zoned F1 does not meet this first criterion and the proposal would fail the justification test as set out under the guidelines.

## **8.0 Appropriate Assessment:**

8.1 This section of the report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The assessment is based on the submitted Natura Impact Statement submitted with the application. I have had regard to the submissions of prescribed bodies in relation to the potential impacts on Natura 2000 sites.

### The Project and Its Characteristics

8.2 See the detailed description of the proposed development in section 2.0 above.

### The European Sites Likely to be Affected (Stage I Screening)

- 8.3 The development site is not within or directly adjacent to any Natura 2000 site. The site is located in an existing settlement. The predominant habitat on the site itself is made up agricultural grassland with boundary hedgerow with part of the site occupied by a dwelling fronting Connaught Street.
- 8.4 I have had regard to the submitted Natural Impact Statement including Appropriate Assessment screening, which identifies that while the site is not located within or directly adjacent to any Natura 2000 areas, there are a number Natura 2000 sites sufficiently proximate or linked to the site to require consideration of potential effects. The site listed in the submitted screening report are listed below with approximate distance to the application site indicated:

Site Name & Code	Approx. distance from site
The River Boyne and River Blackwater SAC (002299)	c.176m east of the site
The River Boyne and River Blackwater SPA (004232)	c.392m south east of the site
Girley (Drewstown) Bog SAC (002203)	c.4.8km to the north of the site

The AA screening report outlines that the site is hydrologically linked to both the River Boyne and River Blackwater SAC (002299) and River Boyne and River Blackwater SPA (004232) and impacts during construction and operational stage cannot be ruled out due to potential source/pathway/receptor linkages between the application site and the designated site. Impacts on Girley (Drewstown) Bog SAC



(002203) are ruled out due to distance from the site and lack of any source pathway receptors.

8.5 I would concur with the conclusions of the applicant's screening, in that there is the possibility for significant effects on the following European sites (associated with impact to species of conservation interest), as a result of surface water pathways to the River Boyne and River Blackwater SAC (002299) and River Boyne and River Blackwater SPA (004232).

8.6 Significant impacts on the remaining Natura sites or any other sites at further distances are considered unlikely, due to the distance and the lack of hydrological connectivity or any other connectivity with the application site in all cases. As such, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites:

Site Name & Code	Approx. distance from site
Girley (Drewstown) Bog SAC (002203)	c.4.8km to the north of the site

#### Screening Conclusion

8.7 It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the potential for significant effects cannot be excluded in relation to the River Boyne and River Blackwater SAC (002299) and River Boyne and River Blackwater SPA (004232). A Stage 2 Appropriate Assessment (and submission of a NIS) is required.

#### Stage 2 Appropriate Assessment

8.8 The qualifying interests of all Natura 2000 Sites considered are listed below:

## European Sites/Location and Qualifying Interests

<b>Site (site code) and Conservation Objectives</b>	<b>Distance from site (approx.)*</b>	<b>Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)</b>
<p>The River Boyne and River Blackwater SAC (002299)</p> <p>To maintain and restore the favourable conservation condition of the qualifying interests.</p>	176m	<p>Alkaline fens [7230]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>
<p>The River Boyne and River Blackwater SPA (004232).</p> <p>To maintain and restore the favourable conservation condition of the qualifying interests.</p>	392m	<p>Kingfisher (<i>Alcedo atthis</i>) [A229]</p>

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

### Potential Effects on Designated Sites

- 8.9 The subject site itself does not support populations of any fauna species linked with the qualifying interests or species of conservation interest populations of any European sites but is hydrologically linked to the designated sites with a watercourse along the eastern boundary draining into the Athboy River to the east. In the case of

the qualifying interests of the River Boyne and Blackwater SAC alkaline fens are concentrated upstream from the site and significant effects on such can be ruled out. In the case of salmon, otter and river lamprey all are contingent on maintaining good levels of water quality with the potential for the development to have significant effects in terms of deterioration of water quality in the designated site as a result of discharges during the construction and operational phase of the project. In the case of the River Boyne and River Blackwater SPA the sole qualifying interest is the Kingfisher with no specific conservation objectives available for this site currently. The Kingfisher is impacted by deterioration in water quality due to impact on food source (fish) and from human disturbance so potential impact cannot be ruled out. Potential impact during the construction phase include pollution of surface water with hydrocarbons and sediments, potential pollution of groundwater with subsequent knock effect on water quality with the designed sites. Potential impacts during the operational phase include deterioration of water quality with pollution run-off of hard surfaces (oil and silt) or failure of installed silt and oil interceptors and disturbance of qualifying interests such as the otter through increased lighting.

8.10 In terms of potential in-combination effects the NIS outlines the details of a number of applications in the area with it noted that these developments have been screened for AA including a number of developments in the vicinity including KA200244 under which permission was granted for 10 dwellings at Lower Bridge Street and KA19031 under which permission was granted to the current applicants for a mixed use development to the south of the site. Any future applications that have the potential to impact any of designated sites in the area would be subject to the provision of either screening for Appropriate Assessment or a Stage 2 Appropriate Assessment if deemed necessary. I do not consider that there are any specific in-combination effects that arise from other plans or projects.

8.11 The NIS at Section 5 outlines a number of pre-construction and construction mitigation measures, pollution control measures and site operation and landscaping mitigation measures to prevent discharge of pollution or sediments to the existing watercourse and groundwater. At operational phase measures include oil and silt

interceptors and surface water drainage measures. The proposal is located in an urban area and is to be connected to municipal wastewater treatment facilities and a surface water drainage system is proposed. I am satisfied that adequate information is provided to reach a determination regarding potential impacts from the construction phase and operational phase. Having regard to the measures outlined as well as the application of best practice construction methods, I am satisfied that direct or indirect effects on the SAC and SPA can be ruled out with confidence.

### Conclusion

8.12 The proposed development has been considered in light of the assessment requirements of Section 177 of the Planning and Development Act, 2000 (as amended). 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 (002299) and the River Boyne and River Blackwater SPA (004232). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of this site in light of its / their conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site or any other European site, in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives the River Boyne and River Blackwater SAC (002299) and the River Boyne and River Blackwater SPA (004232).
- Detailed assessment of in-combination effects with other plans and projects including current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the River Boyne and River Blackwater SAC (002299) and the River Boyne and River Blackwater SPA (004232).

## 9.0 Recommendation

9.1. I recommend refusal based on the following reasons.

## 10.0 Reasons and Considerations

1. The majority of the site is zoned F1-Open Space with a stated objective 'to provide for and improve open spaces for active and passive recreational amenities' under the Meath County development plan 2021-2027, which is the functional plan for the area. Housing development is not a use indicated as being either 'permitted' or 'open for consideration' under this zoning objective. The proposed development would constitute a material contravention of land use zoning policy set out under the Meath County Development Plan 2021-2027 and would be contrary to the Core Strategy of the development plan, which identified alternative land suitable for residential development in the area. The proposed development, would therefore, be contrary to the proper planning and sustainable development of the area.

2. The appeal site is located on lands that fall within both Flood Zone A (1% AEP flood event) and Flood Zone B (0.1% AEP flood event) in relation to fluvial flooding due to proximity to the Athboy River. The nature of the use proposed is identified as a high vulnerable development (Table 3.1) on such lands under the Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoEHLG/OPW, 2009) and such development requires the carrying out of justification test (table 3.2 of the guidelines). The criteria for considering proposals for development, which may be vulnerable to flooding, and that would generally be inappropriate as set out in Table 3.2, is set out under Box 5.1 of the guidelines. The proposal by virtue of the majority of the site falling within the F1-Open space zoning would not meet the first criteria of a justification test, which require that “the subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these Guidelines”. The proposal constitutes highly vulnerable and inappropriate type of development on lands within Flood Zone A. The proposal does

not meet the criteria as set out under the Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoECLG/OPW, 2009) that would justify the provision of housing development at an area subject to a high level of flood risk, would be contrary national guidelines and would, therefore, be contrary to the proper planning and sustainable development in the area.

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Colin McBride  
Planning Inspector

09<sup>th</sup> May 2022