



An
Bord
Pleanála

Inspector's Report ABP-312746-22. Addendum Report

Development	Demolition of agricultural structures and construction of 98 houses. NIS submitted.
Location	Ferganstown, Navan Co. Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	211046.
Applicant	Albert Developments Limited
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Date of Site Inspection	16 th May 2023.
Inspector	Philip Davis.

Contents

1.0 Introduction	3
2.0 EIA Screening	3
3.0 Appropriate Assessment Screening.....	6
4.0 Ecological impacts	8
5.0 Quality assessment of the proposed development.....	10
6.0 Recommendation.....	13

1.0 Introduction

This addendum report follows a Direction from the Board dated 24th July 2023 seeking clarification and additional assessment on four stated issues, i.e:

- EIA Screening
- AA Screening
- An assessment of the documents on the file that consider the ecological impacts of the proposed development.
- Quality Assessment of the proposed residential development

2.0 EIA Screening

This application was submitted to the Board after the 1st of September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 which transpose the requirements of Directive 2014/52/EU into Irish planning law.

The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIA Screening Report (prepared by John Spain Associates dated May 2021). The submitted report argues that the development is below the thresholds for mandatory EIAR having regard to Schedule 5 of the Planning and Development Regulations 2001, due to the site size of c.3 hectares, the number of residential units (98) and the fact that the proposal is unlikely to give rise to significant environment effects. The report concluded that a formal EIAR is not required.

In addition, detailed and comprehensive assessments have been undertaken to all potential planning and environmental issues relating to the development; these are included in support of the application.

The Planning Authority confirmed its opinion that the development was below threshold and '*EIAR is not a mandatory requirement*'.

I note that the applicant originally applied to ABP to make an SHD application for the entire landholding for 446 dwellings on the landholding (**ABP-306687-20**). I note that in the pre-application consultation opinion for this, the Inspector addressed the

issue of EIAR but recommended, and the Board accepted, that this was not necessary.

I note that the appellant argued with reference to EIHC369 that the proposed development represents project splitting, with particular reference to the 'Masterplan'. In this regard, the CJEU concluded that a plan comes within the scope of the SEA directive where it has been adopted by that authority or has been adopted on the basis of a provision in another plan or programme and it envisages development distinct from those envisaged in another plan or programme provided that it is binding on the authorities. The Masterplan submitted is an indicative document which has not been adopted by the planning authority and I am satisfied that it does not come within the SEA Directive. I am also satisfied for the reasons outlined in the main report to this file that the proposed development is in line with adopted zoning designations for the town of Navan and does not represent project splitting.

Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 as amended, and section 172(1)(a) of the Planning and Development Act 2000 as amended provides that an EIA is required for infrastructure developments comprising of urban development which would exceed:

- 500 dwellings.
- Urban development which would involve an area greater than 2 hectares in the case of a business district,
- 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. A business district is defined as 'a district within a city or town in which the predominant land use is retail or commercial use'.

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

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

Environmental Impact Assessment is required for development proposals of a class specified in Part 1 or 2 of Schedule 5 that are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on

the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

The applicant submitted an EIA Screening Report with the application. I am satisfied that this document provides the information deemed necessary for the purposes of screening sub-threshold development for an Environmental Impact Assessment.

The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development in addition to cumulative impacts with regard to other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment.

I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions, and I have considered all information which accompanied the application including inter alia: -

- Land Planning & Design Report
- Planning Report
- Site Services Report
- Masterplan
- Archaeological Assessment
- Ecological Impact Assessment (plus other specific reports on badger and bat habitat on and around the site)
- Daylight and Sunlight Assessment Report
- Energy & Sustainability Statement.

And all plans and particulars and other related reports submitted with the application, in addition to my observations of the nature of the site and local area made during my site visit.

The EIA screening report prepared by the applicant has under the relevant themed headings considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that this report is comprehensive and satisfies regulatory requirements. I am satisfied that all other relevant assessments have been identified for the purposes of screening out EIAR.

I conclude that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility.

In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application and the conclusion of the planning authority and the Board in its previous Direction relating to the lands.

A Screening Determination can be issued confirming that there is no requirement for an EIAR based on the above considerations.

3.0 Appropriate Assessment Screening

The applicant submitted a Screening Report for Appropriate Assessment compiled by Openfield Ecological Services, dated May 2021.

The Report notes that the site is not within any Natura 2000 sites, but is within the catchment of the River Boyne, which is designated SAC (002299) and SPA (004232). The Report outlines the description of the proposed development and the characteristics of the Natura 2000 sites. It notes the characteristics of the existing lands and habitats. Site visits were conducted in October 2019 and November 2020

for any birds and other site visits were carried out as part of the overall site assessment.

The Qualifying Interests of the Boyne River SAC are Alluvial forest, Alkaline fens, Atlantic salmon, River lamprey and Otter. The former 2 are Annex I habitats as identified in the Habitats Directive, and the latter three are listed in Annex II of the Directive.

It is noted that there is no direct hydrological connection from the site to the River Boyne, but there are indirect pathways through surface water drains to the River Boyne. Step 4 of the Assessment highlights the potential impact of construction pollution on the spawning beds of the Atlantic Salmon, and so states that significant effects cannot be ruled out.

It concludes that this type of pollution will not affect Kingfisher, so significant effects to the SPA can be ruled out.

This Stage 1 AA Screening Report was prepared in line with current best practice guidance. It provides a description of the proposed development, identifies European sites within a possible zone of influence of the development, identifies the possibility of significant effects, addresses the likely cumulative impact, and assesses the significance of potential impacts.

The conclusion of the applicant's AA Screening Report is as follows:

Hydrological pathways exist to the River Boyne: significant effects cannot be ruled out to the following Natura 2000 site:

River Boyne and River Blackwater SAC.

The favourable objective set for this SAC is "To maintain or restore the favourable conservation condition of the Annexed habitats/species for which the SAC has been selected:

Given the potential effects to water quality (particularly nutrient and sediment pollution), significant effects to qualifying interests cannot be ruled out.

It is therefore concluded that a full AA will be required. To assist in this decision, a separate Natura Impact Statement (NIS) has been submitted to the planning authority.

Significant effects to the River Boyne and River Blackwater SPA are not likely to occur, either alone or in combination with other plans and projects.

Having reviewed the screening documents and additional submissions to the planning authority, I am satisfied that the information on file allows 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.

The proposed development has been 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 the project individually or in combination with other plans or projects would be likely to give rise to significant effects on the River Boyne and Blackwater SAC site code 002299, in view of its Conservation Objectives, and Appropriate Assessment is therefore required. This determination is based on the following single criteria:

- The possible hydrological pathways between the site and the Boyne River, and the possible impact of sedimentation on spawning Atlantic Salmon, an Annex II species.

4.0 Ecological impacts

In addition to issues addressed in the AA, a number of additional habitat related issues were raised during the application and by the appellant.

An Ecological Impact Assessment (EIA) prepared by Openfield Ecological Services dated May 2021 was submitted with the application.

This EIA included an assessment of the overall receiving environment (including nearby designated habitats) and a survey of the site itself carried out between February and March 2020. The site is mostly improved grassland with some arable crops, dry meadow, and mature hedgerow with conifer treeline. There is one building (the agricultural sheds) and an active badger sett was identified within the landholding.

The fauna survey noted that the site was active with badgers observed using cameras. The survey noted that the barn is used as a roost for the Common Pipistrelle while other bat species were noted foraging/commuting. No other significant species were identified – the site does not have suitable otter habitat (there is no watercourse apart from drainage ditches) while rabbit, hare and fox are

likely present at some time. A number of bird species are likely to use the hedge and buildings for nesting and roosting. A survey of breeding birds took place in June 2020, which recorded species of low conservation concern, with the exception of Yellowhammers, which are considered of high conservation concern.

The EIA assesses these habitats according to NRA 2009 guidelines, summarised in Table 4. This indicates that the hedgerows are of local importance, with other habitats of negligible value. I would note that during my site visit it was observable that the absence of grazing or arable use since the application had resulted in moderately rich grassland developing since the surveys.

The EIA outlines a number of remedial and mitigation measures aimed at the identified habitats (note, these are not inclusive of measures outlined in other reports or the NIS). These include the post-construction works planting of new trees and shrubs and measures for the possible removal of a roost of common pipistrelle and badgers, in addition to normal construction mitigation measures.

It is concluded in the report that with the mitigation measures proposed it can be expected that no negative impacts will arise to biodiversity, which are considered moderately negative or greater in magnitude. It is noted that a license will be required for the removal of bats.

An additional report on the status of Barn Owls was included in the application, prepared by John Lusby. This determined on the basis of a survey carried out in July 2020 that the buildings and surrounding trees were unsuitable for breeding Barn Owl and there are no suitable nesting opportunities recorded within the buildings or surrounding trees. There were no signs indicating use of the site by the Barn Owl.

A Bat Assessment prepared by Wildlife Surveys Ireland Limited based on a survey carried out on May 9th 2021. A number of species were identified by calls during the survey. A roost of common pipistrelles was identified within the barn. It is noted that a derogation license must be prepared for the barn if it is demolished. A number of conditions are recommended for bat boxes and the provision of shrubs and trees within the next development.

A report by Brian Keeley was submitted evaluating the site for the presence of badgers. This was based on a survey carried out in February and March 2020.

It is noted that a sett is present within the landholding with a second sett identified close by. The report included a map noting the possible connection between setts and outlined a number of mitigation measures during construction to protect badgers.

During my site visit I noted that the sett closest to the site was active, but the pipistrelle bat roost was not present, but this could be seasonal. My site visit took place 2 years after the surveys. As I noted in my report, any interference with a bat roost requires a license and is subject to the appropriate wildlife acts, and I recommended conditions relating to both the possible roost and badger setts. There was no visual evidence of the nesting bats visible during my site visit.

I also note that the mitigation measures outlined in the above reports were integrated with the proposed landscaping plans, although the Board may wish to consider additional conditions to confirm these requirements.

5.0 Quality assessment of the proposed development

The application included, in addition to plans and particulars,

- A Land Planning and Design Report along with a Landscape Design Statement produced by Cunnane Stratton Reynolds in May 2020; a Social Infrastructure Assessment.
- A Building Lifecycle Report relating to the 23 unit proposed apartment block
- A Daylight and Sunlight Assessment Report produced by the 3D Design Bureau dated December 2020;
- A Views and CGI report, produced by 3D Design Bureau.
- An Energy & Sustainability Report produced by Galileo Energy Services.
- In addition, an Architectural Design Statement by Adrian Hill Architects was submitted which addressed both the overall design and its integration into the Masterplan.
- A DMURS compliance report was submitted with traffic details.

The documents note that the proposed development fits within an overall Masterplan covering 13.7 hectares. This masterplan is for a housing development of 420 units, a neighbourhood centre, and an area of parkland. I note that some of

the above assessments include elements of the masterplan that are not part of the current application (most notably a childcare facility).

The focus of the design refers to four key policy guidance documents:

- Best Practice Guidelines for Delivering Homes and Sustaining Communities.
- Quality Housing for Sustainable Communities (2007);
- DMURS, and,
- the Meath County Council Development Plan (note that it refers to the previous adopted plan but I am satisfied that there are no significant changes to the standards set out in the current plan of relevance to assessing the proposed development).

The proposed development is for the following mix of dwellings:

	1 bed	2 bed	3 bed	4 bed	overall
Houses			40	1	41
Duplex					34
Apartments	12	11			23
Total	12	28	57	1	98
% mix	12.2	28.6	58.2	1.0	

The proposed dwelling houses are located in the central and southern part of the layout, with houses fronting out on to open space (part of Phase 1B). The houses are all 2 or 3 storeys in height, the higher dwellings facing the internal access street. A number of corner units have dual elevations – these were increased following a further information request by the planning authority. All duplex units are double aspect. All the apartments match or exceed the minimum standards set out in the Apartment Guidelines 2020 and all units match or exceed the minimum private open space standards set out in national guidelines. The net density is 40 units per hectare, which is in line with national guidance for such zoned lands within the identified expansion area of a designated growth town.

The apartment building is 4 storeys in height and is in a prominent location within the site next to a roundabout on the north-east side (permitted previously) which is intended to provide a strong urban edge to the development. Although there is

some ambiguity within the original submitted documentation, further information submitted by the applicant confirms that the apartments satisfy all minimum standards for amenity space set out in the Development Plan and the 2020 Apartment Guidelines (Appendix 1 of those Guidelines). The overall design and finish of the buildings is plain and contemporary in form. Public circulation areas, including parking and bike provision is in line with Development Plan standards and DMURS.

The overall orientation of the proposed development, which follows a natural local highpoint (currently occupied by the farm buildings) is quite simple, with most units aligned roughly on a south-east to north-west axis, although it needs to be assessed within the overall context of surrounding permitted developments and the overall masterplan. Separation distances between opposing windows is in excess of 22 metres and there are no deviations from the alignment that are likely to provide conflicts in terms of overlooking, loss of privacy, or a poor level of natural surveillance of public areas.

In line with Development Plan requirements, the applicants submitted a Daylight and Sunlight Assessment Report by 3D Design Bureau, dated December 2020. This assessed the proposed design in the context of the BRE Guidelines. This report assesses Average Daylight Factor (ADF) results for amenity spaces and internal spaces for the residential units and the childcare facility (the latter is not part of this application but is proposed as part of the next phase). The study assessed ground floor rooms that were considered most likely to have deficient light.

The conclusions state that:

The results of the Average Daylight Factor assessment show that all assessed habitable rooms on the lowest habitable floors, and the classrooms in Block 2 reached the target value as set out in the BRE Guidelines.

Therefore all rooms that were studied would have access to good levels of daylight. It can reasonably be assumed that the apartments that are located on subsequent floors would meet the Guidelines as well, and the development average can be said to be 100%.

Future occupants will have access to external communal areas that are capable of receiving excellent levels of sunlight.

I note that following this report some minor changes were made after a further information request, but I consider that these changes do not invalidate the conclusions of the report or any of the other reports on file.

The planning authority concluded that the proposed development was suitably appraised and assessed and the proposed development is satisfactory in this regard. I have examined the plans submitted and the relevant associated documents and I am satisfied that all the proposed residential units achieve a satisfactory standard of daylight and sunlight.

I conclude that the overall development, assessed within the context of the Masterplan and previously permitted developments in the area, achieves all minimum qualitative and quantitative criteria set out in the Development Plan and National guidelines for the design of houses and apartments in urban areas with regard to internal and external amenity and the layout of public spaces. The overall design is satisfactory and addresses the natural topography of the site within the constraints set by the adjoining link roads and I am satisfied that all the proposed dwelling units achieve at least minimum amenity standards, and are generally higher and will result in an overall very good overall level of design and amenity for future residents.

6.0 Recommendation

I do not recommend any new or amended conditions on the report dated 19th May 2023.

Philip Davis
Planning Inspector

10th August 2023